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## Spreading Justice to Rural Montana: Expanding Local Legal Services in Underserved Rural Communities

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# ARTICLES

## SPREADING JUSTICE TO RURAL MONTANA: EXPANDING LOCAL LEGAL SERVICES IN UNDERSERVED RURAL COMMUNITIES

Hillary A. Wandler\*

### I. INTRODUCTION

News in central Montana carried messages of expansion and change in the fall of 2015. On the front page of the Lewistown News-Argus, a story about Spika Design and Manufacturing in Lewistown, Montana, described the company's 6,000 square-foot addition that would bring jobs and a new training course to recruit and retain workers.<sup>1</sup> The Rural Montana Magazine, a publication of the Montana Electric Cooperatives' Association, reported significant changes in rules governing power plants and announced a lawsuit against the EPA by a coalition including rural electric cooperative

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\* Associate Professor, Alexander Blewett III School of Law at the University of Montana. The Editors of the Montana Law Review contributed excellent research for an earlier article related to this piece, *Spreading Justice to Rural Montana: Rurality's Impacts on Supply and Demand for Legal Services in Montana*, 76 Mont. L. Rev. 225 (2015), and their research was a significant benefit in writing this article. The best ideas in this article arose during lengthy conversations with Malin Stearns Johnson, a brilliant and energetic solo practitioner and adjunct professor in Missoula, Montana, and panels and listening sessions organized by students of the Rural Advocacy League of the Alexander Blewett III School of Law. Finally, I am—once again—indebted to the Legal Writing Institute's Writers Workshop. I presented a draft of this article at the 2015 Writers Workshop and received invaluable feedback and advice. All remaining errors are my own.

1. Deb Hill, *Spika Company Expands: Commercial and Industrial Growth Visible Across Lewistown Area*, LEWISTOWN NEWS-ARGUS, Sept. 9, 2015, at 1, 5. The same issue of the Lewistown News-Argus reported several other businesses expanding in Lewistown and the surrounding area. Jacques Rutten, Editorial, *West Side Businesses Investing in Lewistown's Future*, Sept. 9, 2015, at 4. Articles spoke of a new showroom for Torgerson's agricultural equipment store, the addition of a gravel pit for a construction project, and a new building for Century Companies, Inc., a paving and construction company with its Montana headquarters in Lewistown.

associations.<sup>2</sup> In nearby Judith Basin, Spectra Energy began expanding the Express Pipeline at Buffalo Station, increasing the crude oil storage capacity with six new, 150,000-barrel, above-ground tanks; the tank “farm” will now store 1.4 million barrels of crude oil about a mile from several actual farms.<sup>3</sup>

Expanding businesses, changing laws, and ever-growing use of land for energy production or fuel transportation all have the potential to raise new legal issues for central Montana’s rural communities. But, as the article *Spreading Justice to Rural Montana: Rurality’s Impacts on Supply and Demand for Legal Services in Montana* illustrated, many of Montana’s rural communities do not have access to advice from a resident attorney. Geographic isolation and higher poverty rates negatively impact access to legal services in rural communities in Montana. Stakeholders in Montana’s legal community support the idea of full access to justice that reaches even the most isolated communities, but the numbers of resident attorneys in Montana’s rural communities are dwindling, leaving fewer attorneys fully informed and invested in local culture, needs, and interests.<sup>4</sup> Those attorneys who are in rural communities face obstacles to providing legal services, like more frequent conflicts of interest and a more substantial travel burden to appear in court.

Students at Montana’s only law school, the Alexander Blewett III School of Law at the University of Montana,<sup>5</sup> recognize the potential in rural Montana as well as the gaps in access to justice. They want to be a part of the effort to address the needs of rural communities. At a recent meeting of the School of Law’s Rural Advocacy League, students from all three classes voiced interest in rural practice.<sup>6</sup> Students reported being attracted to the autonomy of solo and small practice in a rural community, noting they were less concerned with additional hours it may take to run the business side of a practice because they found the autonomy more appeal-

2. Dave Wheelihan, *CEO Viewpoint: An Early Look at the EPA’s Final Rules for Existing Power Plants*, RURAL MONTANA, Sept. 2015, at 1.

3. Letter from Julie A. Merkel, Permitting Servs. Section Supervisor, and Shawn Juers, Env’tl. Engin’r, Mont. Dep’t Env’tl. Quality to Chris Murray, Express Pipeline LLC, *Montana Air Quality Permit #5121-00* (May 15, 2015), available at [www.deq.mt.gov/AirQuality/ARMpermits/5121-00.pdf](http://www.deq.mt.gov/AirQuality/ARMpermits/5121-00.pdf).

4. Lewistown, for example, has only 20 lawyers listed in the State Bar of Montana Directory, at least some of whom live about 45 minutes away in Stanford. See STATE BAR OF MONT., 2015 LAWYERS’ DESKBOOK & DIRECTORY 442 (2015).

5. The University of Montana School of Law changed its name in the Spring of 2015 to the Alexander Blewett III School of Law at the University of Montana. Throughout the remainder of this article, the Alexander Blewett III School of Law will be referred to as the “School of Law” or “Montana’s School of Law.”

6. Mont. Rural Advocacy League, Alexander Blewett III Sch. of Law at the Univ. of Mont., Listening Session (Nov. 19, 2015) (notes on file with author) [hereinafter *RAL Listening Session*]. Thanks to 2L Erin Bills, co-President of the Rural Advocacy League, who organized the meeting and took notes.

ing than the hierarchy of a large firm. They also felt they could make a real difference in individuals' lives because the stakes of each case would be higher to the clients. "You're accepting more responsibility, but it may be more rewarding."<sup>7</sup> Another common theme was interest in leadership opportunities that seemed more likely to present themselves in a rural community.

Despite high interest in rural practice, students also identified the concerns that could prevent them from building a solo or small practice in one of Montana's rural communities. One of the most prominent concerns raised was the financial barrier to "hanging a shingle" in a rural community. Students talked about not knowing the cost of doing business in different rural communities, whether a rural community offered a sufficient client base to cover those costs, and whether the clients' lower incomes would hinder a lawyer's ability to make a sustainable living. Some students noted they planned to take a job in one of Montana's urban areas and save money, but they were concerned they may end up just staying in the community where they had built a client base. Geographic remoteness and professional isolation were also major concerns for students considering rural practice, raising questions adequate access to health care, limited educational opportunities for children, and lack of professional opportunities for their partners. Another concern centered on the breadth of practice areas a rural attorney might need to have expertise in. "I think I would be intimidated by the variety of issues I would have to cover in a general practice."<sup>8</sup> Students wondered about having sufficient expertise to handle cases opposing lawyers with specialized knowledge in areas like energy law. Finally, some students who were coming from other states worried about feeling like an outsider in a rural community in Montana. "If you don't have ties to that community, you're going to be viewed as an outsider. How do you overcome that barrier?"<sup>9</sup>

These students' concerns about entering rural practice show why simply sending new law graduates into rural areas is unlikely to result in real, sustained improvement in rural residents' access to legal services. Even with initial financial incentives to draw them into rural communities, new law graduates entering rural practice face potentially hefty barriers to sustaining long-term rural practices, including social and professional isolation and lack of family resources. This article explores our law graduates' desires to take advantage of the opportunities for autonomy and service in rural communities, and the barriers standing in the way. Part II summarizes the needs created by rurality and Montana's gaps in delivery of legal ser-

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7. *Id.*

8. *Id.*

9. *Id.*

vices and sets forth ideal considerations for a program that would attempt to address those needs. Part III reviews existing programs designed to increase the supply of rural lawyers, as well as some non-legal programs designed to prepare professionals for remote service, evaluating the extent to which they might further the ideals set forth in Part II and thus provide a model for change in Montana. Part IV synthesizes the takeaways into recommendations for increasing the number of sustained solo and small practices in Montana's rural communities and improving rural residents' access to legal services.

## II. IDEAL CHANGE

### A. *Montana's Needs and Obstacles*<sup>10</sup>

New law graduates settle in Montana's urban areas far more often than its rural areas, likely due to a variety of factors including lack of established practices to join in rural areas, a corresponding lack of local mentoring, and hesitance to move to an isolated location. A community's natural amenities or lack thereof also potentially impact where attorneys settle in Montana, as well as a lack of information about actual need for legal services in particular rural communities.

Some rural Montanans have assets to address their legal needs, but they do not have access to attorneys who understand local culture and legal needs. The Montana Access to Justice Commission has studied the programs already working to improve access to justice around the state, and the studies show efforts are clustered around the state's urban areas, leaving Montana's most rural areas without a local option.<sup>11</sup> In contrast to rural areas with residents who have adequate assets but few local options, some of Montana's rural areas higher poverty rates as well as a lack of local legal services, which perpetuates economic difficulties for the communities as a whole and the individuals residing there. Montana needs to address the lack of local legal services and lawyers for rural communities if the state's legal community intends to provide access to justice for all of our state's citizens. The stakeholders interested in expanding access to justice in Montana's rural communities include the Montana State Bar, the courts in Montana, Montana's only law school, legal services providers like Montana Legal

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10. For a more in-depth discussion of how Montana's rurality has the potential to cause persistent unmet legal needs for rural residents, see Hillary A. Wandler, *Spreading Justice to Rural Montana: Rurality's Impacts on Supply and Demand for Legal Services in Montana*, 76 MONT. L. REV. 225 (2015). Based on an analysis of Montana's judicial districts and counties for existing local legal services, poverty rates, and natural amenities, the article concluded that rurality decreases supply of legal services in Montana's most isolated communities.

11. CARMODY & ASSOCIATES, *THE JUSTICE GAP IN MONTANA: AS VAST AS BIG SKY COUNTRY* 3-4 (June 2014), available at <http://perma.cc/K9M9-YADG>.

Services Association, Montana's tribes, and rural communities themselves. An effort to expand legal services for rural communities could also involve collaboration with providers of non-legal services like medical and mental health professionals and social workers, along with those who educate them. Addressing rural gaps in legal services will take a coordinated effort of all stakeholders to make a meaningful difference.<sup>12</sup>

Rural Montanans need attorneys on the ground in rural communities so the attorneys know the local culture, the community's interests, individual needs, and the economy.<sup>13</sup> Montana's rural communities need attorneys who know the lay of the land culturally, economically, and interpersonally and have a vested interest in a thriving rural community. A variety of actions may help accomplish that goal, from an entirely new program to actions that supplement the programs already working to spread access to justice in our state. To be successful, any effort must keep in mind the perceived and actual barriers to new law graduates entering solo and small practices in Montana's rural communities.

### B. Encouraging Rural Practice: Ideal Goals

Efforts to increase the number of rural practitioners in key areas across the state should start before potential rural lawyers have graduated from law school and extend beyond law school training. A true programmatic effort will make the most significant difference in Montana's rural justice gaps, so

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12. See INCUBATOR GUIDE, CAL. COMM'N ON ACCESS TO JUSTICE 6–10 (Oct. 2014), available at <http://perma.cc/6UAF-9J3E> (describing collaboration and partnerships necessary for effective incubator programs designed to increase legal services to underserved communities, noting “few organizations on their own can provide the space, training, mentoring, resources, and client referrals that are optimal for a successful incubator”); see also Patrick G. Goetzinger & Robert L. Morris, *Project Rural Practice: Its People & Its Purpose*, 59 S.D. L. REV. 444, 450–51 (2014) (describing how South Dakota began building its rural lawyer recruitment program with a task force including representatives from the “bench, Bar, governmental organizations, and non-lawyer stakeholders”).

13. Rural attorneys recognize the importance of being located in a rural community, which makes the lawyer a familiar resource for rural residents. See Mary Irene Dickerson, *Brought Into Focus: The Factor of Mental Illness in a Rural Legal Services Practice*, 13 GEO. J. ON POVERTY L. & POL'Y 179, 184 (2006) (“With a circuit-riding approach to service delivery in rural areas, which is our program’s delivery model, we are too often the ‘outsider.’ Effective advocacy requires that each attorney establish a relationship and a reputation with local authorities and agencies, both through finding common ground and through consistent high-quality representation.”). Similarly, rural practitioners of all kinds recognize the importance of being grounded in, and even located in, the rural community to effectively serve rural residents. For example, at a conference designed to improve child welfare practices in rural communities, presenters advised attendees about the importance of building trust within the community. “Trust building is key to relationship building. Meet clients where they are. Don’t expect them to come to you. See the community you’re serving firsthand—where clients live, the roads they must drive, where service providers are located, and what resources exist (or not).” Claire Chiamulera, *Improving Child Welfare Practice in Rural Communities*, 28 CHILD L. PRACTICE 11 (2009) (also advising about the importance of understanding rural tribal community customs and the rural culture of “self-reliance”). This advice is important for all rural professionals, including rural lawyers.

long as it addresses law graduates' interest in rural practice and lifestyle, foundation for successful rural practice, and mentoring and other supportive relationships in rural practice. Thus, a program to increase well-trained rural lawyers in Montana should strive to meet the following goals: (1) ensure participants develop foundational knowledge in substantive areas that are necessary and marketable for rural practice; (2) help participants build a foundation of practice skills necessary for effective advocacy on behalf of rural clients; (3) address financial and logistical barriers to rural practice; (4) maintain interpersonal connection and mentoring, also known as "relatedness," and emphasize rural strengths to support participants' well-being in rural practice; and last, but not least, (5) help participants understand and build a client base in the rural communities where they set up practice.

*1. Ensure Participants Develop Foundational Knowledge in Substantive Areas that are Necessary and Marketable for Rural Practice*

New lawyers in rural areas need to be prepared for a wider variety of client issues than new lawyers in urban law firms.<sup>14</sup> As noted above, students considering rural practice feel intimidated by the breadth of rural practice.<sup>15</sup> Additionally, research shows a lawyer's feelings of competence within his or her practice are critical to well-being in law practice.<sup>16</sup> Thus, a program designed to increase new lawyers' likelihood of successfully serving rural communities and filling gaps in legal services should help participants develop a broad foundation of substantive knowledge to address the issues most likely to "walk in the door."<sup>17</sup> A new rural lawyer will need to

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14. See Dianne Molvig, *The Road to Rural Practice*, WIS. LAW., Oct. 2014, at 14, 17 (rural practice allows a young lawyer to "dive deep into law practice early on"). In the *Wisconsin Lawyer* issue interviewing rural practitioners, more than one described being required to do a wider variety of tasks than new lawyers in urban areas. One described having more courtroom experience: "You actually are going to get to the courtroom to try cases . . . You'll gain the kind of experience almost all trial lawyers got 30 years ago that almost none of them get in the big cities anymore because everything gets settled." *Id.* Another described having a significantly broader client base in a rural area than he did in an urban area, which he felt made him a "complete litigator." *Id.* ("I've learned skills here that I never learned before because I was so specialized and focused.") Another described doing "a little of everything" in her diverse practice, which was part of why she liked rural practice. *Id.*; See also Laura Cardinal, *Rural Practice*, ARIZ. ATT'Y, Sept. 2013, at 68 ("For those of us who have toughed it out in rural practice—denied an equitable share of the state's resources, yet laboring with five times the demand—there is no slowing down. There is a nonstop need for legal services, for every conceivable kind of work."); Lindsay Stafford Mader, *Way Out Yonder*, 78 TEX. B.J. 524, 525 (2015) (noting as a rural lawyer "you have to be more of a general practitioner and be aware of not only the particular problem but also how to fix other things in your clients' lives").

15. *RAL Listening Session*, *supra* note 6.

16. See *infra* Part II(B)(4), discussing the importance of a lawyer's feelings of competency to overall feelings of well-being in law practice.

17. Meredith R. Miller, *Designing a Solo and Small Practice Curriculum*, 83 UMKC L. REV. 949, 950 (2015) (describing goal of a solo practice survey course as introducing students "to basic and rou-

identify the legal needs of potential clients who can afford to pay market prices for legal services—areas of law that could become the lawyer’s so-called “bread and butter” legal work. A rural practice program targeting access-to-justice gaps should also help participants identify areas of substantive law necessary to serve the state’s underserved in rural communities and inform participants of those areas. To build participants’ confidence and competence for rural practice, a program should provide opportunities for participants to develop foundational knowledge in areas that will lead to a broad and sustainable client base.

A review of articles related to rural practice reveals common subject matter areas arising for rural attorneys:

- Estate planning and powers of attorney<sup>18</sup>
- Criminal defense<sup>19</sup>
- Indian law<sup>20</sup>
- Disability, mental health, and public health advocacy<sup>21</sup>

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tine client problems that are likely to ‘walk in the door’ and provide the students with opportunities to simulate how they would apply the law in addressing the client’s needs”).

18. See Molvig, *supra* note 14, at 16 (judge noting that in Wisconsin’s rural areas, “preplanning” like wills, trusts, and powers of attorney, is “not being done nearly to the level that it should or could be done if there were more lawyers available”); Hon. David Gilbertson, *Reflections on the Rural Practice of Law in South Dakota: Past, Present, and Future*, 59 S.D. L. REV. 433, 441–42 (2014) (“Besides the normal demand for civil and criminal legal services, Professor Michael McCurry, the State Demographer for South Dakota, told me that with the rapid increase in farmland prices, and the aging of a significant portion of its population, South Dakota is on the verge of the largest transfer of wealth in its history.”); Neil D. Hamilton, *Emerging Issues of 21st Century Agricultural Law and Rural Practice*, 12 DRAKE J. AGRIC. L. 79, 80 (2007) (noting the continuing need for lawyers trained in “estate and tax planning, business organizations, and compliance with state and federal rules for farm programs and environmental law”). Neil Hamilton notes that estate planning issues are changing along with the demographics of rural America as farm heirs settle in urban areas and attempt to operate the land from a distance. “This separation of ownership from operation has any number of policy implications in, for example, land tenancy practices and the resulting economic shift of where the benefit of the wealth is experienced.” Hamilton, *supra*, at 82–83.

19. Molvig, *supra* note 14, at 16 (noting that, in Wisconsin, too few attorneys take public defender cases that may result in a murder trial); Diane E. Courselle, *When Clinics are “Necessities, Not Luxuries”*: *Special Challenges of Running a Criminal Appeals Clinic in a Rural State*, 75 MISS. L.J. 721, 728–29 (2006) (“In rural states, the dearth of attorneys, particularly attorneys with adequate criminal defense experience, makes it difficult to provide competent, conflict-free representation in multi-defendant cases.”).

20. Leroy “J.R.” LaPlante, *Remarks on the 2014 Rural Practice Symposium: Indian Country & Rural South Dakota*, 59 S.D. L. REV. 463 (2014) (discussing the need for legal reform in rural South Dakota, and noting the need for attorneys working with tribes in the state’s rural areas).

21. Dickerson, *supra* note 13, at 180 (“Even as awareness [of mental health advocacy needs] has increased, rural residents with mental health conditions continue to face additional challenges brought about by geographic isolation, lack of public transportation, and lack of sufficient community-based housing, treatment and support resources to meet the demand. If I had to pick one factor that I least expected, but that has had the greatest impact on my practice as a rural legal services attorney, it would be mental illness.”); Cardinal, *supra* note 14, at 68. Dickerson discusses multiple barriers to mental health treatment in rural areas, including difficulty of access to mental health agencies located outside rural residents’ communities. Dickerson, *supra* note 13, at 184–85. See also Linda L. Chezem, *Public*



- Bankruptcy law<sup>22</sup>
- Family law, domestic violence, and child welfare issues<sup>23</sup>
- Agricultural law<sup>24</sup>
- Rural development law, including historic preservation<sup>25</sup>
- Environmental and Natural Resources law<sup>26</sup>
- Rural property law<sup>27</sup>
- Energy law<sup>28</sup>
- Legal issues for small businesses and non-profits<sup>29</sup>

Some of these subject matter areas may be more or less prevalent in particular rural communities. Some of them will also more likely involve repre-

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*Health Law & Equal Access to Justice in Rural America*, 59 S.D. L. REV. 529, 529, 543 (2014) (“Public health law is an essential subject for rural lawyers.”).

22. Cardinal, *supra* note 14, at 68.

23. *Id.*; Chiamulera, *supra* note 13, at 28 (summarizing training that helps rural practitioners of all types better serve children in rural areas); Mader, *supra* note 14, at 525 (noting “family law matters are prevalent no matter how big or small the location”); Chezem, *supra* note 21, at 554–55 (noting areas around the Bakken oil fields in Montana and North Dakota experiencing increased inter-personal violence); Lisa R. Pruitt, *Toward a Feminist Theory of the Rural*, 2007 UTAH L. REV. 421, 444 (noting that “a woman living in a rural area, or merely present in one, may experience aggravated vulnerability based on spatial isolation from others, in particular from sources of aid” and the need for the rural legal community to be educated in the difficulties victims of intimate abuse face because of their rural location).

24. Hamilton, *supra* note 18, at 80 (noting issues related to agricultural law that regularly arise for rural practitioners, such as regulatory compliance for farms, animal identification issues, conservation issues, food law, and local economic development).

25. *Id.* at 83 (“The diversity of [USDA] programs is surprising, and the levels of funding available is impressive, which means any lawyer practicing in rural America needs to be familiar with the work of USDA Rural Development—especially to stay on top of new programs and initiatives developed by the agency.”); Rebecca S. Schoen, *Confronting the Appalachian Breakdown: Historic Preservation Law in Appalachia and the Potential Benefits of Historic Preservation for Rural Communities*, 110 W. VA. L. REV. 1303, 1307–08 (2008) (student author) (arguing that expertise in historic preservation law will allow a rural lawyer to help a rural community diversify its economy using existing resources).

26. Hamilton, *supra* note 18, 90–91, 95 (noting that rural attorneys need to be familiar with environmental law, conservation issues, and land trusts so they can provide legal advice and counsel to rural landowners and other entities interacting with landowners, including the land trusts themselves).

27. See Alan Romero, *Rural Property Law*, 112 W. VA. L. REV. 766 (2010) (discussing several areas of property law “where the substance or application of property rules has differed between rural and urban places”). Romero’s discussion highlights why a lawyer who resides in the rural area where one of these property issues arises will probably be better prepared to understand the client’s needs and the distinct issues of place that must be raised due to the rural location. For example, he notes that “the personal and market value of rural property may be more likely to include value from surrounding unaltered landscape.” *Id.* at 775. An attorney residing in the area will more readily recognize whether a parcel’s value is intertwined with its surrounding unaltered landscape. He also notes that an activity is a nuisance if it “unreasonably interferes with another’s land use, in light of the character of the location, the importance of the uses, and so on.” *Id.* at 777. Once again, an attorney familiar with and invested in the local landscape will be better prepared to advocate on the basis of the location’s character.

28. Hamilton, *supra* note 18, at 97–98 (noting the “search for alternative, home-grown sources of energy” as a “‘new’ issue sweeping across not just rural America but the whole nation” in 2007).

29. Robin Runge & Christyne J. Vachon, *Planting the Seeds and Getting into the Field: The Role of Law Schools in Ensuring Access to Justice in Rural Communities*, 59 S.D. L. REV. 616, 627 (2014) (noting clinic experiences assisting small businesses and non-profits would help students build skills valuable in rural practice).

senting clients with modest means or lower income than others. A new law graduate starting a rural practice would need to know which areas of law could bring in regular income, which areas could generate additional work, and which areas present a need for pro bono service. Researching the community's needs would be a good start, but full understanding of the most sustainable combination of expertise and services can only come with time in the community.

## 2. *Help Students Build a Foundation of Practice Skills Necessary for Effective Advocacy on Behalf of Rural Clients*

Law students are exposed to legal practices or lawyering “skills” to a greater extent today than they were a few decades ago.<sup>30</sup> “The investment in clinics, externships, and practicum courses constitutes a major shift in resources and outlook that the professional critics have failed to acknowledge.”<sup>31</sup> However, even with this strong foundation of basic lawyering skills, opportunities to build practice management skills are not often available in law school.<sup>32</sup> This is true even though, in any state, new law graduates are more likely to become small business owners as solo practitioners or members of a small firm than they are to enter an already-established larger law firm,<sup>33</sup> and new lawyers starting their own practices need to be able to successfully manage a practice.<sup>34</sup> “Training in law practice manage-

30. ROBIN WEST, *TEACHING LAW: JUSTICE, POLITICS, AND THE DEMANDS OF PROFESSIONALISM* 138 (2014) (“Law students today receive more instruction in both professional skills and the honing of professional judgment than law students of thirty or fifty years ago.”). Robin West describes the explosion of clinical education across the country, as well as the growth of instruction in lawyering skills. *Id.* at 138–39.

31. *Id.* at 139.

32. Miller, *supra* note 17, at 949–50. (“[T]he law curriculum rarely presents students with opportunities to build the competencies necessary to operate a practice.”).

33. *Lawyer Demographics Year 2015*, AM. BAR ASS'N (2015), <http://perma.cc/QJ4D-7BG6>. The most recent statistics show that 69% of private practitioners are in practices with ten or fewer lawyers, and 49% are in solo practices. These percentages are from 2005, however, so updated data would be important to draw conclusions about current trends toward or away from solo practice. In 2012, the American Bar Association began offering its online Solo and Small Firm Resource Center based on estimated data about percentage of solo and small firms in the United States. *See ABA serves solo and small-firm lawyers with new online resource center*, EXAMINER.COM, (Jan. 19, 2012), <http://perma.cc/YSD2-K3SS>. The estimates in 2012 were that 70% of private practitioners worked in solo practices or small firms, with “small firms” defined as 20 or fewer members. *Id.*

34. *See, e.g.*, Miller, *supra* note 17, at 957 (noting the law school curriculum does not provide many opportunities to develop interviewing, negotiating, counseling, and business skills necessary to operate a solo or small practice); Runge & Vachon, *supra* note 29, at 622 (noting that one of the primary areas of instruction for graduates who will enter solo or small rural practice must be the business of practicing law); Mader, *supra* note 14, at 529 (concluding that “entrepreneurship and the work ethic that business ownership requires” are important to successful rural law practice); Susan Beck, *Firms Pledge Nearly \$2 Million for New ‘Low Bono’ Effort*, THE AM. LAWYER, Oct. 14, 2015, [available at https://perma.cc/36ZG-K9NX](https://perma.cc/36ZG-K9NX) (asserting that law schools’ failure to teach practice management skills is a primary reason for the lack of low-cost legal services).

ment and law practice technology is a critical solution that will further align the skills that law students must have upon graduation with the employment needs of a radically changing legal market.”<sup>35</sup>

Additionally, law graduates entering solo or small rural practices may need to more fully master certain basic lawyering skills that are either less emphasized or not taught in the traditional law school curriculum. For example, rural lawyers emphasize the heightened importance of client counseling and active listening skills in working with rural clients.<sup>36</sup> Others note the unique ethical issues that arise for solo and small practices in isolated areas, requiring “independent professional judgment” skills that enable rapid evaluation of conflicts of interest.<sup>37</sup> For lawyers entering solo and small rural practices today, technological literacy will be highly relevant to maintaining connections to other practices and mentors, improving efficiency in office workflow and communication with clients, and potentially having an impact beyond the single location to serve a broader client base.<sup>38</sup> Some have noted that solo and small practitioners’ technological literacy could make their legal services more affordable, which would improve access to justice.<sup>39</sup>

35. Richard S. Granat & Stephanie Kimbro, *The Teaching of Law Practice Management and Technology in Law Schools: A New Paradigm*, 88 CHI.-KENT L. REV. 757, 757 (2013). Granat and Kimbro define law practice management as “the art and science of creating and operating a sustainable law firm that generates a reasonable income for law firm members after all costs have been paid.” *Id.* at 758.

36. Mader, *supra* note 14, at 526 (rural practitioners noting their clients need “patient” counseling and sometimes hours of just “willing” listening).

37. *See, e.g.*, Courselle, *supra* note 19, at 728–29, 732–33 (noting contract public defenders’ struggle with conflicts of interest and other rural lawyers’ reluctance to take cases with co-defendants in which the contract defender is conflicted out).

38. *See* Simon Canick, *Infusing Technology Skills Into the Law School Curriculum*, 42 CAP. U. L. REV. 663, 698 (2014) (noting solo practitioners will confront issues like setting up secure networks, accessing information remotely, purchasing office computers, and sharing internet access, but law schools typically offer little to no instruction in technological literacy for solo or small practice); Granat & Kimbro, *supra* note 35, at 763–64 (noting the American Bar Association’s new comment to Rule 1.1 of the Model Rules of Professional Conduct that indicates technological literacy is critical to competence in the modern practice of law); Miller, *supra* note 17, at 963–64. (“Technology is a revolutionary force and is an important component of training future attorneys, especially those operating their own practices. There is no disagreement that technology needs to be part of a solo practice curriculum.”).

39. *See* Luz E. Herrera, *Training Lawyer-Entrepreneurs*, 89 DENV. U. L. REV. 887, 897 (2012) (“Attorneys in solo practice have an opportunity to leverage technology to provide more cost-effective services to their potential client base. Self-employed attorneys can also provide greater options to the community of legal services consumers who are not finding alternatives they can afford in the attorney marketplace.”).

Leadership skills are also crucial for rural practice.<sup>40</sup> Historically, rural lawyers have risen to prominent leadership positions in Montana.<sup>41</sup> The same appears true for other large rural states, like South Dakota.<sup>42</sup> Within rural communities, lawyers have opportunities to lead on local issues through local government positions, school district positions, boards, and local bar associations.<sup>43</sup> Despite the need for training in effective leadership, a minority of United States law schools offer leadership training.<sup>44</sup> Among the schools that deliberately develop leadership, few offer dedicated leadership courses or training in leadership skills.<sup>45</sup> A program intent on training participants for rural practice should more deliberately offer training in effective leadership. Lawyers trained in leadership skills will be simultaneously serving and expanding rural communities while also marketing their rural law practices; this will result in more robust community resources and more sustained rural law practices.<sup>46</sup>

40. See Deborah L. Rhode, *Why Lawyers Become Bad Leaders*, CHRONICLE OF HIGHER EDUC., Sept. 16, 2013, available at <http://perma.cc/DQH2-5Q56>. Deborah L. Rhode of Stanford Law has researched lawyers as leaders, including the overrepresentation of lawyers in national political leadership positions as compared to members of other professions.

41. Six of Montana's first seven governors studied and practiced law, and several built their practices in Montana's most rural areas. See *Thumbnail History of Montana Governors*, MONTANA.GOV, <http://perma.cc/A72P-TTWE> (last visited Dec. 5, 2015). For example, Edwin L. Norris, governor from 1908 to 1913, practiced as Dillon's City Attorney for five years. *Montana Governor Edwin Lee Norris*, NAT'L GOVERNORS ASS'N, <http://perma.cc/6J4X-K76R> (last visited Dec. 5, 2015). Samuel V. Stewart, governor from 1913 to 1921, practiced law in Virginia City and served as a City Attorney in Virginia City and County Attorney in Madison County. *Montana Governor Samuel Vernon Stewart*, NAT'L GOVERNORS ASS'N, <http://perma.cc/SJU3-6AJH> (last visited Dec. 5, 2015). John E. Erickson practiced in Choteau and served as the Teton County Attorney before he became governor in 1925. *Montana Governor John Edward Erickson*, NAT'L GOVERNORS ASS'N, <http://perma.cc/FE77-M4VB> (last visited Dec. 5, 2015).

42. *Project Rural Practice: Past Success Stories*, ST. BAR OF S.D., <http://perma.cc/NE7J-T25J> (last visited Dec. 5, 2015). The State Bar of South Dakota asserts on its Project Rural Practice website that "[r]ural legal practice in South Dakota is a proven road to success for many attorneys." The stories it recounts focus on rural practitioners who have risen to prominent public positions like U.S. Senators or Representatives, and the Governor's office in South Dakota.

43. Cliff Collins, *Outside the Urban Box*, OR. ST. BAR BULLETIN, Oct. 2015, available at <http://perma.cc/8MFG-QFS2>.

44. Rhode, *supra* note 40 ("Although leadership development is now a \$60-billion worldwide industry, it is largely missing in legal education.").

45. *Id.* ("Even the minority of law schools that include fostering leadership among their objectives rarely offer courses in the subject.").

46. Collins, *supra* note 43. Collins illustrates another important connection between leadership roles and sustaining a rural law practice—rural lawyers in Oregon told him that in holding local leadership positions, rural lawyers are marketing their law practice. See also *Leadership for Rural Communities*, CTR. FOR RURAL AFF., <http://perma.cc/EK9Q-ERPH> (last visited Dec. 5, 2015). ("Leaders are the life-blood of small towns and rural communities. The success or failure of community development efforts often rests with the degree of leadership local citizens are willing to provide.").

### 3. Address Financial and Logistical Barriers to Sustainable Rural Practice

New lawyers starting rural practices will require at least some level of financial and logistical support.<sup>47</sup> The need for financial support in rural practice is closely connected to students' law school debt.<sup>48</sup> Significant school debt and low capital when leaving law school can prevent new graduates from taking over practices in rural areas or starting a solo practice.<sup>49</sup> As noted in the Introduction, students at Montana's School of Law list financial barriers as the most significant hurdle to entering rural practice.<sup>50</sup> They also express concern about related barriers, like finding available and affordable housing and office space and evaluating opportunities for their families.

To entice new lawyers into rural practice, a program should address these barriers, whether by providing financial support or by instructing and assisting new lawyers in obtaining affordable housing, office space, and employment opportunities for family members. Teaching law students and new law graduates how to build and manage a solo or small practice would also help address financial and logistical barriers, for example by helping them identify practice areas with the potential to bring in consistent income.

### 4. Deliberately Maintain Connections and Mentoring Despite Geographic Isolation

Findings about lawyer well-being support a move to programs that will give new law graduates more autonomy and competence in early practice.<sup>51</sup> New graduates who enter "service" jobs, like providing legal services to underserved clients, will have greater feelings of well-being and competence in practice.<sup>52</sup> Nevertheless, the same findings also suggest that encouraging new graduates to enter practice in isolated areas without a sufficient competence base and opportunities to relate to others will result in lower, rather than higher well-being.<sup>53</sup> Thus, one of the most important considerations in developing a rural practice program would be maintaining

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47. Robin Runge and Christyne Vachon assert that law schools providing financial support for starting a rural practice is one of the top three ways to increase the number of law graduates opening rural practices. Runge & Vachon, *supra* note 29, at 622–23.

48. Molvig, *supra* note 14, at 18 (rural practitioners noting they had made a living, but students today have significantly more school loan debt, which could negatively impact their ability to enter rural practice).

49. *Id.*

50. *RAL Listening Session*, *supra* note 6.

51. Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success*, 83 *Geo. Wash. L. Rev.* 554 (2015).

52. *Id.* at 591.

53. *Id.* at 579–80.

participants' professional and community connections despite geographic isolation.

Experts studying professional well-being have found that autonomy, relatedness, and competence are the most critical factors to a new lawyer's feeling of well-being.<sup>54</sup> Professionals feel a high level of autonomy when they believe their actions are "coming from their own interests and values—their true, authentic self."<sup>55</sup> They feel a high level of relatedness when they feel "connected to other individuals and to a community."<sup>56</sup> Finally, they feel a higher level of competence when they feel "able to become effective in a particular environment."<sup>57</sup>

Law students, with help from the competitive culture in law school and the bar, can develop the false perception that external factors like income, class rank, and law review membership during law school have as great an impact on lawyer well-being as internal and relational factors.<sup>58</sup> This can lead them to pursue career paths they view as more "prestigious." But research does not support the perception that external "prestige" factors improve well-being in practice.<sup>59</sup> In fact, it shows that attorneys who focus more on service than prestige report feeling more competent and having higher overall day-to-day well-being.<sup>60</sup> If achievement is measured primarily by grades, and certain jobs are only given to law students who achieve higher grades, those jobs become known as the "prestigious" positions.<sup>61</sup>

54. *Id.* at 579. While autonomy, relatedness, competence, and internal work motivation were at the top of the factors impacting an attorney's feelings of well-being, law school ranking, law journal membership, and class rank had far less impact on feelings of well-being. *Id.* at 620.

55. Paula J. Manning, *Understanding the Impact of Inadequate Feedback: A Means to Reduce Law Student Psychological Distress, Increase Motivation, and Improve Learning Outcomes*, 43 CUM. L. REV. 225, 229 (2013). A person who feels autonomous believes she is acting out of her "own interests and values—[her] true authentic self." *Id.* at 229.

56. *Id.* at 237.

57. *Id.* at 238.

58. Krieger & Sheldon, *supra* note 51, at 584–85.

59. *Id.* ("The data confirmed our hypotheses, revealing a pattern in which (1) the internal factors seen to erode in students during their initial law training were the precise factors most strongly predictive of lawyer well-being, and (2) the external factors emphasized in law school and by many legal employers were, at best, only modestly associated with lawyer well-being.")

60. *Id.* at 590–91.

61. *Id.* Krieger and Sheldon surveyed thousands of lawyers, breaking them into groups by practice type. The "prestige" jobs were private law firm positions where the firm had 100 attorneys or more. *Id.* at 588 & n. 140. While this would exclude most Montana firms, the distinction was designed to capture lawyers who had chosen the jobs that tend to be offered to higher-achieving law students, with achievement measured traditionally by grades and law review membership. It was also designed to capture lawyers who were earning comparatively higher income, which also tends to be generally true of larger private law firm positions. In Montana, the distinction could potentially be drawn by identifying lawyers in the state's "larger" private law firms, even though most of those firms would have fewer than 100 attorneys. See, e.g., *Attorneys*, GARLINGTON, LOHN & ROBINSON, PLLP, <http://perma.cc/WM3R-GP2S> (last visited Dec. 5, 2015) (based in Missoula and listing 34 attorneys); *Attorneys*, BROWNING, KALECZYC, BERRY AND HOVEN, P.C., <http://perma.cc/U9EU-JQUY> (last visited Dec. 5, 2015) (based in

The “prestigious” positions tend to be with larger groups of attorneys and result in less autonomy; less autonomy can lead to less internal (versus external) work motivation and, thus, lower well-being.<sup>62</sup> In contrast, jobs with the primary purpose of serving the public tend to have lower income potential, but attorneys holding service positions still appear to have greater feelings of well-being and competence and happier daily mood than attorneys in “prestigious” positions.<sup>63</sup>

A program encouraging rural practice should challenge participants’ automatic assumptions about factors leading to well-being in practice<sup>64</sup> and teach participants ways to maximize “authenticity (which is essentially identical to integrity), competence, relating well to others, helping/community values, and valuing self-understanding and growth.”<sup>65</sup> Program developers could even add participants’ feelings of well-being to the list of outcomes so it weighs factors that will lead to greater well-being heavier than external factors like participants’ income.<sup>66</sup>

The program would have a positive message to share: given the connection between internal motivation and autonomy to lawyer well-being, a program that assists new graduates in starting solo or small practices will likely improve new graduates’ well-being in law practice. “The solo practitioner is the free agent of the legal profession. Whether by circumstances or by choice, the expectation of most law graduates will shift from getting hired and moving up within an organization to building, operating, and

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Helena and listing 27 attorneys); *Our Team*, CHURCH, HARRIS, JOHNSON & WILLIAMS, P.C., <http://perma.cc/M2BD-YSRL> (last visited Dec. 5, 2015) (based in Great Falls and listing 10 attorneys); *Our Attorneys*, MOULTON BELLINGHAM, P.C., <http://perma.cc/BN5A-M586> (last visited Dec. 5, 2015) (based in Billings and listing 17 attorneys); *but see Attorneys*, CROWLEY FLECK, PLLP, <http://perma.cc/9KDT-BA5F> (last visited Dec. 5, 2015) (multiple locations, listing 151 attorneys). Attorneys in these firms would not necessarily report the same lack of autonomy and connection as attorneys responding to Krieger and Sheldon’s survey, but they would arguably fall into the “prestige” job category if the survey were conducted in Montana’s legal community.

62. Krieger & Sheldon, *supra* note 51, at 596–97 (discussing findings that, as the law firm’s size grew, the attorneys experienced less autonomy and shifted from internal to external motivation).

63. *Id.* at 590–91. The data in this study revealed “a core dissonance between ‘competence’ as measured in law school (largely by grade performance), and a lawyer’s ability to feel competence in actual law practice.” *Id.* “Public service lawyers had the lowest grades and earnings of the lawyer groups, but nonetheless reported greater well-being than the group with the highest grades and earnings. This appeared to result from the more intrinsic values and internal work motivations of the service lawyers, combined with the greater importance for well-being of those internal factors (compared to grades and income).” *Id.* at 614–15.

64. Krieger and Sheldon offer valuable data for challenging these automatic assumptions. “The data contradicts beliefs that prestige, income, and other external benefits can adequately compensate a lawyer who has not secured autonomy, integrity, meaningful/close relationships, and interest and meaning in her work. The data therefore suggests fundamental changes in the belief system shared by many law students, lawyers, and their teachers and employers.” *Id.* at 623–24.

65. *Id.* at 623–24.

66. *Id.* at 624.

growing their own practice while doing it on their own terms.”<sup>67</sup> For new graduates about to embark on building or joining a solo or small practice, the increased autonomy, connection to internal motivation, and resulting overall well-being may be worth the challenges.<sup>68</sup>

Rural practice holds great potential for personal relatedness as well. Legal professionals serving rural areas describe rural residents as “community-minded and friendly people” who more deliberately relate to and connect with each other.<sup>69</sup> Most rural communities have opportunities to engage socially, through service, and in cultural events.<sup>70</sup> Supporting new rural lawyers in efforts to engage in rural communities would combat isolation and benefit the new lawyers’ businesses.

Nevertheless, professional relatedness will be harder for new rural lawyers to find due to the geographic isolation that characterizes many rural communities and the small number of lawyers in those communities. Rural judges have noted the dangers of professional isolation in rural courts. “A judge of a rural court will often lack the collegial contact that can develop between judges working in the same community. Without this contact, the rural court has little exposure to helpful ideas or information regarding the organization and processes of similar courts.”<sup>71</sup> For attorneys, less regular contact with legal and other professionals would mean fewer chances to share best practices, problem-solve issues with cases, and simply obtain needed professional support and camaraderie.<sup>72</sup> Perhaps most importantly for a new solo practitioner, less regular contact with other lawyers would mean little to no access to mentoring. This is, unsurprisingly, one of stu-

67. Miller, *supra* note 17, at 695.

68. Krieger & Sheldon, *supra* note 50, at 590–95 (providing a list of findings related to prestige versus service positions, as well as billable hours requirements). For an interesting TED Talk regarding research that supports this point, go to <http://perma.cc/4MV3-WK38> (last visited Dec. 5, 2015). (Health psychologist Kelly McGonigal explains research showing stress in the workplace is hazardous to health if a person believes the stress is harmful, but that meaningful work, even if challenging enough to be stressful, will lead to greater well-being if a person views the stress as an opportunity to act courageously).

69. John C. McKeon & David G. Rice, *Administering Justice in Montana’s Rural Courts*, 70 MONT. L. REV. 201, 201 (2009); *see also* Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 481–82 (2014) (discussing how rural communities tend to have higher acquaintanceship and greater moral consensus); Molvig, *supra* note 14, at 15 (rural practitioner likes “walking down the street and saying hi to people and knowing most of them”). Those in rural practice in Montana see many benefits to living in rural areas, including closer relationships, access to open spaces and recreation areas, smaller schools, and an overall more peaceful existence. McKeon & Rice, *supra* at 219. Judges McKeon and Rice concluded in their article regarding administering justice in rural Montana: “The rewards of administering justice in rural Montana clearly outweigh the challenges.” *Id.* at 220.

70. Alexander Blewett III Sch. of Law at the Univ. of Mont., Rural Law Week Rural Practice Panel (Mar. 20, 2015) (notes on file with author).

71. McKeon & Rice, *supra* note 69, at 218.

72. *Id.*



dents' major concerns with starting a solo or small rural practice.<sup>73</sup> To have a chance of growing the number of sustained rural practices, a rural practice program will need to address that concern.

5. *Help Participants Build a Client Base in and Understand the Rural Communities Where they will Practice*

A lawyer in any location must engage in the community to be the most effective advocate.<sup>74</sup> To fully understand the context for a client's objectives, a lawyer must understand a community's needs for support and will to change. Understanding the community's needs and perspective takes on heightened importance for lawyers in rural communities.<sup>75</sup>

In this light, one scholar's description of pre-Langdellian legal education comes close to describing the type of learning a rural lawyer must do to effectively serve clients in a rural community. In *Teaching Law: Justice, Politics, and the Demands of Professionalism*, Robin West described legal education before Langdell's era as a broader learning process that encompassed more than just a freestanding body of "laws," including cultural and philosophical notions of justice: "Inquiry into the content of the law could not be disentangled from inquiry into the demands of justice, and inquiry into the demands of justice could not be severed from a thorough study of the lessons of Western heritage."<sup>76</sup>

By "Western heritage," West was referring to classic wisdom literature,<sup>77</sup> but the idea of broadening legal education beyond the body of laws to include cultural authority and concepts of justice transfers well to educating a rural lawyer. The pre-Langdellian lawyer looked at law as "part of a larger constellation of accumulated wisdom, with real practical import."<sup>78</sup> A successful rural lawyer learns the "accumulated wisdom" of a rural community and integrates it into his or her approach to providing legal services in that community. The process is alchemical in ways, as West suggests pre-Langdellian legal education was, when a lawyer "was charged with the high duty of learning the wisdom of his culture, integrating that knowledge with his knowledge of the law, and then applying that alchemy to not only the legal problems of individuals, but the political and social dilemmas of the republic."<sup>79</sup>

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73. *RAL Listening Session*, *supra* note 6.

74. *See supra* text accompanying note 13.

75. *Id.*

76. WEST, *supra* note 30, at 79.

77. *Id.* at 77.

78. *Id.*

79. *Id.* at 78.

A lawyer cannot accomplish this process without immersing him or herself in the rural community, and an ideal rural practice program would help participants do just that. Building a client base in a rural community will take time, networking, and engaging in the community.

### III. WHAT MONTANA CAN (AND CANNOT) LEARN FROM OTHER PROGRAMS

Some existing programs are working to encourage new lawyers into rural practice to address access-to-justice gaps in rural communities. Others are attempting to train and support law graduates in starting solo and small practices. Other professions have also developed programs that combine training for remote service, assistance building a professional network, and maintenance of that network once participants leave the program. No single program appears to further all of the ideal goals for a rural practice program discussed in Part II. However, each program offers some wisdom for a more comprehensive approach to encouraging rural practice.

#### A. *Legal Programs*

##### 1. *Law Practice Incubator Programs*

Law practice incubators supporting new law graduates in starting solo and small practices began as a response to access-to-justice issues.<sup>80</sup> The Community Legal Resource Network was one of the first efforts to deliver the incubator model.<sup>81</sup> The program saw a need for lawyers to “learn how to run a practice” before they could successfully work with underserved communities.<sup>82</sup> It provided training in business management skills, including technology for managing a solo or small practice and negotiation skills for acquiring necessary business space and supplies.<sup>83</sup> To support program participants out in the field, the program started an email list through which participants communicated and stayed connected to each other.<sup>84</sup> The program was initially focused on delivering legal services to underserved com-

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80. Fred Rooney & Justin Steele, *Exporting the Legal Incubator: A Conversation with Fred Rooney*, 9 U. MASS. L. REV. 108, 111 (2014) (“The [Community Legal Resource Network] was created in 1998 to address a crisis in access to justice in New York City. We did so by providing professional support to CUNY Law graduates interested in creating solo or small-firm practices in underserved communities.”).

81. *Id.* at 110.

82. *Id.* at 111.

83. *Id.*

84. *Id.* (discussing the participants’ use of the listserv to “share their work product, pose questions to colleagues on substantive areas of law or procedural matters in various locations, or simply find referrals for clients”).

munities, but its benefits for the law graduates soon became clear.<sup>85</sup> Fred Rooney, involved with the Community Legal Resource Network from the beginning, observed, “The principles of the original incubator have now become ubiquitous: help graduates improve employment opportunities and, in turn, help individuals living in underserved communities with unmet legal needs.”<sup>86</sup>

Today, incubator programs continue to gain momentum across the country as a method of improving access to justice for poor and underserved individuals and communities while also building law graduates’ marketable skills.<sup>87</sup> While existing incubator programs have a variety of structures, the basic concept is a trade whereby new law graduates receive hands-on training and mentoring while providing pro bono legal services.<sup>88</sup> As a result, incubators have the potential to address both access-to-justice issues and the need for more hands-on training for new law graduates.<sup>89</sup>

The incubator model helps participants build a book of business by providing them with logistical and financial support and mentoring as they start solo or small practices.<sup>90</sup> The California Commission on Access to Justice describes an ideal incubator as one that produces lawyers who “are able to establish and maintain successful law practices.”<sup>91</sup> The program provides logistical support, skills training, and networking opportunities in a

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85. *Id.* 112.

86. Roomey & Steele, *supra* note 80, at 112–13.

87. *Id.* at 112. (noting the 2008 economic crisis in the legal profession was “a turning point for the [Community Legal Resource Network] incubator,” which “became not only about creating successful law practices in underserved communities, but also about helping CUNY graduates become more marketable lawyers”); INCUBATOR GUIDE, *supra* note 11, at 2 (“Law practice incubators have emerged in recent years in response to several factors, including a decrease in the number of attorney jobs, an increasing recognition that new lawyers have not been educated in the practical skills required to practice law, and the chronic, pervasive lack of affordable legal services available to low and moderate income people.”).

88. INCUBATOR GUIDE, *supra* note 12, at 2 (“Incubator participants receive the infrastructure and basic training needed to get their practices up and running, and serve the local community’s legal needs at an affordable cost.”); *Incubator/Residency Programs*, AM. BAR ASS’N, <http://perma.cc/BA6W-LMXB> (last visited Dec. 5, 2015) (“Law firm incubator and residency programs are emerging as models that enable newly-admitted lawyers to acquire the range of skills necessary to launch successful practices.”).

89. INCUBATOR GUIDE, *supra* note 12, at 2 (“Incubators meet two important goals: they provide a structured education in the practice of law and law practice management, and they provide legal services at affordable rates for underserved communities.”).

90. Miller, *supra* note 17, at 964.

91. INCUBATOR GUIDE, *supra* note 12, at 2. The Commission emphasizes an ideal program will not only produced skilled lawyers, but skilled lawyers “committed to representing low and moderate income clients.” It also notes the best programs will be “self-sustaining” and offer “excellent and affordable legal services.”

“work environment where incubator attorneys can gain experience in the practice of law and knowledge about how to manage a law practice.”<sup>92</sup>

As noted, the early incubator model did not offer a centralized office building for solo practices, but instead created a network of attorneys connected through regular trainings and a listserv.<sup>93</sup> The Community Legal Resource Network did not require pro bono service; it focused on supporting attorneys likely to provide that service.<sup>94</sup> The program’s training was designed to build participants’ “professional skills” and ability to manage a small firm.<sup>95</sup> In addition, the program maintained an email list for member attorneys, which offered a way for those attorneys to support each other in serving underserved communities.<sup>96</sup> One graduate described the email list as crucial to developing her now “thriving” immigration practice: “As a young attorney practicing solo, I very much depended on the CLRN support group of veteran immigration attorneys who would review letters I had written; update me on the law; and discuss ethical, legal and practical issues.”<sup>97</sup> The model showed promise for addressing access-to-justice gaps and new law graduates’ need for extended practical training after law school before starting solo practices; however, the Dean of CUNY, where the incubator program was housed, recently reported the program was no longer operating due to financial and structural issues.<sup>98</sup>

Some incubators operate through an existing law clinic.<sup>99</sup> Chicago Kent uses this model for its Solo and Small Practice Incubator.<sup>100</sup> In this type of incubator program, new law graduates work on the clinic’s cases for

92. INCUBATOR GUIDE, *supra* note 12, at 2. Incubators also vary in the ways they support incubator attorneys. *Id.* at 4. Some provide office space and free equipment, while others provide incubator attorneys stipends or salaries in exchange for legal services to low or moderate income clients. *Id.* at 4.

93. Rooney & Steele, *supra* note 80, at 111.

94. *Id.* at 111.

95. *Id.* at 120.

96. *Id.* at 111 (The listserv allowed members to “share their work product, pose questions to colleagues on substantive areas of law or procedural matters in various local jurisdictions, or simply find referrals for clients.”).

97. *Public Square: Become a Member*, CUNY SCH. OF L., <http://perma.cc/8YUF-MVEM> (last visited Dec. 5, 2015).

98. Beck, *supra* note 34.

99. Adam W. Lasker, *Chicago-Kent’s Solo-Attorney Incubator Nurtures New Lawyers*, 101 ILL. B. J. 10 (2013) (describing the Chicago Kent Solo and Small Practice Incubator).

100. *Id.* at 10. The Tulsa Immigrant Resource Network also operates within an existing clinic, the Immigrant Rights Project at TU College of Law. *Tulsa Immigrant Resource Network*, UNIV. OF TULSA, <http://perma.cc/CL97-DRHZ> (last visited Dec. 5, 2015) (“Since May 2008, with the generous support of the George Kaiser Family Foundation, the legal clinic has provided expanded services to the Tulsa immigrant community through the Tulsa Immigrant Resource Network (TIRN).”). Some programs are free standing organizations that work closely with existing clinics rather than operate through existing clinics. *Incubator/Residency Programs*, *supra* note 87. Programs with this model include the James E. Rogers Community Law Group at the University of Arizona, working with the Bacon Immigration Law & Policy Program and its two immigration law clinics for J.D. students. The clinics refer cases to incubator attorneys, and the clinic professors help select participants for the program.

a set time per week and stay available for last-minute court appearances or other case tasks.<sup>101</sup> The clinic professors mentor incubator attorneys on law practice management issues, and the law school provides some resources like legal research platforms and free or reduced-cost office space.<sup>102</sup> The clinic also refers cases to the incubator attorneys.<sup>103</sup> One of the many benefits of this model is the interaction between the incubator attorneys and clinic students. Incubator attorneys interact with and work alongside clinic students, which allows students to observe solo practitioners in action and gives the incubator attorney continued relatedness despite being a solo practitioner. Clinic faculty at Chicago Kent also report the program helps them teach existing law students.<sup>104</sup> Another benefit is that a busy clinic has more lawyers available to take referrals of clients with low or moderate income.<sup>105</sup>

Notably, almost all existing programs help participants start practices where the incubator is located, and most are located in urban areas.<sup>106</sup> The Northern California Lawyer Access, Inc. Law Practice Academy is one exception.<sup>107</sup> The Law Practice Academy's mission is "to provide newly admitted attorneys with the skills and experience to open and operate a sustainable law practice in rural counties."<sup>108</sup> The incubator program is located in Nevada City, California, in the comparatively rural northeastern part of California.<sup>109</sup> The program is in early stages, but it plans to have program

101. Lasker, *supra* note 99, at 10 (describing the requirement that incubator attorneys give 10 hours per week to the clinic cases).

102. *Id.*

103. *Id.* ("In addition to these referrals from the school's clinics, the new lawyers receive free office space in the law school's Chicago campus, along with access to Westlaw and Lexis, copy machines, alumni mentors, and the school's entire law library.")

104. *Id.*

105. INCUBATOR GUIDE, *supra* note 12, at 4 (noting legal services offices and bar associations also benefit when an incubator program increases the number of lawyers taking low and moderate income clients).

106. The California Commission on Access to Justice alludes to incubator attorneys being able to start practices in communities other than where the incubator is established: "Ideally, upon completion of the program, incubator graduates will be able to launch a sustainable law practice, providing affordable services in *communities where there is a need for their services.*" INCUBATOR GUIDE, *supra* note 12, at 4 (emphasis added). It also mentions housing an incubator program in "areas of high need," noting that "[i]deally, participants should be able to have meeting space near the clientele that will be served." *Id.* at 13. However, a review of existing incubator programs in the ABA Directory shows they are nearly all located in urban areas, which will naturally lead to participants developing a client base in those areas. *Incubator/Residency Programs*, *supra* note 88.

107. *The Academy*, N. CAL. REFERRAL SERV., <http://perma.cc/6LX2-V6M9> (last visited Dec. 5, 2015).

108. *Incubator/Residency Programs*, *supra* note 88.

109. *The Academy*, *supra* note 107. Nevada City had an estimated population of 3,028 in 2014, but like most counties in California, its proximity to urban areas makes it relatively less rural than many other parts of the country, including Montana. U.S. Census Bureau, Population Estimates, Incorporated Places and Minor Civil Divisions Datasets: Subcounty Resident Population Estimates: April 1, 2010 to

attorneys serve clients in the most rural part of the state through cloud-based technology.<sup>110</sup> Program attorneys will take calls from clients in rural areas, and the program plans to install “client portals” in convenient locations throughout its service area in rural California.<sup>111</sup> The program is headquartered in a rural area and is being designed to help participating attorneys serve clients in rural areas, but it is still initially delivering legal services remotely rather than setting participants up in rural communities.<sup>112</sup> The Lawyer Referral Service calling system will ensure program attorneys are building a client base made up of rural residents, but because clients will be calling from various locations, it will not necessarily allow a program attorney to build a client base in a particular rural community.<sup>113</sup>

In contrast to California’s program, which has participants deliver legal services remotely in the initial stages of the program, the Vermont Lawyer Incubator Project helps participants set up rural practices in rural locations from day one and connects them through an email list and regular meetings, beginning weekly and graduating to monthly, for training and

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July 1, 2014, CENSUS.GOV <http://perma.cc/D8AC-GDEH> (last visited Dec. 5, 2015) (California). According to the USDA Economic Research Service’s Atlas of Rural and Small-Town America, Nevada County, where Nevada City is located, has a Rural-Urban Continuum Code of 4, and an Urban Influence Code of 3. U.S. Dept. of Agric., *Atlas of Rural and Small-Town America*, ECON. RESEARCH SERV., <http://perma.cc/R5FY-B55L> (last visited Dec. 5, 2015). The Rural-Urban Continuum Code distinguishes counties based on population size and “degree of urbanization and adjacency to metro areas.” U.S. Dept. of Agric., *Rural-Urban Continuum Codes*, ECON. RESEARCH SERV., <http://perma.cc/V8K7-DMGK> (last visited Dec. 5, 2015). Nevada County’s code of “4” indicates it is at the highest population size for a “nonmetro” county and is adjacent to a metropolitan area. *Id.* Nevada County’s Urban Influence Code of 3 also indicates it is on the less rural end of the urban-rural gradient. U.S. Dept. of Agric., Econ. Research Serv., *Urban Influence Codes*, ECON. RESEARCH SERV., <http://perma.cc/ML37-V9XS> (last visited Dec. 5, 2015) (showing code “3” as the least “rural” definition of nonmetropolitan counties).

110. *Law Practice Academy, 2015-16 Application Packet*, N. CAL. LAWYER ACCESS, INC. 1, 5, <http://perma.cc/5X2T-HCCW> (last visited Dec. 5, 2015) (“The base of operations for the first 6 months of the course will be the suite of offices in Nevada City, California. After that, we anticipate most of our students will continue to be mentored as they receive clients referred through NCLA’s Modest Means program.”).

111. *Incubator/Residency Programs*, *supra* note 88 (Northern California Lawyer Access, Inc. Law Practice Academy, Types of Cases Handled). “NCLA will be relying heavily on cloud-based technology to put the attorneys in contact with callers and anticipate installing ‘client portals’ in accessible places such as public and law libraries, social service agencies, etc., so that those who do not have smart phones, home computers, or reliable internet connections can maintain contact through Clío’s cloud based client management software.” *Id.*

112. *Law Practice Academy*, *supra* note 110, at 1, 4–5. The application packet emphasizes the program’s goal to “prepare [attorneys] to open and operate a sustainable solo or small firm law practice in a rural area.” *Id.* at 3. Program attorneys participate in an eight-week intensive “boot camp,” delivered online or in person. *Id.* at 4–5 (“The base of operations for the first 6 months of the course will be the suite of offices in Nevada City, California. After that, we anticipate most of our students will continue to be mentored as they receive clients referred through NCLA’s Modest Means program.”).

113. Conversation with Jo Anne Stone, Executive Director of Northern California Lawyer Access, Inc., the Lawyer Academy and Referral Service (Dec. 7, 2015) (notes on file with author).

case review.<sup>114</sup> Vermont's small size will allow the program to maintain close, in-person connections with the program attorneys even though they have set up practices in the state's less populated areas.<sup>115</sup> The program is a joint project between the Vermont Bar Association and Vermont Law School, and a faculty member at Vermont Law School is co-directing the program and providing training in part through courses at Vermont Law School.<sup>116</sup> Two of the three attorneys in the pilot project set up locations in Bethel, about 8 miles from Vermont Law School, and Randolph, about 16 miles from Vermont Law School.<sup>117</sup>

An incubator model would further the goal of increasing the number of graduates trained to open solo or small practices by helping graduates solidify subject matter expertise and practice skills. This would prepare more graduates to open practices in rural areas.<sup>118</sup> However, without some modification, the existing incubator model is unlikely to further the goal of increasing the supply of lawyers willing to start and sustain a practice in a rural area.<sup>119</sup>

The first and perhaps most important reason existing incubator models will not further the goals of a rural practice program is that they enable participants to build books of business and practice networks in centralized, urban locations. As students at the School of Law pointed out, if they build their books of business in urban communities, it will be more difficult to pick up their practices and move to rural communities to start that process anew.<sup>120</sup>

114. *Vermont Lawyer Incubator Pilot Project*, VT. BAR ASS'N, <http://perma.cc/SU66-VXJT> (last visited Dec. 5, 2015) (noting on page 2 that the program lawyer will establish a practice location and set up an office in that location during the first three months of the eighteen-month program).

115. The State of Vermont covers 9,616 square miles. U.S. Census Bureau, *Geography*, STATE AREA MEASUREMENTS AND INTERNAL POINT COORDINATES, <http://perma.cc/N5S2-FGTF> (last visited Dec. 5, 2015). Vermont is the sixth smallest state by square miles. *Id.* In contrast, Montana is the fourth largest state by square miles, covering 147,040 square miles, and California is the third largest state, covering 163,695 square miles. *Id.*

116. *Vermont Lawyer Incubator Pilot Project*, *supra* note 114 (noting on page 2 that program attorneys will meet regularly for "rounds" discussions of cases and work on business plans through the Vermont Law School Law Practice Management course).

117. *New Program at VLS Helps Lawyers Set Up Practice Here*, THE HERALD OF RANDOLPH, July 10, 2014, available at <http://perma.cc/68FP-72KY>; *Directions, South Royalton, VT to Randolph, VT*, MAPQUEST, <http://perma.cc/J8LF-MN9H> (last visited Dec. 5, 2015); *Directions, South Royalton, VT to Bethel, VT*, MAPQUEST, <http://perma.cc/9LG7-7AFH> (last visited Dec. 5, 2015).

118. Runge & Vachon, *supra* note 29, at 628–29.

119. An additional problem with simply adding a post-graduate incubator program without also analyzing the law school curriculum is that most incubator programs are quite small. Even a small impact could lead to positive change in rural communities, but a post-graduate program that reaches only a fraction of the students who may desire to enter rural practice cannot act alone to address rural access-to-justice issues in a state. See Miller, *supra* note 17, at 951 ("[W]hile post-graduate programs are important steps in assisting attorneys in gaining the competencies to operate their own practices, this education should be more widely available to all students and it should begin before graduation.").

120. *RAL Listening Session*, *supra* note 6.

Second, even if participants spread to rural areas after the program's "training phase" finishes, participants will still lack professional relatedness and mentoring in those rural areas. While the graduates in an urban incubator have built-in, face-to-face mentoring and relationships with other incubator participants, a challenge with an incubator-like program in a large rural state is that it sends graduates into isolated rural areas, separating the new lawyer from the professional network and mentoring that make the incubator valuable for graduates interested in solo practice.

## 2. *Programs Educating Law Students in Rural Perspectives*

If a law school minimizes rural perspectives, it can cause students to minimize rural practice as a career option. "Legal education suffers from a lack of awareness and knowledge of the rural experience."<sup>121</sup> Because law schools are often located in urban areas, most law students network with urban attorneys who attend more law school functions, interview or even teach as adjunct law professors.<sup>122</sup> To combat these issues, some states are immersing their students in rural areas and exposing them to the benefits and challenges of rural practice.<sup>123</sup> One model is a summer program that gives law students first-hand experience in rural practice.<sup>124</sup>

Several examples of rural summer programs show promising collaborations between law schools and state bar associations. The Iowa State Bar Association's Rural Practice Committee started a program to match law students with rural attorneys.<sup>125</sup> The program is designed to encourage law students to consider rural practice after being admitted to the bar. In 2014, the State Bar Foundation began funding stipends to supplement the student participants' employer-provided summer compensation in return for at least 50 hours of legal aid to the state's indigent residents, including residents in the rural areas where the students are placed.<sup>126</sup> Nebraska's Rural Practice Initiative, formed in 2013, places law students with rural solo practitioners

121. Runge & Vachon, *supra* note 29, at 628; see also Alan Romero, *Legal Issues from a Rural Perspective*, WYO. LAW., Oct. 2012, at 22, 22. ("Rural perspectives and issues don't seem to attract as much attention from scholars or students, most of whom live and work in metropolitan areas.")

122. Runge & Vachon, *supra* note 29, at 620–21.

123. Pruitt & Showman, *supra* note 69, at 478 (describing programs in Canadian law schools and Seattle University Law School's satellite program in Anchorage).

124. Runge & Vachon, *supra* note 29, at 629–30 (describing the Iowa State Bar Association's summer clerkship program and the Nebraska State Bar Association's Rural Practice Initiative).

125. See *ISBA Rural Practice Committee*, IOWA ST. BAR ASS'N, <http://perma.cc/YW75-5TSX> (last visited Nov. 29, 2015) (providing more information about the Rural Practice Committee/Iowa Legal Aid Stipend Program).

126. See *Rural Practice Committee/Iowa Legal Aid Stipend Program*, IOWA ST. BAR ASS'N, <http://perma.cc/BA7P-Z7DB> (last visited Nov. 29, 2015) (providing the program's participant agreement).



or small firms for five-week clerkships during the summer.<sup>127</sup> Like the Iowa program, Nebraska's program is now offering a housing stipend that will supplement the student's summer compensation paid by the employer.<sup>128</sup> "The primary objective of the Initiative is to increase the number of attorneys (recent law graduates) practicing in underserved rural communities," many of which have no attorneys or attorneys at retirement age.<sup>129</sup> The University of Wisconsin Law Lawyering Skills Program sponsors several summer internships in "small to mid-sized" Wisconsin towns outside of Madison or Milwaukee.<sup>130</sup> One of the Program's goals, in addition to helping students practice using skills in context, is to "give law students a taste of what it's like to practice in a rural area, before taking the leap to set up a new law office or buy an existing one."<sup>131</sup>

### 3. Rural Lawyer Recruitment Programs

Some programs encourage rural practice by focusing on recruitment. For example, due to its "current and projected shortage of lawyers practicing in small communities and rural areas," South Dakota did not use the traditional incubator model, but instead started a financial incentive program to encourage lawyers to start practices in rural communities.<sup>132</sup> The "Recruitment Assistance Pilot Program," started in 2013, gives a lawyer financial support in return for five continuous years of practice in a rural county with a population of 10,000 or less.<sup>133</sup> The financial incentive is not provided by a single entity, but instead through a collaborative effort between a rural county (35%), the State Bar of South Dakota (15%), and the Unified Judicial System using funds appropriated by the South Dakota Legislature (50%).<sup>134</sup> Involving the counties in the program ensures community

127. *Rural Practice Initiative (RPI)*, NEB. ST. BAR ASS'N, <http://perma.cc/HD7L-BV92> (last visited Nov. 29, 2015).

128. *Rural Practice Initiative Associate and Summer Clerkship Placement Program*, NEB. ST. BAR ASS'N, <http://perma.cc/CC2J-QGE5> (last visited Nov. 29, 2015). See also *The Nebraska State Bar Association awarded \$15,000 for Clerkship Program in Rural Nebraska*, NEB. ST. BAR ASS'N (July 1, 2014), <http://perma.cc/JJD4-4KMG> ("One of the challenges of placing law students in summer clerkships in rural Nebraska has been securing housing. Relocating to a rural area for a clerkship can be cost prohibitive for many law students.")

129. *The Nebraska State Bar Association awarded \$15,000 for Clerkship Program in Rural Nebraska*, *supra* note 128.

130. Molvig, *supra* note 14, at 20.

131. *Id.*

132. *Rural Attorney Recruitment Program*, S.D. UNIFIED JUDICIAL SYS., <http://perma.cc/69XT-YLET> (last visited Nov. 29, 2015); see also Runge & Vachon, *supra* note 29, at 632.

133. *Rural Attorney Recruitment Program*, *supra* note 132. The program is capped at 16 attorneys, and as it is a pilot program, attorneys may be added only until July 1, 2017.

134. Runge & Vachon, *supra* note 29, at 632; *Rural Attorney Recruitment Program*, *supra* note 132. The state legislature, Chief Justice Gilbertson, and the State Bar of South Dakota's Executive Director worked on the legislation that provided Project Rural Practice's funding structure. House Bill 1096,

buy-in and support; counties must apply to be “eligible” for the program, and the Unified Judicial System must assess each county’s need.<sup>135</sup> The financial incentive helps a new lawyer cover start-up costs of solo practice and offer services at low or no cost initially.<sup>136</sup> This helps the lawyer build a book of business in the rural community and provide valuable services to low- and moderate-income clients.<sup>137</sup>

South Dakota was the first state to pass legislation offering financial incentives for lawyers to enter rural practice.<sup>138</sup> The program will certainly further the goal of addressing financial hurdles to rural practice. While this is an exciting step forward, the program does not appear to fully address the potential for, and dangers of, professional isolation in rural practice. Founders point to the importance of program participants “having a connection to a veteran lawyer” for mentoring.<sup>139</sup> But the mentoring resources available to program participants appear to be the same resources generally available to attorneys across the state, including the Bar’s mentorship program and the ALPS Attorney Match.<sup>140</sup> These resources may provide rural lawyers with online connections, but they will not necessarily result in connections with other professionals in their rural area, which is important for rural practice.

Additionally, financial incentives and connection to a particular community will not address participants’ foundational knowledge and skills for rural practice. Lawyers in the program may have the financial support to spend time networking and developing a consistent client base, but they may not be prepared to manage a practice or meet the subject matter needs of rural residents. Without more intentional preparation for rural practice, participants may find themselves unsupported despite the annual stipend, and thus unable to make rural practice work long-term.

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known as the “Rural Lawyer Recruitment Bill,” provided state funds toward the incentive program. *See* Goetzinger & Morris, *supra* note 12, at 456.

135. The Unified Judicial System must use a set of factors to determine each county’s need: the county demographics; the current attorneys practicing in the county, including their ages; the approval of the presiding local judge; the county’s economic development programs; the county’s location in relation to other counties in the program; and the county’s prior participation in the program. *Rural Attorney Recruitment Program*, *supra* note 132.

136. Runge & Vachon, *supra* note 29, at 632.

137. *Id.*

138. Goetzinger & Morris, *supra* note 12, at 456.

139. *Id.* at 459.

140. *Id.*

#### 4. *Technology-Based Programs that Deliver Legal Services Remotely*

Legal services programs are most effective with at least some in-person meeting time between the litigant and an attorney.<sup>141</sup> However, in some states where distances make in-person meetings more difficult, state bar associations and legal services organizations have begun using technology as a bridge to connect rural residents with urban attorneys. For example, Michigan has implemented one technological program designed to increase access to legal services in rural areas.<sup>142</sup> The program connects a client with an attorney online through a private messaging system.<sup>143</sup> Both remain anonymous, and they can communicate through messaging or real-time chat.<sup>144</sup> In addition to tools that connect residents with actual attorneys, an increasing number of technological tools educate the residents so they can represent themselves; Montana has already joined the multiple states utilizing these tools for self-represented litigants, and the Access to Justice Commission has worked to provide self-represented litigants forms and basic instructions at courts, community centers, or stores.<sup>145</sup>

Technology can also increase connections between practitioners in a statewide program.<sup>146</sup> Legal aid programs have begun using web meeting and webinar tools to train and meet with attorneys and staff, and courts—

141. See James E. Cabral et al., *Using Technology to Enhance Access to Justice*, 26 HARV. J.L. & TECH. 241, 262 (2012). Scholars have recommended that efforts to reach out to remote rural areas include both a technological component and a traditional, in-person component. In part due to lack of technology, and in part due to higher illiteracy, “courts and legal aid providers must maintain traditional services even as they expand into new technological frontiers.” *Id.* at 262. Some programs have successfully combined in-person on-the-spot pro bono assistance with mobile technology. *Id.* at 270 (describing the Missouri Association of Trial Attorneys “Emergency Response Team” that provided pro bono legal services to Joplin after the tornado by using a wireless Internet hotspot). *Id.*

142. *Id.* at 249–50 (describing the Internet Representation Project in Northern Michigan). A full description of the project can be found at *About Legal Services of Northern Michigan’s Internet Representation Project!*, LEGAL SERVS. OF N. MICH., <http://perma.cc/MNA9-8J73> (last visited Nov. 29, 2015).

143. Cabral et al., *supra* note 140, at 249–50, 270 (describing a program in Central California that puts laptops in libraries, senior centers, and community centers that connect people with urban law students for intake and legal advice).

144. *Id.* at 249–50. Tennessee has a similar program, and attorneys providing pro bono service through the web portal receive CLE credit. A full description of the project can be found at *About, ONLINE TENN. JUSTICE*, <http://perma.cc/HD5L-2W5B> (last visited Nov. 29, 2015).

145. Cabral et al., *supra* note 140, at 254–55 (describing animated videos as an inexpensive way to reach pro se litigants with common legal advice); See, e.g., *Helping Low-Income Individuals Solve Legal Problems*, MONTANALAWHELP.ORG, <https://perma.cc/9TVW-L6FV> (last visited Apr. 22, 2016); Mont. Judicial Branch, *Court Help Program*, COURTS.MT.GOV, <https://perma.cc/SZ6Q-S599> (last visited Apr. 22, 2016); Yellowstone Cnty. Justice Court, *Civil Plaintiff Forms*, CO.YELLOWSTONE.MT.GOV, <https://perma.cc/G5KV-SWSN> (last visited Apr. 22, 2016).

146. Montana Legal Services is a good example of this. Through cloud computing, it has improved connection and interaction between its attorneys in three state offices, noting it has “dramatically changed [the] culture” in their offices. Chris Bernard, *Culture in the Cloud: The Case of Montana Legal Services*, NONPROFIT TECHNOLOGY NETWORK, <http://perma.cc/WH5D-XLWS> (last visited Nov. 29, 2015). Another example is a large pro bono firm that uses an app allowing volunteer attorneys to update

including Montana's courts—have been using videoconferencing to facilitate and enable remote meetings and hearings.<sup>147</sup> If regular and required, online meetings build more consistent feedback loops between participants and program developers and directors. Some programs also use online meetings and e-learning modules for training between in-person meetings.<sup>148</sup>

Technology may offer several opportunities to connect rural residents with urban legal services, but its effectiveness depends on the existence of technology infrastructure, like high-speed internet and cell reception, in the rural communities to be served.<sup>149</sup> Even if rural residents were apt to engage through technology, isolated rural communities will not likely persist through poor internet and cellular service to communicate with lawyers remotely. Delivering legal services remotely also fails to address the need for attorneys informed and invested in the rural community's needs and perspectives, which will leave in place a significant barrier to rural residents' access to justice. A rural practice program could instead consider ways technology connects rural lawyers to each other, to mentors, and to the courts, improving relatedness for the rural lawyer and making the lawyer's practice more efficient.

### B. Non-Legal Programs

#### 1. Programs Designed to Prepare Participants for Remote Service

Building graduates' foundation of practice skills is a hallmark of successful post-graduate programs designed to send graduates into remote professional service. These programs have a truncated timeline within which to lay the foundation of skills before participants are no longer in one place, a pre-mobilization "boot camp" with focused training. Another important feature of these programs is their robust and intentional approach to developing participants' professional network.

Two examples are the Leadership Montana Program and the Alliance for Catholic Education Teaching Fellows Program. Upon entering these programs, participants immediately spend a limited and focused period of time studying communities and practicing critical skills before going out on

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the cases they have accepted. Cabral et al., *supra* note 140, at 272 (describing the Force for Good app developed by the Public Counsel Law Center).

147. Cabral et al., *supra* note 140, at 255–56; *See also* Judicial Video Network, MT.GOV, <https://perma.cc/R4TM-RV7V> (last visited Apr. 22, 2016) (noting that "Vision Net," a video conferencing tool, is available in over 50 county courthouses).

148. Cabral et al., *supra* note 140, at 255–56 & nn. 80–82 (describing University efforts to offer free courses through e-learning models, as well as independent e-learning efforts like Khan Academy, Coursera, and Udacity).

149. *Id.* at 261–62.

their own to use their knowledge and skills in real leadership and teaching positions. Both programs then deliberately cultivate a professional network among participants and alumni.

The Leadership Montana Program brings together professionals from diverse backgrounds and trains them for leadership positions across the state.<sup>150</sup> The Program's mission is "to develop leaders committed to building a better Montana through knowledge, collaboration, and civility."<sup>151</sup> Over eight months, participants travel to multiple communities around the state to study important issues of interest for state leaders, including agricultural development, natural resources, education, tourism and recreation, energy, small business development, and health care.<sup>152</sup> The Program helps participants develop knowledge in these areas, leadership skills, and a strong network.<sup>153</sup> After the eight-month period of training, alumni are invited to regular events with presentations on diverse topics of interest to state leaders and opportunities to connect with their professional network.<sup>154</sup>

The Alliance for Catholic Education (ACE) Teaching Fellows Program also has a *boot camp* training approach, bringing participants together for focused training before sending them out into teaching positions in various locations. The program brings trainees back for more intensive training half-way through the two-year program.<sup>155</sup> The program calls its training periods teacher "formation."<sup>156</sup> To better prepare professionals from a variety of backgrounds to be teachers the program "[integrates] graduate level coursework with an immersion teaching experience."<sup>157</sup> The training periods are described as "accelerated" and "no-frills."<sup>158</sup> Another important feature of the program is its deliberate approach to maintaining participants' relatedness during their in-community work. Called the "cohort model," the program requires ACE teaching fellows to live in small groups, even

150. *Leadership Montana*, LEADERSHIP MONT., <http://perma.cc/PU7N-5DJW> (last visited Nov. 29, 2015).

151. *About the Program*, LEADERSHIP MONT., <http://perma.cc/G5JU-BR77> (last visited Nov. 29, 2015).

152. *Id.*

153. *Id.* ("Participants gain a deeper awareness of issues affecting our state, build powerful connections with their classmates and a network of committed alumni who live and work throughout Montana.")

154. *Leadership Montana Events*, LEADERSHIP MONT., <http://perma.cc/T37H-2XDZ> (last visited Nov. 29, 2015).

155. *ACE Teaching Fellows: Teaching and the M.Ed.*, UNIV. OF NOTRE DAME, <http://perma.cc/WMB2-WFZF> (last visited Nov. 29, 2015).

156. *ACE Teaching Fellows: The Three Pillars of ACE*, UNIV. OF NOTRE DAME, <http://perma.cc/DC25-FPXC> (last visited Nov. 29, 2015).

157. *ACE Teaching Fellows: Teaching and the M.Ed.*, *supra* note 160.

158. Katherine Newman, *Teacher Training, Tailor-Made*, EDUCATIONNEXT, <http://perma.cc/JQ8X-KR95> (last visited Nov. 29, 2015).

though they are teaching in different schools around the area.<sup>159</sup> Thus, the teaching fellows have a built-in professional community in addition to teacher mentors.

## 2. *Programs Designed to Support and Retain Professionals in Rural Communities*

Rural communities not only have less access to lawyers, they also struggle to recruit and retain physicians and teachers.<sup>160</sup> With medical students coming from some of the most rural areas of the United States, the University of Washington School of Medicine set out to address rural gaps in the physician workforce by developing a program to produce more rural physicians.<sup>161</sup> The resulting program was named TRUST, the Targeted Rural Underserved Track.<sup>162</sup> “TRUST is a four-year curriculum centered on a required four-year clinical longitudinal continuity experience with students repeatedly returning to a single site located in a rural community or small city.”<sup>163</sup> Other U.S. and international programs designed to increase the number of rural physicians typically do not encourage participants to develop a continuous relationship with a single rural community.<sup>164</sup> This distinguishes the TRUST program design, and it required program designers to link existing curriculum with new curricular and experiential opportunities from before a student enters medical school through the ultimate placement in a rural residency.<sup>165</sup> The program’s ultimate goal is to “take students

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159. *Id.*

160. See Thomas Greer, et al., *The WWAMI Targeted Rural Underserved Track (TRUST) Program: An Innovative Response to Rural Physician Workforce Shortages*, *ACADEMIC MED.*, at 1 (2015) (“There is a persistent paucity of rural physicians in the U.S. health care system. With 27% of the U.S. landmass and 3.3% of the population, Washington, Wyoming, Alaska, Montana, and Idaho (WWAMI) are among the most rural areas of the country.”); Amy Price Azano & Trevor Thomas Stewart, *Exploring Place and Practicing Justice: Preparing Pre-Service Teachers for Success in Rural Schools*, 30 *J. RESEARCH IN RURAL EDUC.* 1, 1 (2015) (“Recruiting and retaining highly qualified teachers also remains a challenge for rural schools, due in part to the lack of community amenities, geographic and professional isolation, lower salaries, and higher poverty rates.”); Hannah Alsgaard, *Rural Incentive Programs for Legal and Medical Professionals: A Comparative*, 59 *S.D. L. Rev.* 585, 591 (2014) (“The health care industry is facing projected shortages of health professionals nationwide.”).

161. Greer, et al., *supra* note 159, at 1.

162. *Id.*

163. *Id.*

164. *Id.* In 2012, South Dakota created a program similar to TRUST called the Frontier and Rural Medicine program (FARM) in which medical students spend nine months in a rural community. See Alsgaard, *supra* note 159, at 597.

165. Greer, et al., *supra* note 159, at 1. As the school embarked on designing the program, it researched other programs designed at addressing gaps in rural physician workforce. *Id.* It found several common characteristics of those programs, including “targeted admissions for students with a background or interest in primary care or rural settings, training opportunities in rural communities such as longitudinal clinical clerkships, directed rural mentorship, and the development of knowledge and skills needed for rural practice.” *Id.*

from rural or underserved communities, nurture a connection, and return the physician back for practice.”<sup>166</sup>

The TRUST program begins in the admissions process.<sup>167</sup> Students are admitted to the program based on the size of their home communities, their intentions to enter rural practice, and their performance in an interview exploring factors shown to predict rural medical practice.<sup>168</sup> The admitted students are then each linked to a single rural community, known as the “TRUST continuity community.”<sup>169</sup>

Before medical school courses begin, the student goes to the TRUST continuity community and stays for seven to fourteen days, establishing a mentoring relationship with a locally-based program preceptor.<sup>170</sup> During this “First Summer Experience,” students also observe the medical team in action and complete a directed observation project and an online learning module to explore the community.<sup>171</sup>

In each school year, TRUST participants take one course devoted to exploring health care topics unique to rural practice from a rural perspective.<sup>172</sup> Participants also visit their TRUST continuity communities at least twice and up to six times during the first year and at least once during their second year.<sup>173</sup> The program also offers substantial in-community practice experience. For example, during the summer after their first year, participants spend four weeks in their TRUST continuity community completing directed clinical learning and journaling.<sup>174</sup> During their third year, participants spend most of their time in the TRUST continuity communities completing a 23-week clerkship.<sup>175</sup>

The TRUST program is a comprehensive approach to encouraging rural medical practice, but it differs from rural law practice in that its participants find a “team” of professionals already in place in the rural community. Unlike a new rural lawyer, the medical student completing clerkships and clinical placements in a rural community through the TRUST program will have built-in professional relatedness.

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166. *Id.* at 3.

167. *Id.* at 2.

168. *Id.*

169. *Id.* at 1.

170. *Id.* at 2–3.

171. Greer, et al., *supra* note 165, at 3.

172. *Id.* at 3. In the first school year, participants take the first rural health course exploring “the health care system from a rural perspective,” and they have “other dedicated meetings that examine issues pertinent to rural medicine.” In the second school year, participants take an advanced rural medicine course. *Id.*

173. *Id.*

174. *Id.*

175. *Id.*

## IV. IDEAS FOR CHANGE

Synthesizing the best of the programs described in Part III, could result in a comprehensive rural practice program that would address barriers and support new lawyers in serving Montana's rural communities. This Part envisions such a comprehensive approach, but it is deliberately crafted so stakeholders can focus on one or more of the ideas as resources allow. Stakeholders in other large rural states could also find ideas with the potential to effect positive change for their rural residents. Even small, thoughtfully-crafted changes will lead to positive change for both rural communities and law students.

A. *Research Community Resources and Legal Needs in Montana's Rural Communities*

The foundation for an excellent rural practice program must first be further research into the actual needs in communities across the state. With more information about rural needs, program participants could be better informed about gaps and potential for rural practice, which may coincide in several of Montana's rural communities. Information about community resources would help inform participants about gaps and opportunities for their families, a necessary step to setting the entire family up for success in the community.

There are several potential approaches to accomplishing this research. One would be surveying rural lawyers and community leaders with an eye toward identifying existing needs and resources as well as trends that would indicate potential for growth. Another would be collaborating with participants in a pilot program to research communities they identify as potential locations for rural practices.<sup>176</sup> Students who are already interested in rural practice and committed to starting solo or small practices would probably be the most motivated researchers. By partnering with the State Bar of Montana, the School of Law could combine both approaches, supporting a survey of rural lawyers across the state while also guiding students currently interested in rural practice to identify potential locations and research the identified communities.

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176. An example of this approach is the Vermont Lawyer Incubator Project's "community scavenger hunt." *Vermont Lawyer Incubator Pilot Program*, *supra* note 114. The Project lawyers are required to become involved with one community organization after completing the research project or "scavenger hunt" in the rural community where they set up a practice. *Id.* at 2.



*B. Ensure and Communicate that Montana's Law School Curriculum Offers Students Opportunities to Develop Foundational Knowledge and Skills Necessary for Rural Practice*

Expanding the learning opportunities that help students feel more prepared for solo or small rural practice will increase the number of new law graduates entering rural practice in Montana.<sup>177</sup> Like most law schools, Montana's School of Law has not designed its curriculum around preparing students for solo practice; it has designed its curriculum to develop foundational knowledge and skills necessary for law practice of any type.<sup>178</sup> But it has also long sought to provide excellent practical training in its required and elective curriculum.<sup>179</sup>

Unlike many law schools, the School of Law's curriculum requires courses that primarily assess the application of legal knowledge in a practice context, rather than just knowledge development.<sup>180</sup> Examples include practical instruction through the legal writing and analysis course (students practice objective legal analysis and persuasive arguments in litigation documents), legal research course (students practice finding authorities relevant to simulated legal problems), business transactions course (students practice drafting transactional documents and negotiating agreements), and trial practice course (students practice planning trial strategy, preparing witnesses, direct and cross-examination, opening and closing statements). The required first-year theory and practice course places students in simulated and live lawyering situations to practice a variety of skills, including developing facts, solving client problems, interviewing and counseling clients, and facilitating agreements through alternative dispute resolution.<sup>181</sup>

177. Runge & Vachon, *supra* note 28, at 621 (describing the goal at UND as providing "as many opportunities to learn about undertaking small firm and solo practice in rural communities as other types of law practice"). Runge and Vachon recommend integrating courses into the law curriculum that will help law students understand and prepare for small rural practices as one of the three primary ways law schools can increase the number of graduates who start a rural practice. *Id.* at 622–23. Financial support and opportunities to experience rural practice first-hand are the other two ways.

178. See *Law Student Handbook 2015–2016*, ALEXANDER BLEWETT III SCH. OF LAW 29–30, <https://perma.cc/SG55-7DJM>.

179. The School of Law's assessment of legal practices in its required curriculum is not as unique as it once was, but it still sets the school apart from many other law schools. See WEST, *supra* note 30, at 135 ("Unless the student is fortunate enough to be enrolled in a well-run clinic, she will receive ritually no exposure to legal *practices*—such as the practice of writing a complaint, or crafting the terms of a settlement, or interviewing a client, or preparing a witness, or drafting a contract or negotiating a deal, and so on—much less immersion in them. Nowhere will she learn to 'act' like a lawyer, as opposed to 'think' like one.").

180. See *Law Student Handbook 2015–2016*, *supra* note 177, at 29–30.

181. *Lawyering Fundamentals: Theory and Practice*, ALEXANDER BLEWETT III SCH. OF LAW, <http://perma.cc/6GLT-7LFM> (last visited Nov. 29, 2015). The course description provides "The theory and practice component of Lawyering Fundamentals introduces students to the dimensions and competencies involved in legal practice. With basic proficiency as a goal, the course focuses on legal interpreta-

In addition to the required courses, Montana's School of Law requires every student to participate in a clinic.<sup>182</sup> Every clinic, whether in-house or external, is in a public interest setting.<sup>183</sup> The clinic program works to both build students' skills for practice and serve the public interest:

The mission of the Alexander Blewett III School of Law's clinical program is to provide students the opportunity to develop lawyering skills and promote professionalism while serving the public interest. To accomplish this mission:

- Students will work on actual legal issues in projects that include their significant involvement in project management, strategy planning, lawyering, problem solving and research.
- Lawyers and faculty will supervise and mentor students, and facilitate the development of perspective through guided reflection.<sup>184</sup>

Recently, the clinic program added a full semester clinic option that would allow a student to practice in a public interest setting away from the law school.<sup>185</sup>

Because of faculty members' practice backgrounds and continued presence in the legal profession, faculty at Montana's School of Law also naturally build practice perspectives and authentic simulations for problem solving into most courses. The legal academy as a whole is not known for having a close connection with the practicing bar or maintaining a practice while teaching.<sup>186</sup> "[L]aw professors as a group and most law professors individually have almost no presence as lawyers in the profession's life: its institutional life as constituted by the ABA or its day to day life, as constituted by the complex and varied activities of lawyers."<sup>187</sup> A majority of the full-time faculty at Montana's School of Law maintain a strong connection to practice through activities including:

- Maintaining law licenses and active status in the State Bar of Montana;
- Representing clients pro bono throughout the year;
- Practicing law in the summer months in an "of counsel" capacity;
- Serving as a part-time tribal trial judge in a rural community;
- Practicing in in-house clinics and advising students on legal work in external clinics;
- Serving on legislative commissions and participating in legislative drafting and hearings;

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tion, fact-development, problem-solving, psychological and bodily intelligences, interviewing and counseling, alternative dispute resolution, pre-trial litigation, and professional ethics. In the process, students are guided in developing their identities and roles as lawyers, and explore a multitude of perspectives on the profession and legal system." *Id.*

182. *Clinics and Field Placements*, ALEXANDER BLEWETT III SCH. OF LAW, <http://perma.cc/73QV-KHSR> (last visited Nov. 29, 2015).

183. *Id.*

184. *Law Student Handbook 2015–2016*, *supra* note 177, at 30.

185. *Id.*

186. WEST, *supra* note 30, at 131 (noting that law professors are rarely required to maintain connections to practice and "do not generally have active practices on the side").

187. *Id.* (noting that this negatively impacts both scholarship and teaching).

- Receiving calls from former students and the practicing bar in areas of substantive expertise;
- Participating in bar association sections as members or leaders;
- Presenting continuing legal education courses for the practicing bar and judges of state district courts and courts of limited jurisdiction;
- Participating in ABA and FBA sections as members or in leadership;
- Maintaining a professional network in the areas of law they teach;
- Collaborating with practicing attorneys in the classroom; and
- Drafting practice handbooks, bar journal columns, and articles addressing areas of concern identified by the practicing bar.<sup>188</sup>

The faculty's strong presence in the practicing bar allows the School of Law to instruct students in practical skills, practice perspectives, and professional judgment across the curriculum.

Including practical training in the required curriculum, required clinical training in the third year, and authentic simulation and practice experiences throughout the curriculum ensures graduates of Montana's School of Law are relatively more prepared for solo and small practice than graduates of law schools requiring less experiential practice of lawyering in context.<sup>189</sup> Nevertheless, the School of Law could find ways to better ensure its current curriculum includes instruction in skills critical to rural practices and better communicate that connection to its students.

First of all, students may not know how the current curriculum prepares them for rural practice. A good advising memo about rural practice would be a simple way of making sure students are informed. With information about subject matter areas and skills that are particularly crucial in Montana's rural areas, the law school could provide an advising memo to students interested in rural practice showing which courses would offer the best opportunities to develop critical and helpful knowledge and skills.

To the extent the School of Law is not already teaching small community issues and instructing in skills necessary for rural lawyers, adding them into the curriculum may be possible with relatively little transformation of how the courses are currently offered.<sup>190</sup> A survey of solo and small practi-

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188. This information was gathered through an email survey of full-time faculty at the School of Law. Well over half of the full-time faculty responded to the survey, and the email responses are on file with the author.

189. See Miller, *supra* note 17, at 951 ("To the extent that law schools have introduced more opportunities for practical training, it is a step toward building a solo practice curriculum, but it does not go far enough."). Compare WEST, *supra* note 30, at 91 (noting most law schools build a first-year required curriculum around the traditional doctrinal subjects of contracts, civil procedure, torts, property, and constitutional law, as well as a professional responsibility course).

190. Runge & Vachon, *supra* note 29, at 624–25 (describing business transactions focusing on the individual as a client, and professional responsibility as focusing on the entrepreneurial skills and issues with solo practices in small communities); Miller, *supra* note 17, at 957–59 (noting objectives of a solo ethics course to instruct students in common ethical issues for solo practitioners, and a small practice legal research course to instruct in cost-effective research methods).

tioners in Montana's rural areas would inform both the State Bar and Montana's School of Law on areas of expertise and skills important for rural practitioners in the state.<sup>191</sup> Regardless of efforts to discover more information on rural practice, a course focused on starting a solo or small rural practice should be a fixture in the School of Law curriculum.<sup>192</sup>

The School of Law could also strengthen faculty members' connection to rural practice by creating a faculty practice rotation in Montana's rural areas.<sup>193</sup> Faculty members could spend a period of time during the summer working in community in selected rural areas. During the rotation, the faculty member could network with rural attorneys and judges in the region, provide continuing legal education sessions in the faculty member's area of expertise, volunteer with community organizations, provide pro bono legal services, and gather information about the community for anyone interested in starting a rural law practice there. This rural practice summer rotation for faculty could be connected to a rural summer internship for law students, as described below. The faculty member in the community would be a good source of mentoring for any law students in the same or nearby communities.<sup>194</sup>

Finally, stakeholders could partner to identify and raise awareness about gaps in subject matter expertise that make access to legal services difficult for specific populations across the state. Program participants could build expertise in substantive areas that have weaker coverage in the Montana bar and that could be handled from any location within the state. This would simultaneously allow them to take a wider variety of cases and serve Montana's underserved residents. For example, rural lawyers trained in legal issues for Veterans would have a marketable and useful area of expertise for rural residents.<sup>195</sup> Despite the practicing bar's ever-growing

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191. For example, the Touro program for solo and small practice was designed by first consulting with "current and former solo and small firm practitioners about the things they wish they had learned in law school." Miller, *supra* note 17, at 952. This helped the school identify and develop required courses for the Solo Practice Concentration, including Law Practice Management, "Law By the Numbers," Interviewing/Negotiations/Counseling, Solo Surveys I & II, New York Legal Research, and Ethics for Solo & Small Firm Practice. *Id.* at 952-53 (noting that students must also take eight credits of "bread and butter" electives like family law, real estate transactions, criminal procedure, and immigration, as well as two credits of skills courses like trial practice, drafting, and clinic).

192. Runge & Vachon, *supra* note 29, at 627 (describing, for example, Campbell University's Norman Adrian Wiggins School of Law's program called "Start Your Own Law Firm").

193. The faculty discussed a similar idea at the Summer Institute in 2015, and Professor Cynthia Ford has continued to champion and refine the idea since. Professor Ford recently pointed out that the rotation into practice would better serve access-to-justice gaps in Montana if the faculty member worked in communities outside of Missoula.

194. Any such work, if done for pay, would have to comply with state law governing public employees and university policy.

195. Veterans may be settling in rural areas in greater numbers, and to the extent this happens in Montana, rural lawyers trained in legal issues for Veterans will have another marketable and useful area

interest in assisting Montana's Veterans with various legal issues, placing individual cases with attorneys has been difficult, and referrals are often delayed and sometimes completely denied.<sup>196</sup> The steep substantive learning curve and lack of intake forms or processes put referrals of Veterans' cases in stark contrast with other types of cases referred through Montana Legal Services and pro bono programs across the state. If even one or two new attorneys were encouraged to make Veterans' disability cases a part of their new rural practices, the number of attorneys available for referrals would significantly increase in just a few years. The same may be true for other types of cases with weak coverage in the Montana bar. For participants, the cases would provide a source of service to the state, a potential niche area of expertise, and even potential income in certain types of cases and fee structures.

### C. *Build Pipelines and Through-Lines that Encourage Rural Practice*

A comprehensive rural practice program would be fed by pipelines and admissions decisions that draw into law school individuals most likely to enter and remain in rural practice. It would encourage participants' interest in and understanding of rural practice through in-community experiences during law school. Using methods like those employed in incubator programs and pre-mobilization "boot camp" training programs, it would develop participants' foundational competence through the law school curriculum, in-community summer work and clinic placements, and intensive post-graduate instruction. The program would break through financial and logistical barriers using methods of rural lawyer recruitment programs. And it would use both technology and in-community presence to create and maintain a strong network among participants and experienced rural lawyers, providing effective mentorship and lasting support for new, rural law-

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of expertise for rural residents. See Wyatt Fraas, *Farming Fits Veterans and Veterans Fit Farming*, CTR. RURAL AFF. (Nov. 2, 2015, 12:00AM), <http://perma.cc/L35Z-VRET>. The Center for Rural Affairs assists beginning farmers, and it recently noted an increase in Veterans starting farms. It launched a program, the Veteran Farmers Project, to encourage and support these Veterans in their farming businesses.

196. Montana's attorneys are highly interested in assisting Montana's Veterans. UMSL's Veterans Disability Law CLE has grown with every offering since 2009. Montana also has a growing list of attorneys (currently 61, up from less than a handful in 2009) accredited by the VA Office of General Counsel and, technically, able to represent Veterans before the VA and Board of Veterans Appeals. U.S. Dep't of Veterans Affairs, *Accreditation Search*, <http://www.va.gov/ogc/apps/accreditation/accredpeople.asp> (search results for Montana) (last visited Apr. 22, 2016). Most attorneys who are interested in taking Veterans' cases express concern with the amount of time it will take to learn the underlying law and successfully navigate the VA claims system; this concern is compounded by our lack of any screening process for Veterans' cases, which means at the point of referral, we cannot ensure the matter is viable enough to justify the likely more-burdensome learning curve. These statements are based on the author's personal experiences working with the Montana Supreme Court's Pro Bono Coordinator to place cases regarding disability compensation and discharge upgrade issues.

yers. This kind of coordinated effort would require broad collaboration from all stakeholders.

Below is one possible sketch of a comprehensive program that includes features of several programs described in Part III, as well as the existing curricular structure at the School of Law:

Pre-Admission	Pipeline and admissions decisions lead to selection of program cohort and identification of target rural communities for cohort
1L Academic Year	At least one guided visit to rural community Rural Practice Elective in Spring
1L Summer	In-community internship with a rural judge or law practice
2L Academic Year	At least one guided visit to rural community Rural Practice Electives in Fall and Spring
2L Summer	In-community internship with a rural judge or law practice Advanced Writing Requirement (AWR) on issue related to rural practice
3L Academic Year	Required clinic, with option of in-community full-semester clinic Rural Practice Electives in non-clinic semester
Post-Graduation	Bar Exam Post-Bar Exam Rural Practice Intensive Training Program Ongoing networking and continuing legal education opportunities

As demonstrated by programs working to recruit and retain medical professionals in rural areas, the process of identifying likely rural lawyers should begin before law school. A rural practice pipeline would reach out to individuals in rural communities and build on their interest in law practice. If a student's self-identification with a "rural background" is the best predictor of choosing to practice law in a rural area,<sup>197</sup> then connecting with high school students in rural communities and college students who lived in rural communities could lead those individuals to consider rural law practice. Reaching out to those students could involve visiting rural high

197. The medical profession has long been interested in increasing supply of rural physicians, and so it has looked at ways to recruit medical students who are more likely to enter rural practice upon graduation. JA Owen, et al., *Predicting Rural Practice Using Different Definitions to Classify Medical School Applicants as Having a Rural Upbringing*, 23 J. RURAL HEALTH 133, 133 (2007) ("Even though there has been a modest increase in the supply of rural physicians in the past few decades, most of this increase has occurred in the larger rural communities adjacent to metropolitan areas."). In a study exploring the relationship between a medical school applicant's rural background and the likelihood the student would enter rural practice, researchers found a simple question of whether an applicant grew up in a rural area was a better predictor of later rural practice than a student's addresses. *Id.* (describing medical student applications and records that contain high school, college, and permanent mailing addresses at the time of application). *Id.* Applicants who self-identified as having a rural background were more likely to enter the medical profession in a rural practice. *Id.* at 139 ("In conclusion, the grew up rural self-definition of rural background was the single best predictor of rural practice location for medical school applicants."). *Id.* As discussed *supra* in Part IV(A), the foundation of any rural practice initiative will be research. This research could include predictors of rural law practice modeled after studies in the medical profession.

schools to talk about law practice, or creating a writing contest for rural high school students around themes connected to legal issues and inviting winning students to present at the School of Law.

The School of Law could then more deliberately consider applicants' rural backgrounds and interest in practicing in rural communities. The application process could include a question about whether the applicant identifies as having a "rural background."<sup>198</sup> It could also offer an essay prompt on interest in rural law practice. If stakeholders created rural practice opportunities in the School of Law curriculum and post-graduate programs, the applicants' answers to these questions would aid in placement of admitted students into those opportunities. They would also help the School of Law ensure students interested in rural law practice received advising that encouraged their interests.<sup>199</sup>

During law students' academic years, the program would best encourage and build interest in rural practice by adding in-community experiences to the Rural Advocacy League's existing efforts to educate law students in rural perspectives.<sup>200</sup> One in-community experience the School of Law has already successfully applied in another context is the law student field trip during Spring Break.<sup>201</sup> A Rural Practice Spring Break Trip could be either a stand-alone trip or combined with another law trip set to travel through rural communities in central and eastern Montana. Meeting with rural lawyers in those communities would expose law students to rural practice, help battle the fear of the unknown, and help students start building networks in rural communities. Adding a service component to the trip, through stops at legal services locations or time in self-help clinics in rural areas, would emphasize the importance of rural practice to improving access to justice for rural residents.<sup>202</sup>

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198. *Id.* at 133.

199. See *infra* Part IV(B), suggesting a rural practice advising memo as a means to encourage thoughtful preparation for rural practice.

200. The Rural Advocacy League (RAL) at the School of Law organizes Rural Law Week in the Spring semester of each academic year. Rural Law Week brings rural practitioners and speakers on rural issues to Missoula for panel discussions and networking events. RAL added an interviewing component in the Spring of 2014, coordinating interviews of current law students by rural law practices looking for interns or associates.

201. The School of Law offered a Spring Break Energy Law Field Trip in Spring of 2015. UNIV. MONT. SCH. OF LAW., *Energy Field Trip Provides Alternative Spring Break*, BARRISTER eBRIEF (Apr. 2015), <http://perma.cc/KK6E-2747>. In the Spring of 2016, the School of Law offered a second Spring Break Field Trip dedicated to tribal sovereignty, self-determination, and economic development, and traveling to six reservations in Montana.

202. One example of a rural legal services spring break program is the Texas Pro Bono Spring Break trip sponsored by the Texas Access to Justice Commission and Texas Bar Foundation. John Morthland, *A Life-Changing Trip: How Traveling to Three Rural Legal Aid Locations Around the State for the First Texas Pro Bono Spring Break Program Enriched the Lives of 49 Law Students—and the More than 300 People They Helped*, 76 TEX. B.J. 529, 529 (2013).

Law students would be able to work in rural communities during summers and potentially in full-semester clinic placements. A rural summer program could support students in obtaining internships with rural judges or lawyers. Supporting students in summer internships may involve financial stipends or assistance in obtaining work-study funds. It may also be feasible to offer academic credits if the students were required to complete distance learning modules or writing assignments related to their practice experiences. Academic credit would be easier to manage with a faculty practice rotation in Montana's rural areas, as described above in Part IV(B). In summer internships, law students would be able to shadow rural practitioners, learn from them, and assist them in providing legal services to rural residents. They would also become more familiar with rural living and culture.

Supporting students' work in rural communities could also strengthen the Montana legal community's pro bono contribution. The factors that often lead an attorney to decline pro bono cases—lack of sufficient time and expertise and competing personal obligations—are heightened for solo practitioners and small rural practices.<sup>203</sup> Solo practitioners have “limited or nonexistent support staff,” and so “may face huge practical and financial obstacles to engaging in pro bono work.”<sup>204</sup> In contrast, larger law firms have greater capacity to support and provide pro bono service, and urban areas have both more attorneys and more large practices.<sup>205</sup> Program participants assisting solo practitioners with pro bono service would help with time pressure, breadth of expertise, and additional research capacity to build expertise. Channeling the School of Law's capacity for pro bono service into rural communities by immersing law students in those communities would generate interest in rural practice and provide needed support to increase capacity for pro bono and low bono services, improving rural residents' access to justice.<sup>206</sup>

To the extent the existing School of Law curriculum does not prepare law students for rural practice and realistically cannot be modified to do so, a post-graduate rural practice program could provide time-limited “boot camp” training to bridge the gap between law school instruction and rural

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203. Pruitt & Showman, *supra* note 69, at 512–13.

204. *Id.* at 517. Attorneys in rural areas have multiple factors stacked against pro bono service, including less financial capacity, less logistical support, and more local connections leading to conflicts of interest. “All of these factors combine to seriously undermine access to justice in many rural communities.” *Id.* at 520.

205. *Id.* at 514–16 (noting the “luxuries associated with the economies of scale that large firms enjoy,” like more support staff and greater incentives for pro bono work).

206. *Id.* at 520–21 (describing the Canadian Bar Association's REAL Initiative—Rural Education and Access to Lawyers Initiative—that places 2Ls in rural communities and offers assistance to rural practitioners).



practice. This training could happen immediately after the bar exam and involve focused instruction in practice management skills and other subject matter areas and skills critical to rural practice. The training program could assist each participant in crafting a business plan tailored to the real location each has selected for practice. A rural practice training program could further test or “incubate” technological innovations in partnership with legal services providers.<sup>207</sup> Participants literate in new practice technologies may be able to make legal services reach further into rural communities, which would make a bigger impact on rural access-to-justice gaps.<sup>208</sup>

Some of the changes described above, like providing a rural practice advising memo to students at the School of Law and communicating the many ways in which law faculty stay connected to practice, could be accomplished with little cost to any stakeholder. However, breaking down financial and logistical barriers to rural practice will require diverse and sustainable sources of funding. Here are just some of the potential funding needs for a comprehensive rural practice program:

- financial incentives (e.g., annual stipends or student loan forgiveness) for participants to enter and remain in rural communities;
- housing funds for participants during summer placements in rural communities;<sup>209</sup>
- travel funds for participants to visit rural communities;
- travel funds for participants to return to Missoula or another central location for meetings and CLE training;
- funding for staff needed to coordinate the program; and
- funding for instructors assisting with course and CLE training.

Both public and private funds would be helpful in meeting these needs. The program could potentially partner with rural towns for funding because lawyers would be serving that town’s constituents, which could allow for use of discretionary funds.<sup>210</sup> A rural practice program sending lawyers into multiple locations could negotiate and partner with multiple Montana towns to

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207. The California Commission on Access to Justice noted in its guide to incubator programs that incubator attorneys can test advancements in delivery of legal services and law practice management. *INCUBATOR GUIDE* *supra* note 12, at 3 (“Incubators can be good environments to introduce or expand the use of technology, alternative fee arrangements, and newer models of practice that will benefit the efficient delivery of legal service to a larger client base.”).

208. Legal aid can help train self-represented litigants to use technology that will allow them to communicate with the courts through forms and other means. *See Cabral et al., supra* note 140, at 265. Participants in a program to reach remote rural areas could be a part of that effort.

209. As noted in the Introduction, students are concerned they will not be able to obtain affordable housing even if they secure an internship in a rural community. Their concerns are not unfounded, as Lisa R. Pruitt illustrates in her article exploring realities of rural women. Pruitt, *supra* note 23, at 433–38 (noting structural disadvantages in rural communities impacting availability of transportation, child care, and affordable housing).

210. Rooney & Steele, *supra* note 80, at 115 (“Essentially the pitch to elected officials is ‘If you provide us with the discretionary funds, we will bring our lawyers into your district and pay them to provide counseling and legal support for your constituents.’”).

support placement of a lawyer in the community. Additionally, private law firms across the state may be interested in supporting a programmatic effort to increase legal services in rural communities. One example of an effort by private law firms to address access-to-justice gaps is the recent pledge from nineteen private firms in New York City to fund a group of law graduates providing legal services to clients with modest means.<sup>211</sup>

Even after participants in a post-graduate rural practice program have mobilized into rural communities, ongoing opportunities to reconnect in a central location would not only ensure greater relatedness in the program, but also offer a chance for further skill-building through continuing legal education programs. For example, participants could meet to discuss ethical issues arising in their solo and small practices and problem-solve with expert guidance. They could meet for continuing legal education programs to stay informed about specialized subject-matter areas or general rural practice issues, including community leadership skill-building.

The last, critical part of meeting the ideal goals for a rural practice program would be carefully crafting and supporting a strong network for program participants that would lead to effective mentoring relationships and lasting professional relatedness in practice. Program participants would not be the only ones to benefit from efforts to meet this goal. Connections and overlap between all parts of a program would benefit current law students, new rural lawyers, and rural communities. The program's graduates could maintain connections to the program by serving as mentors to new participants. They could also continue to feed stakeholders valuable information for program development by identifying gaps in subject matter expertise and skills needed to successfully sustain a practice in different areas of the state.<sup>212</sup> Bringing new rural lawyers into the classroom would not only inform coverage of subjects and skills, but also add authentic context to courses with instruction relevant to solo and small practice.<sup>213</sup> Additionally, facilitating interaction between mobilized program participants and current law students will help build a more robust network of rural practitioners across the state.<sup>214</sup> One important result of an effort to increase the number of rural lawyers in Montana will be engaging the existing bar in

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211. Beck, *supra* note 34. Each firm is contributing \$100,000 to the program, and each participant in the program will receive an annual stipend of \$44,000.

212. Miller, *supra* note 17, at 965 (noting that incubator attorneys at Touro may help shape course content in the Solo Practice Concentration).

213. *Id.* at 965 (describing how incubator attorneys in the solo and small practice courses “brings the ‘real world’ into the classroom and should command the attention of students by providing a context for problems and rules discussed”).

214. *Id.* at 964–65 (describing how Touro offers its solo and small practice courses for CLE credit and in the evening to encourage incubator attorneys to attend, which encourages incubator attorneys and current students to “build a professional network”); *see also* Goetzinger & Morris, *supra* note 12, at 452 (describing the benefits of holding its task force meetings at the University of South Dakota, noting that

Montana's rural areas. While the State Bar, School of Law, and Rural Advocacy League are already collaborating on this effort, reaching out to rural lawyers across the state for information, mentoring, and leadership will encourage an even more robust dialogue about rural needs.

The efforts described above would not only improve access to justice for underserved communities in Montana, they would also further the missions and strategic goals of multiple stakeholders in Montana's access-to-justice effort. The School of Law would continue its tradition of preparing students for the people-oriented practice of law.<sup>215</sup> The State Bar of Montana would further its goal to "aid the courts in maintaining and improving the administration of justice" and to "insure that the responsibilities of the legal profession to the public are more effectively discharged."<sup>216</sup> And by partnering in the effort, the Montana Supreme Court's Access to Justice Commission would be furthering its strategic goal to "improve access to the Courts by overcoming impediments to access caused by geographic, economic, cultural or linguistic isolation."<sup>217</sup>

Improving access to justice for underserved rural residents should be an even larger institutional effort that extends beyond the legal profession. "Whole-client" advocacy connecting the lawyer, social worker, medical professional, and mental health provider could make a significant difference in rural communities struggling with the effects of poverty.<sup>218</sup> Taking "whole-client" advocacy one step further, a rural practice program may consider using a cohort placement model like the ACE Teaching Fellows program, crafting the cohort for each community to include students from various disciplines. A law student who spends the summer serving a rural community with a social work student, medical or nursing student, and psychology student would be better prepared to provide legal services to underserved communities in any location after law school.<sup>219</sup> This cohort model could provide more robust professional relatedness for all of the students,

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"[e]xposing law students to [Project Rural Practice] at a critical stage of their career decision making process helped nudge a few to establish a Main Street practice").

215. Miller, *supra* note 17, at 965 ("Law schools that dedicate themselves to preparing students who foresee a career in solo and small practice will emerge as leaders in the movement to improve legal education and make it more relevant to the actual practice of law.").

216. *History & Purpose*, ST. BAR OF MONT., <http://perma.cc/A4B4-CGJS> (last visited Nov. 29, 2015).

217. *Strategic Planning Report*, MONT. ACCESS TO JUSTICE COMM'N 4 (Dec. 3, 2013), available at <http://perma.cc/CHX5-JA7B>.

218. See Courselle, *supra* note 19, at 738–39 ("[A]n indigent defender who can help connect a client with resources available throughout the state and educate the court about the services available, can have a positive impact on the client's life regardless of the outcome on the particular charges.").

219. See *id.* at 740 ("Students who, in the clinic, had the time to recognize systemic problems and experience the value of holistic representation may be more willing to continue that experimentation when they enter the practice. Moreover, in a rural state, those students are likely to become the leaders of their communities, the bar, and the state.").

and it may open up broader funding opportunities. The University of Montana could collaborate to create such a rural summer experience and provide housing and multi-disciplinary mentoring to each cohort, a unique program that may have a positive impact on the school's recruitment and retention of students interested in social work, nursing, and psychology.<sup>220</sup> This kind of multi-disciplinary partnership would educate both lawyers and social service agencies about legal and non-legal needs in Montana's rural communities and the resources required to respond to those needs.<sup>221</sup> Partnerships between lawyers and other community service agencies can help both spot legal and non-legal needs that clients may not even have identified, or may have left unaddressed. "[C]ommunity partnerships can better enable clients to find lawyers while also equipping lawyers to meet a fuller array of client needs."<sup>222</sup>

Montana's most isolated communities with lower economic potential for a rural lawyer and lower natural draw present a special situation the efforts described in this piece may not fully address. Extending Montana's already creative use of technology may be the only way to address the needs of those communities. With technology, many legal services providers have been able to expand their reach to more remote and isolated areas of their states.<sup>223</sup> Montana is known to be on the cutting edge of using technology to help the rural legal community and its residents meet rural legal needs.<sup>224</sup> One of Montana's innovations in the use of technology to improve access to justice was the mobile-optimized version of MontanaLawHelp.org launched in 2012.<sup>225</sup> Montana's rural judges have found technology makes the courts more accessible to rural residents and attorneys by allowing attorneys and witnesses to appear in court from re-

220. One international example of a university's efforts to increase students' interest in rural mental health work is the Gippsland Mental Health Vacation School in Australia. Keith P. Sutton, et al., *Increasing Interest in Rural Mental Health Work: The Impact of a Short Term Program to Orientate Allied Health and Nursing Students to Employment and Career Opportunities in a Rural Setting*, 15 RURAL & REMOTE HEALTH 3344 (Oct. 7, 2015). The program places participants in a rural community for five days, and studies of its effectiveness show students' knowledge and understanding of rural mental health practice increase over the brief experience. *Id.* at 10–11.

221. Pruitt & Showman, *supra* note 69, at 523–24; *see also* *Chezem*, *supra* note 21, at 535 (noting that National Public Health Performance Standards urge communities to “[m]obilize community partnerships to identify and solve health problems”).

222. Pruitt & Showman, *supra* note 69, at 526.

223. Cabral et al., *supra* note 140, at 243–44.

224. Pruitt & Showman, *supra* note 69, at 504–05 (“Montana courts, for example use audio-visual conferencing to connect attorneys to courts, and Montana Legal Services pioneered the use of video-conferencing to hold workshops on how to file for bankruptcy.”); Bernard, *supra* note 145 (describing Montana Legal Services' move to cloud computing so its offices can collaborate from multiple areas in the state); *see also* Mont. Judicial Branch, *Court Help Program*, COURTS.MT.GOV, <https://perma.cc/SZ6Q-S599> (last visited Apr. 22, 2016).

225. *See* Cabral et al., *supra* note 140, at 271; *New! MontanaLawHelp.org for Your Mobile Device!*, LAWHELP.ORG, <http://perma.cc/37GK-PYHN> (last visited Nov. 29, 2015).

mote locations, file documents and exhibits remotely, and access court information remotely.<sup>226</sup> The efforts described in this article would further the goal of using technology to improve access to justice across the state, particularly if participants in a rural practice program collaborated with Montana Legal Services to test and implement innovative technologies in serving rural communities.

#### V. CONCLUSION

In 1920, the Commissioner of Agriculture was encouraging Montana residents—men and women of vision—to keep pioneering: “[T]he opportunities now are even greater than they have been in the past.”<sup>227</sup> Today, leaders in Montana’s rural communities have a similar message: “We have more work here than people to do it.”<sup>228</sup> Our pioneering continues. Those interested in improving access to justice for Montana’s underserved communities and individuals have work to do. But with thoughtful research and collaboration, more lawyers will take advantage of the opportunities to live and serve in Montana’s rural communities.

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226. McKeon & Rice, *supra* note 69, at 209.

227. MONT. DEP’T OF AGRIC. & PUBLICITY, RESOURCES OF MONTANA: “THE LAND OF OPPORTUNITY” at Foreword (Charles D. Greenfield 1920).

228. Hill, *supra* note 1, at 1.

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## REQUIRED CURRICULUM ACADEMIC YEAR 2015–16

**First Year Required Curriculum**

<b>Fall Term</b>	<b>Spring Term</b>
Civil Procedure I (3 credits)	Civil Procedure II (2 credits)
Criminal Law I (3 credits)	Torts II (3 credits)
Torts I (2 credits)	Contracts II (2 credits)
Contracts I (3 credits)	Lawyering Fundamentals: Theory and Practice (2 credits)
Lawyering Fundamentals: Theory and Practice (1 credit)	Lawyering Fundamentals: Legal Writing (3 credits)
Lawyering Fundamentals: Legal Research (2 credits)	(Elective – 3 credits)
Lawyering Fundamentals: Legal Analysis (1 credit)	

**Second Year Required Curriculum**

<b>Fall Term</b>	<b>Spring Term</b>
Business Organizations (3 credits)	Business Transactions (2 credits)
Constitutional Law (4 credits)	Professional Responsibility (3 credits)
Evidence (3 credits)	Trial Practice (2 credits) (Offered credit/no credit only)
Property I (2 credits)	Property II (3 credits)
Federal Tax (3 credits) (May be taken Second or Third Year)	

**Third Year Required Curriculum**

<b>Fall Term</b>	<b>Spring Term</b>
Clinical Training <sup>229</sup> (Offered High Competent/Competent/Fail only)	Clinical Training (Offered High Competent/Competent/Fail only)

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229. Minimum number of Clinical Training credits required for graduation: 4.

