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John O. Mudd  
*Dean, University of Montana School of Law*

John W. LaTrielle  
*Director of Educational Development and Learning Resources at the College of Health Sciences in Bahrain*

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ARTICLES

PROFESSIONAL COMPETENCE: A STUDY OF NEW LAWYERS

John O. Mudd* and John W. LaTrielle**

I. INTRODUCTION

In 1979 the University of Montana School of Law began a long-range planning project to examine and develop its academic program. One of the authors, then a new dean fresh from private law practice, initiated the project as a way of addressing what seemed to be an important and relatively uncomplicated question: What should the academic program of the University of Montana School of Law be in ten years?

In the intervening years, the school has addressed that question seriously. The faculty have not discovered what they consider to be a final answer. They have, however, developed a clearer and shared understanding of the abilities needed by graduates to practice law effectively, the ways in which to develop those abilities during law school, and the assessment practices needed to determine whether the students have progressed satisfactorily.

The process of academic review and planning is not linear in the sense that there is a single end point to be seen in the distance and then overtaken. Rather, the process resembles a spiral progres-

* B.S., M.A. The Catholic University of America; J.D. University of Montana; LL.M. Columbia University. He is Dean of the University of Montana School of Law.

** B.S. University of Montana; M.S.N.S., Ph.D. University of Wyoming. He is the former Director of Research, Academic Planning Project, University of Montana School of Law. He is presently Director of Educational Development and Learning Resources at the College of Health Sciences in Bahrain.

The authors wish to acknowledge the efforts of the many individuals who assisted with this study. Particular thanks are owed to the faculty of the University of Montana School of Law, the Honorable Frank I. Haswell, retired Chief Justice of the Montana Supreme Court, Robert A. Poore, Chairman of the Board of Bar Examiners of the State of Montana, Dean Cliff F. Thompson, former Dean of the University of Idaho College of Law and current Dean of the University of Wisconsin School of Law, and the lawyers in Montana and Idaho who participated in the study. Funding was provided in part by a grant from the Fund for the Improvement of Post-Secondary Education (FIPSE), and valuable assistance in the academic planning project was provided by Dr. Steven Ehrman of FIPSE.
sion with new insights and practices leading to further questions, some of which have been raised before, that are in turn examined with the benefit of added experience and understanding.

Throughout the process of inquiry and examination, the faculty has set as its goal the improved education and preparation of lawyers. A central focus, therefore, has been the identification of the abilities needed to practice law in the setting in which most of the school's graduates are employed. The first step in the process was not to review the curriculum, which is only a means to an end, but to examine the desired outcome—a competent beginning lawyer. The school's efforts to identify the abilities needed by a new lawyer have attracted attention as a result of the organized bar's projects on lawyer competence and as word of the school's work on this elusive subject has spread informally beyond Montana.

The faculty began their work before the publication of two major American Bar Association studies on legal education and before the ABA formally examined the subject of lawyer competence. At the time we did not fully appreciate the larger significance of our study of the ability of new lawyers in Montana. Consequently, after extracting relevant information from stacks of computer printouts, we directed our attention to the academic program. We used the study often in subsequent academic planning, assisted in duplicating the study in Idaho, and shared the results with those who inquired. We did not take time away from other pressing matters to prepare a formal analysis of the data for publication.

The increasing interest in the issue of lawyer competence that has emerged in the intervening years has led us to prepare this description of the methods we used and analysis of the data we collected. The study does not assess fully the requirements for lawyer competence in even a single state. Nevertheless, the study's results do shed light on a number of important issues relating to lawyer competence and legal education.


II. METHODS AND PROCEDURES

A. Design of the Study

The purpose of this study limited its scope and design. Whereas some researchers seek to answer larger questions about the legal professions, this study was the first step in a law school's effort to enhance its educational program. We did not attempt to gather data on a number of important issues about which we and others are curious, such as the motivations that drew lawyers to law school in the first instance and their level of professional satisfaction.

The faculty committee responsible for drafting the survey understood that it would contain a limited number of questions concentrated in one area of inquiry: What abilities do lawyers need to practice law effectively in Montana? Early in the process of assembling the questions, the committee uncovered a powerful bias to which law faculty are vulnerable if they prepare the questions for this kind of study.

The committee wished to identify the general abilities needed by lawyers in common areas of practice. In fairly typical committee fashion, a group of interested law professors suggested questions eliciting information about these areas. After several meetings, the committee noticed that the emerging list more resembled a collection of items about what law professors teach than about what lawyers do. The questions were biased toward matters in existing courses, and they omitted matters not then included in the curriculum. Committee members were asking curricular questions


4. Ours is the only law school in the state, and we chose Montana for a number of reasons, not the least of which is that more than 90 percent of our graduates, both those who attend our school as resident students as well as those who come from other states, have historically elected to practice in Montana.

The faculty examined lawyer abilities because they believed that the central goal of the academic program should be to prepare graduates to practice law competently at the entry level. Not all legal educators and lawyers share that view, and in some law schools the assumption may not be warranted. In our law school it is. Apart from graduates who enter the profession after a year or two as judicial clerks, nine out of ten of our graduates begin their professional lives as practicing lawyers. Moreover, only a handful of them undergo anything approaching a formal internship during which they work under the close supervision of a senior lawyer. They have to "hit the ground running" and assume immediate, significant responsibility for the legal affairs of their clients.

5. The general areas were identified as (a) substantive knowledge, (b) skills, and (c) personal qualities. The ABA Task Force also included these areas in different form when it described its vision of professional competence. Friday, supra note 2, at 5.

6. The practice areas included fields like real estate, trials, contracts, and tax.
and assuming that the answers would provide an accurate picture of the legal profession. The assumption that lawyers’ work is closely related to the law school curriculum is an understandable professorial bias, but one that subverts the fundamental inquiry the school wished to undertake. The point bears emphasis because of the ease with which a law faculty can fall unwittingly into this trap. Ask a curriculum question and a curriculum answer follows; ask a question about what lawyers actually do and a very different answer emerges.

The bias associated with asking curriculum questions is illustrated by comparing the results of the study described here with those of a study conducted in Montana two years earlier. Representatives of the school’s student bar association had initiated the earlier study, ably assisted by a social science research center at the university. The students wished to learn what alumni thought about the school’s curriculum. The questions on the student survey involved issues such as whether course X should be elective or required, the appropriate number of credits to be allocated to course Y, and the effectiveness of various teaching methods. The response to the student survey disclosed that alumni thought the curriculum was satisfactory, the content and credit level of required courses appropriate, and the electives balanced. In only a few instances did the results suggest a need for even minor change. A careful reading of this study would incline one to conclude that the curriculum, at least in the opinion of alumni, was almost ideal.

On the other hand, and jumping ahead for a moment, the study of lawyers described here invites a very different conclusion; namely, practicing lawyers believe recent graduates are deficient in many important respects. The responses, coming from the same group of lawyers who had responded to the curriculum survey, challenge the conclusion that the curriculum is as perfect as the curriculum study suggests.

Several explanations may account for the deficiency responses in the two studies. One possibility is that a law school curriculum is not intended to prepare graduates to practice law so that the curriculum may warrant high marks while the practical abilities of graduates may not. An equally plausible explanation is that the different responses are a direct result of framing the questions differently. Law faculty (and apparently law students) tend to ask curriculum-oriented questions. Lawyers, when asked curriculum questions, respond with reference to the only curriculum they have experienced. Unsurprisingly, lawyers do not express significant dissatisfaction with the number of credits assigned to required
courses or with the general array of electives. Asking the same group of lawyers about the knowledge and skills required to practice law, however, produces a significantly different vision of the education needed to prepare them adequately.

When the committee members constructed the survey, we did not appreciate this distinction as fully as we now do with the survey results in hand. Nevertheless, the faculty/curricular bias became evident early. To overcome this bias, the committee obtained assistance from outside the law school and settled on the following procedure.

The faculty, with the help of practicing lawyers, identified a number of lawyers whose practices, when viewed collectively, appeared to represent the range of activity commonly performed by Montana lawyers. This approach necessarily excluded consideration of uncommon specialty practices. The exclusion appeared reasonable because the inquiry focused on the means to prepare graduates more effectively for their first years of practice and to build a strong general foundation for their later careers. Teams composed of two law professors then interviewed the practitioners. The interviews sought to identify the professional tasks the practitioners routinely performed and the abilities they thought were essential for effective performance. Following the interviews, the committee reassembled and, with several weeks of additional effort, generated a list of 149 items that appeared to be needed to practice law in Montana. Although the list might have included several hundred items, the length was controlled by the practical requirement that respondents be able to complete the questionnaire in less than one hour.

B. Administration of the Survey

The questionnaire was sent in December 1980 to all 1554 active members of the State Bar of Montana who then practiced in the state. Although a smaller sample would have sufficed for statistical accuracy, the larger mailing invited all lawyers to participate in an important project to improve legal education. Four hundred twenty-seven lawyers returned questionnaires of which 354 were usable for the study.

7. As can be seen from the questionnaire, some items were duplicated or added to cross check responses.
8. This high rate of return was no doubt in part to the cooperation of the Chief Justice of the Montana Supreme Court and Chairman of the Board of Bar Examiners. They joined the Dean of the School of Law in signing a preliminary letter announcing the study and asking the cooperation of the lawyers.
The following year the same questionnaire was sent to all of the practicing members of the Idaho bar, resulting in an additional 326 responses. The results reported in this article are those obtained in Montana; however, the results of the Idaho study parallel Montana’s. This similar pattern is not surprising, given the similarities of the two states’ economic bases and rural characteristics. The results from the two states reinforce our general conclusions.

III. RESULTS

A. General Areas of Inquiry

The questionnaire solicited responses in three general categories: knowledge of substantive and procedural law, technical skills, and personal attributes. It called for two judgments with respect to each of the 149 items: (a) “based upon your experience, what level of competence should a lawyer have in order to perform in a professionally competent manner”; and (b) “based on your contact with recent graduates, what level of competence do first-year lawyers have?” The judgments were made on a scale of one to five with one representing a low level of competence, three a moderate level, and five a high level. The results were analyzed by level of competence needed (N-scale), level of competence observed (O-scale), and the discrepancy or difference between the two.

Various demographic factors were used in analyzing the data, such as the number of years in practice, the number of attorneys with whom the respondent practiced, practice concentration, size of community, gender, ethnic background, and law school attended. The responses were essentially the same regardless of the attorneys’ backgrounds and practices, with one exception. The single category in which background made a difference was that of senior lawyers (those with twenty-one or more years of practice) who judged the performance of beginning lawyers to be significantly better than did lawyers in any other category, including the new lawyers themselves. With that single exception, the pattern of responses of lawyers was the same; consequently, the responses are not reported here by demographic category.

9. The impetus for the Idaho study came from the then dean of the University of Idaho College of Law, Cliff F. Thompson, who was interested in learning what differences, if any, would emerge between the responses of Idaho and Montana lawyers.

10. The principal differences are found in those areas of practice, like Indian law, that are accounted for by regional variations. A phenomenon that deserves further study is that the pattern of scores on both the competence-needed scale and the competence-observed scale is lower in Idaho than in Montana.
B. Highest Need/Highest Competence

The items judged by lawyers to rate both a high level of competence needed (greater than 4.00) and a high level of competence observed (greater than 3.50) were almost all in the personal attributes category. The possession of traits like integrity and motivation along with the capacity to act ethically and to maintain a pattern of continued professional education ranked high on both scales. The single item outside the personal attribute category rating high on both scales was the ability to perform legal research. Lawyers ranked forty-three items very high (greater than 4.00) on the competence-needed scale, but they ranked only one item, possession of the trait of honesty, very high (4.052) on the scale of competence observed, and only eleven items received a score greater than 3.50 on the competence-observed scale.

Table 1 includes those items receiving a score greater than 4.0 on the competence-needed scale and a score of greater than 3.5 on the competence-observed scale.11

<table>
<thead>
<tr>
<th>Item</th>
<th>Needed</th>
<th>Observed</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Possesses the trait of honesty</td>
<td>4.623</td>
<td>4.052</td>
<td>.571</td>
</tr>
<tr>
<td>Possesses the trait of integrity</td>
<td>4.604</td>
<td>3.883</td>
<td>.721</td>
</tr>
<tr>
<td>Capacity to act ethically</td>
<td>4.543</td>
<td>3.693</td>
<td>.850</td>
</tr>
<tr>
<td>Possesses the trait of reliability</td>
<td>4.528</td>
<td>3.706</td>
<td>.822</td>
</tr>
<tr>
<td>Possesses the trait of motivation</td>
<td>4.140</td>
<td>3.682</td>
<td>.458</td>
</tr>
<tr>
<td>Manifests a desire for professional growth</td>
<td>4.113</td>
<td>3.840</td>
<td>.273</td>
</tr>
<tr>
<td>Possesses trait of industry</td>
<td>4.113</td>
<td>3.655</td>
<td>.458</td>
</tr>
<tr>
<td>The ability to perform legal research</td>
<td>4.109</td>
<td>3.722</td>
<td>.387</td>
</tr>
<tr>
<td>Manifests a desire to achieve personal and individual potential</td>
<td>4.067</td>
<td>3.900</td>
<td>.167</td>
</tr>
<tr>
<td>Capacity to maintain a pattern of continued professional education</td>
<td>4.049</td>
<td>3.566</td>
<td>.483</td>
</tr>
</tbody>
</table>

11. Idaho lawyers identified only two items having both an N-scale score greater than 4.5 and an O-scale score of greater than 3.5. These were possessing the traits of honesty and integrity, respectively. This follows a general pattern in which the Idaho lawyers generally rated items lower on both the N- and O-scales.
C. Highest Need/High Competence

Lawyers identified thirteen items on which there was a very high level of competence needed (greater than 4.00) and a high, although lesser, level of competence observed (greater than 3.00 and less than 3.50). As shown on Table 2, these items fall into the two categories of personal qualities (e.g., judgment, maturity, tolerance, self-confidence) and general attributes or skills (e.g., the capacity to analyze, to communicate orally and in writing, to deal effectively with others). Only one item in this group falls into the category of substantive knowledge: an understanding of contract law.

Montana lawyers identified fifty-three items requiring a very high level of competence (greater than 4.00). On the other hand, they indicate that beginning lawyers possess at least a high level of competence (greater than 3.00) on only twenty-three, or less than one-half, of those items. 12

Table 2

<table>
<thead>
<tr>
<th>Item</th>
<th>Needed</th>
<th>Observed</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Possesses the trait of judgment</td>
<td>4.390</td>
<td>3.183</td>
<td>1.207</td>
</tr>
<tr>
<td>Capacity to analyze</td>
<td>4.380</td>
<td>3.371</td>
<td>1.009</td>
</tr>
<tr>
<td>Capacity to communicate effectively in writing</td>
<td>4.333</td>
<td>3.208</td>
<td>1.125</td>
</tr>
<tr>
<td>Possesses the trait of maturity</td>
<td>4.267</td>
<td>3.101</td>
<td>1.166</td>
</tr>
<tr>
<td>Capacity to approach tasks in a thorough fashion</td>
<td>4.229</td>
<td>3.278</td>
<td>.951</td>
</tr>
<tr>
<td>Capacity to deal effectively with others</td>
<td>4.217</td>
<td>3.079</td>
<td>1.138</td>
</tr>
<tr>
<td>Capacity to separate a multi-faceted legal problem into its legal parts</td>
<td>4.212</td>
<td>3.033</td>
<td>1.179</td>
</tr>
<tr>
<td>Capacity to communicate effectively orally</td>
<td>4.197</td>
<td>3.210</td>
<td>.987</td>
</tr>
</tbody>
</table>

12. The Idaho lawyers gave twenty-one items a score of 4.00 or greater on the N-scale, a significantly smaller number than seventy-four items so rated by their Montana counterparts. And whereas Montana lawyers ranked the competence observed in beginning lawyers to be 3.00 or greater on a total of fifty-eight items, Idaho lawyers reported that score on only thirteen items.
D. *High Need/Low Competence*

If beginning lawyers possess a high level of competence in an area, they presumably perform effectively in that area on behalf of their clients. For example, lawyers predictably judge a high level of ability required for analyzing legal problems and researching the applicable law. Neither is it surprising, particularly in light of the historical emphasis of law school curricula, that new lawyers receive high marks for their ability to analyze problems and to conduct legal research.

On the other hand, Montana lawyers matched a high level of competence needed with a low level of competence observed in twenty instances. Included are several items pertaining to trial practice: making objections at trial (4.186/2.530), preparing pleadings (4.116/2.443) and discovery documents (4.083/2.355), and trying a case before a judge (4.049/2.610) or jury (4.135/2.321). Also included is the ability to interview clients and witnesses effectively (4.121/2.749).

As expected, new lawyers appear to have shortcomings in matters relating to trial practice and other areas in which they must apply legal knowledge. There is also a marked deficiency reported in the new lawyer's understanding of the relationship between lawyers and judges (4.209/2.985) as well as in the understanding of the broader ethical implications of a lawyer's conduct (4.040/2.890). Table 3 lists the items respondents rate high on the competence-needed scale, but low on the level of competence they observe in beginning lawyers.
### Table 3

**High Level of Competence Needed (N-Scale greater than 4.00)**  
**Low Level of Competence Observed (O-Scale less than 3.00)**

<table>
<thead>
<tr>
<th>Item</th>
<th>Needed</th>
<th>Observed</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>The ability to make appropriate objections to evidence at trial</td>
<td>4.249</td>
<td>2.465</td>
<td>1.784</td>
</tr>
<tr>
<td>An understanding of the steps in a state civil action from pleadings to the trial as well as organization of the courts, their jurisdiction and venue</td>
<td>4.241</td>
<td>2.675</td>
<td>1.566</td>
</tr>
<tr>
<td>An understanding of the basic business problems of maintaining and operating a private law office</td>
<td>4.227</td>
<td>2.408</td>
<td>1.819</td>
</tr>
<tr>
<td>An understanding of the professional relationship between lawyers and judges and the ethical implications and responsibilities of that relationship</td>
<td>4.209</td>
<td>2.985</td>
<td>1.224</td>
</tr>
<tr>
<td>An understanding of the law pertaining to the production and presentation of evidence</td>
<td>4.209</td>
<td>2.742</td>
<td>1.467</td>
</tr>
<tr>
<td>The ability to introduce evidence at trial</td>
<td>4.186</td>
<td>2.530</td>
<td>1.656</td>
</tr>
<tr>
<td>The ability to negotiate effectively</td>
<td>4.181</td>
<td>2.530</td>
<td>1.651</td>
</tr>
<tr>
<td>The ability to ascertain the facts of situation through investigation or interrogation</td>
<td>4.143</td>
<td>2.740</td>
<td>1.403</td>
</tr>
<tr>
<td>The ability to try a jury case</td>
<td>4.135</td>
<td>2.321</td>
<td>1.814</td>
</tr>
<tr>
<td>The ability to interview clients and witnesses effectively</td>
<td>4.121</td>
<td>2.749</td>
<td>1.372</td>
</tr>
<tr>
<td>The ability to prepare pleadings</td>
<td>4.116</td>
<td>2.443</td>
<td>1.673</td>
</tr>
<tr>
<td>The ability to evaluate a tort claim for purposes of settlement or trial</td>
<td>4.089</td>
<td>2.438</td>
<td>1.651</td>
</tr>
<tr>
<td>The ability to prepare discovery documents</td>
<td>4.083</td>
<td>2.355</td>
<td>1.728</td>
</tr>
<tr>
<td>The capacity to organise work flow</td>
<td>4.070</td>
<td>2.930</td>
<td>1.140</td>
</tr>
<tr>
<td>The ability to prepare documents required in the transfer of real property</td>
<td>4.060</td>
<td>2.737</td>
<td>1.323</td>
</tr>
<tr>
<td>The ability to try a non-jury case</td>
<td>4.049</td>
<td>2.610</td>
<td>1.439</td>
</tr>
<tr>
<td>An understanding of the broader ethical implications of a lawyer's conduct</td>
<td>4.040</td>
<td>2.890</td>
<td>1.150</td>
</tr>
<tr>
<td>An understanding of the law relating to ownership and transfer of real property</td>
<td>4.040</td>
<td>2.677</td>
<td>1.363</td>
</tr>
<tr>
<td>An understanding of the law and problems connected with the appropriate remedies upon breach of contract</td>
<td>4.014</td>
<td>2.914</td>
<td>1.100</td>
</tr>
<tr>
<td>The ability to prepare a moderately complex will</td>
<td>4.006</td>
<td>2.787</td>
<td>1.219</td>
</tr>
</tbody>
</table>
E. **Greatest Discrepancy Between Need and Competence**

Those items with a significant difference between the N- and O-scales also indicate potential areas of concern. Table 4 ranks all items that received a score on the N-scale (competence needed) of greater than 3.50 and a score on the O-scale (competence observed) of at least 1.00 less than the N-scale score. The ability to manage a law practice heads the list of high discrepancy items (4.227/2.408). Then follow items relating to trials: the ability to try a jury case, to make appropriate evidentiary objections, and to prepare discovery documents. Also high on this list is the ability to interview clients and witnesses effectively (4.121/2.749).

Some of the items on this list, while reflecting a significant difference between the N and O scores, nevertheless received an O score of greater than 3.00, e.g., the items on effective written communication (4.333/3.208) and the ability to analyze (4.380/3.371). The large difference between the scores in these instances is due not so much to the low rating on the competence-observed scale as it is to the very high rating on the competence-needed scale.

<table>
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<th>Item</th>
<th>Needed</th>
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<th>Difference</th>
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<tbody>
<tr>
<td>Manifests an understanding of the basic business problems of maintaining and operating a private law office</td>
<td>4.227</td>
<td>2.408</td>
<td>1.819</td>
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<tr>
<td>The ability to try a jury case</td>
<td>4.135</td>
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<tr>
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<td>4.249</td>
<td>2.465</td>
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<td>The ability to evaluate a tort claim for purposes of settlement or trial</td>
<td>4.089</td>
<td>2.438</td>
<td>1.651</td>
</tr>
<tr>
<td>The ability to prepare a contract that is very complex</td>
<td>3.852</td>
<td>2.282</td>
<td>1.570</td>
</tr>
<tr>
<td>An understanding of the steps in a state civil action from pleadings to the trial as well as organization of the courts, their jurisdiction and venue</td>
<td>4.241</td>
<td>2.675</td>
<td>1.566</td>
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<td>4.143</td>
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<td>1.403</td>
</tr>
</tbody>
</table>
The ability to interview clients and witnesses effectively 4.121 2.749 1.312
An understanding of the law pertaining to ownership and transfer of real property 4.040 2.677 1.363
An understanding of the steps in a federal civil action from pleadings to trial as well as organization of the courts, their jurisdiction and venue 3.926 2.577 1.349
The ability to prepare a complex estate plan 3.843 2.508 1.335
The ability to prepare documents required in the transfer of real property 4.060 2.737 1.323
The ability to take a deposition 3.934 2.616 1.318
The ability to prepare a contract that is moderately complex 3.963 2.645 1.318
The ability to prepare documents necessary to create, maintain, and foreclose security interests in real property 3.928 2.623 1.305
An understanding of the law relating to the creation, performance, and foreclosure of security interests in real property 3.960 2.699 1.261
The ability to probate a complex estate, e.g., one involving trusts or business interests 3.820 2.560 1.260
An understanding of the professional relationship between lawyers and judges and the ethical implications and responsibilities of that relationship 4.209 2.985 1.244
The ability to prepare a moderately complex will 4.006 2.787 1.219
An understanding of the relative advantages and disadvantages of the corporate entity as well as the procedures and requirements of forming a corporation 3.962 2.743 1.209
Possesses the trait of judgment 4.390 3.183 1.207
Capacity to separate a multi-faceted legal problem into its legal parts 4.212 3.053 1.179
Possesses the trait of maturity 4.267 3.101 1.166
The ability to prepare a complex testamentary trust provision 3.747 2.589 1.158
An understanding of the broader ethical implications of a lawyer's conduct 4.040 2.890 1.160
Capacity to organise work flow 4.070 2.930 1.140
Capacity to deal effectively with others 4.217 3.079 1.138
Capacity to communicate effectively in writing 4.333 3.208 1.125
An understanding of the procedures and remedies available to both debtors and creditors, including the debtor's protections and exemptions, and methods used by creditors to satisfy their claims 3.871 2.754 1.117
An understanding of the law and problems connected with the appropriate remedies on breach of contract 4.014 2.914 1.100
An understanding of the state tax law relating to property transferred at death 3.794 2.695 1.099
The ability to deal effectively with policies of title insurance 3.711 2.647 1.064
The ability to prepare an agreement relating to marital property division and child custody 3.843 2.785 1.058
The ability to prepare documents necessary to create, maintain, and foreclose security interests in personal property 3.691 2.656 1.055
A STUDY OF NEW LAWYERS

The ability to prepare a common testamentary trust provision 3.793 2.751 1.042
The capacity to think and react on one's feet 4.092 3.070 1.022
An understanding of the law relating to the creation, performance, and foreclosure of security interests in personal property 3.761 2.747 1.014
The capacity to analyze 4.380 3.371 1.009
The ability to prepare documents required in the transfer of personal property 3.703 2.697 1.006
The ability to prepare the jurisdictional allegations necessary to initiate a federal action 3.769 2.769 1.000

F. Least Discrepancy Between Need and Competence

No particular pattern emerges when examining the items with the least difference between the levels of competence needed and those observed. In this category appear items of relatively low need (knowledge of letters of credit and warehouse receipts, which received a need rating of less than 3.00) along with items that have a high need rating combined with a high level competence observed (manifesting a strong desire for personal and professional growth, the ability to perform legal research, possessing the personal traits of industry, motivation, autonomy, and empathy, all of which received ratings greater than 4.00).

Table 5 lists those items having the least discrepancy between the level of competence needed and the level of competence observed. Presumably, the lack of a significant discrepancy is a positive sign about the performance of beginning lawyers with respect to these items.

<table>
<thead>
<tr>
<th>Item</th>
<th>Needed</th>
<th>Observed</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>An understanding of the process of environmental regulation</td>
<td>3.110</td>
<td>3.036</td>
<td>.074</td>
</tr>
<tr>
<td>and of substantive areas such as air and water pollution control</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>An understanding of the Uniform Commercial Code pertaining to</td>
<td>2.989</td>
<td>2.888</td>
<td>.101</td>
</tr>
<tr>
<td>letters of credit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>An understanding of the historical development of the United</td>
<td>3.176</td>
<td>3.067</td>
<td>.109</td>
</tr>
<tr>
<td>States public land law and judicial and regulatory jurisdiction</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>over these lands and their resources</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>An understanding of the law pertaining to Native Americans</td>
<td>3.202</td>
<td>3.088</td>
<td>.114</td>
</tr>
<tr>
<td>including their rights as individuals with reference to federal,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>tribal, and state entities; federal-tribal and tribal-state</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>relationships; tribal self-governing powers; and the resultant</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>jurisdictional law</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Manifests a desire for personal growth
The capacity to assume a position of leadership in the community
An understanding of the theories of what law is
Manifests a desire to achieve personal and individual potential
An understanding of the role of law in society
An understanding of the Uniform Commercial Code pertaining to warehouse receipts and bills of lading
An understanding of the conflicts of law problems peculiar to occurrences that cut across state and national boundaries
An understanding of the problems inherent in the preparation, passage, and interpretation of legislation
An understanding of the general principles of substantive criminal law and of the more important crimes as developed by the common law and as codified in current statutes
Manifests a desire for professional growth
An understanding of the law relating to the establishment and maintenance of mining claims
An understanding of the law of intentional torts
An understanding of the law relating to landlord and tenant relationships
An understanding of the labor-management relations at both the state and federal levels
An understanding of the federal tax law relating to the taxation of natural resources
An understanding of the criminal law procedures as defined by constitutional cases, common law and modern statutes
The ability to perform legal research
Capacity to work effectively with other lawyers as part of a team
An understanding of the Uniform Commercial Code pertaining to investment securities (excluding state and federal securities regulation laws)
An understanding of the individual freedoms guaranteed under the federal and state constitutions
An understanding of the federal tax returns relating to individual income
An understanding of the law relating to future interests
Possesses the trait of industry
Possesses the trait of motivation
Possesses the trait of autonomy
Possesses the trait of empathy
An understanding of the federal tax law relating to pension and profit sharing plans
The capacity to maintain a pattern of continued professional education
The capacity to understand the lawyer’s role in society
An understanding of the rights and relationships between local, state, and federal government, federal government and other local entities, as well as understanding of the legal aspects of principal functions of local government, local taxation, and financial administration
G. Competence Observed Greater Than Competence Needed

For only five out of the 149 items did the respondents rate the level of competence observed greater than the level of competence actually needed. For four of these, the respondents rated the level of competence needed greater than 3.00: knowledge of the constitutional relationship between state regulation and the national economy (3.126/3.220); knowledge of the separation of powers between the branches of government at the federal and state levels (3.080/3.151); knowledge of the constitutional power of congress to regulate interstate commerce (3.020/3.229); manifestation of a willingness to serve clients without compensation (3.255/3.431). The fifth item in this category is an understanding of the historical development of the Anglo-American legal system (2.820/3.104).

IV. Use of the Study for Academic Program Review

While the results of the study suggest areas of examination, perhaps even concern, they do not permit the drawing of wholesale conclusions about law practice or legal education. That was not the purpose of the study. The study did achieve its more limited goal of allowing the faculty to make informed judgments about the capacity of new lawyers and how practitioners juggle the relative importance of certain areas of law.

In identifying perceived deficiencies in the abilities of new lawyers, the study supports the conclusions reached by the two special committees of the ABA. These committees stress the need for greater emphasis on the development of professional skills while students are in law school and for the integration of legal theory with practice considerations. The study also underscores the importance of character traits such as integrity, motivation, and tolerance, which all professional activity requires. Moreover, the study suggests that certain skills, like trying law suits, interviewing clients and witnesses, and preparing legal documents, deserve particular attention in any analysis of a law school's academic program. In using this data the faculty has made its own judgments about the study's academic implications. The study has been used to guide discussion, not to dictate change in the academic program.

13. One wonders whether this indicates that new graduates are inclined toward pro bono work or that they simply do not appreciate the economic realities of practice, as indicated by the fact that the item on knowing how to manage a law practice received the highest discrepancy between competence needed and observed.

14. See Thurman, supra note 2; Foulis, supra note 2.
We did not rate as unimportant those areas (like constitutional law) in which the abilities of new lawyers closely matched the level of competence needed. Rather, the results suggest that some areas are not often encountered explicitly in day-to-day practice. The same is true for broad categories of knowledge like legal history or the lawyer's role in society.

It could have been anticipated that new lawyers would rank relatively low in the performance of tasks for which they typically have received little or no training in law school. On the other hand, few expected that new lawyers would receive such low marks for their knowledge of substantive law. Of the seventy-four items in the category "knowledge of substantive and procedural law," new lawyers received a score of greater than 3.00 on only twenty-five, just over one-third of the items. The highest rating given was for their knowledge of intentional torts (3.254). Their understanding of the law regarding the ownership and transfer of real property—a matter covered in virtually every required first-year property course—rated a score of only 2.677, significantly below the 4.040 it rated on the competence-needed scale.15

Several explanations might account for the relatively low performance of new lawyers in the substantive knowledge category. One is that traditional legal education has succeeded. For generations the legal education culture has claimed that courses are not so much intended to teach substantive law as to teach students how to think like lawyers. New lawyers were in fact ranked higher in their ability to analyze (3.371 compared with 4.380 on the need scale) than in any area of substantive knowledge.16 This rating may not indicate great success, however, for it is significantly lower than, for example, the rating of new lawyers' ability to perform legal research (3.722 compared with 4.109 on the need scale).17

A second explanation for the relatively low scores on substantive knowledge may be that law students, like students generally, suffer lower retention rates if they do not use their knowledge.18

15. The scores for Idaho were 2.451 and 3.960 respectively.
16. The ratings for Idaho were 2.935/4.169. When a variation on the analysis question was asked, "the capacity to separate a multifaceted legal problem into legal parts," the score slipped to 3.033 with a need score of 4.212. Idaho's scores on this item were 2.565/4.016.
17. Idaho scores were 3.379/3.820.
18. One leading psychologist put it this way:
   The more broadly based a learned capability, the better chance it will have to transfer to new and different situations. Accordingly, the usefulness of any learned capability will be increased if it is practiced in as wide a variety of situations as possible . . . . The implication for instructional design is quite clear: provision needs to be made for encouraging the learner to apply the learning in as great a variety of new situations as can be devised.
Generally, law students use the knowledge learned in class only to answer questions on a single examination. Law professors might consider whether students would retain more if they applied their classroom knowledge in activities such as drafting contracts or preparing documents transferring interests in property.

One conclusion supported by this study and others is that law schools play a crucial role in preparing students for their early years as practicing lawyers. This is particularly true for law schools whose graduates practice in small law offices and without the benefit of close supervision by senior, experienced practitioners. Frances Zemans and Victor Rosenblum report that the smaller the context in which the beginning lawyer practices, the more that lawyer relies on legal education for learning practice competencies. The ABA Special Committee notes with concern, “Those law students who, upon graduation, obtain jobs where they can learn from other lawyers are probably decently served by [their] legal education. Those who do not apparently muddle through—somehow.” If preparing graduates who are only able to “muddle through” is an unacceptable educational goal, what can be done?

This is not the place to detail the results of the academic planning project for which this study was only a first step, but a few examples of changes that have occurred in the academic program will illustrate how the study of lawyers and academic planning have come together. Academic planning should not be a one-time event, but a continuing effort. Just as successful businesses need a research and development program to keep products and services current, educational institutions require ongoing scrutiny to adapt to change and to improve quality. In general terms, academic planning at the University of Montana School of Law has broadened the academic program to include both more instruction in legal theory and more practical experience. At the same time, the faculty have attempted to integrate theory and practice. The following are examples of programmatic changes growing out of the academic planning project.

At the beginning of the school year, first-year students attend a three-week introductory program designed to acquaint them with the history and operation of the American legal system and the legal profession, and to introduce them to the process of legal rea-


20. Foulis, supra note 1, at 93.
soning. All first-year students take a two-semester, seven-credit course entitled "Legal Writing and Practice." In that course they address jurisprudential themes encountered in their property, contracts, and torts courses, and they write a paper analyzing the jurisprudence found in an assigned appellate opinion. Among other activities in the course, students interview simulated clients, negotiate a claim, and try a non-jury case. Other first-year courses also integrate traditional instruction with practical considerations and exercises.

First-year students are divided into groups of six, called "law firms," and an upper-class student or "junior partner" assists each firm. The law firms serve as support groups, as discussion groups, and as laboratory sections in which students complete projects usually associated with legal writing. The legal writing program itself continues through the second year.

The effort to integrate theory and practice extends to the second and third years of study. For example, in the required estates course students prepare wills and the documents required for probate. In the required business organizations courses, they solve simulated business problems involving the choice of business entity and tax considerations. They also prepare business agreements and corporate documents. All students, except those on law review, must complete a clinical course in which they may choose from ten possible clinical settings involving a range of legal issues.

The emphasis on student performance in addition to the acquisition of knowledge requires changes in the typical law school evaluation procedures. Performance skills can be assessed only in actual performance. This is a labor intensive activity and one difficult to implement in a law school, given the traditional high student/faculty ratio. To overcome this barrier, the school has involved over one hundred non-faculty assessors. Most are members

21. This approach to integrating jurisprudence into the curriculum is described in Huff, A Heresy in the Ordinary Religion: Jurisprudence in the First Year Curriculum, 36 J. LEGAL EDUC. 108 (1986).

22. These first-year activities are described more fully in Burnham, Montana’s Approach to First Year 1 (Sept. 1986) (unpublished syllabus).

23. Law review students may also participate in clinical programs.

The current list of clinical options includes external placement in the local office of the Legal Services Corporation, the office providing legal services to university students, the local public defender’s office, the county attorney’s office, the office of the general counsel of the university, the regional office of the general counsel of the U.S. Department of Agriculture, the regional office of the National Wildlife Association, the office of the State Department of Revenue that enforces judgments for child support; and two law school programs: one offering post-conviction assistance to inmates in the state prison and the other providing assistance to state tribal courts.
of the local bar, but increasingly lawyers from other communities evaluate student trials, briefs, and other legal documents. Some of the assessors are non-lawyers trained for specific areas like interviewing and oral communication. This activity is coordinated in an assessment center which also serves as a repository for the students’ examinations, written work, and videotaped performances of trials and appellate arguments. 24

In the course of its academic planning, the faculty recently returned to examine lawyer competencies. The work of the last several years reinforces the need to articulate the competencies students should demonstrate before graduation. 25 The faculty’s recent consideration of exit competencies resulted in identification of general abilities needed to represent clients 26 as well as a specific set of transactions that a beginning lawyer should be able to undertake. 27 The lawyers’ study has provided helpful data in considering the abilities needed by graduates.

The faculty has by no means completed its agenda of program development. To identify the range of professional abilities and to attempt to integrate into the academic program activities that will develop those abilities is an enormous challenge. It requires rethinking conventional curricula, designing new learning activities for students, creating new teaching materials, and coordinating the efforts of an entire faculty. That the task is formidable has not made the faculty shrink from the challenge. It has, however, tempered the appraisal of the time required and heightened the per-


25. For a more complete discussion of the need for law schools to expand their vision of the abilities they seek to develop in their students, see Mudd, Beyond Rationalism: Performance-Referenced Legal Education, 36 J. LEGAL EDUC. 189 (1986).

26. The general abilities are:
- Knowledge: The general knowledge as well as the technical legal knowledge necessary to permit the graduate to diagnose legal problems, to obtain necessary additional information, and to offer appropriate courses of action.
- Skill: The cognitive skills required to analyze legal issues and the professional skills needed to transform existing situations into those that are preferred.
- Perspective: The ability to evaluate the role played by the lawyer in different situations and to view legal problems within their larger contexts.
- Character: The personal attributes and interpersonal skills required for the graduate to represent clients effectively.

27. At this writing the faculty has under active consideration an extensive list of specific transactions and situations in which a graduate should be able to represent clients, for example, in matters involving personal injuries, the acquisition and transfer of goods, business organizations, and domestic relations. The intended outcome of this discussion is the identification of both the knowledge and the technical skills necessary to complete the transactions, such as the drafting of articles of incorporation or the negotiation of a personal injury claim.
ceived need for sustained effort. To meet this need, the school has begun a summer institute during which a large number of faculty are able to devote two weeks of concentrated attention to larger issues affecting the academic program. With the advent of the institute and the establishment of an endowment to support academic planning, the school is able to make program review and long-range academic planning part of its regular activity.

V. CONCLUSION

Any serious attempt to examine a law school’s program of study must include, whether implicitly or explicitly, an assumption of the abilities the program intends to develop in its graduates. What are the knowledge, the skills, and the personal qualities the program seeks to produce or influence? What levels of student performance are appropriate and acceptable? How does the faculty determine whether these levels have been attained?

There is no single best way to answer these questions. We attempted to gain a clearer understanding of the practice setting in which our students find themselves and of the abilities they need to practice competently. The study of Montana lawyers was a useful means to that end.
APPENDIX A

Please provide the information asked for on this sheet. It is required to analyze the questionnaire.

1. Years in practice.
   - [ ] Less than 5
   - [ ] 5-10
   - [ ] 11-20
   - [ ] 21-30
   - [ ] More than 30

2. Number of attorneys in the office.
   - [ ] 1 Person
   - [ ] 2-5
   - [ ] 6-10
   - [ ] More than 10

3. Most of my practice involves.
   - [ ] Criminal (defense or prosecuting)
   - [ ] Local Government (civil)
   - [ ] State Government (civil)
   - [ ] Business/Tax
   - [ ] Wills and Estates
   - [ ] Civil Litigation
   - [ ] Real Estate
   - [ ] Natural Resources
   - [ ] General Practice
   - [ ] Other __________________

4. Size of community.
   - [ ] Less than 2,500
   - [ ] 2,501-5,000
   - [ ] 5,001-15,000
   - [ ] 15,001-25,000
   - [ ] More than 25,000

5. Location of community.
   - [ ] Western Congressional District
   - [ ] Eastern Congressional District

6. Sex:
   - [ ] Female
   - [ ] Male

7. Ethnic background.
   - [ ] American Indian
   - [ ] American Caucasian
   - [ ] Other

8. Graduate of:
   - [ ] University of Montana Law School
   - [ ] Other _____________________________

STUDY OF PROFESSIONAL REQUIREMENTS OF MONTANA LAWYERS

Please: 1. Circle the appropriate number in both columns for each item.

2. If you are able, answer the right-hand column with reference to University of Montana Law School graduates.

3. Disregard whether a particular quality or skill can be taught, is learned from experience, or is otherwise acquired.
STUDY OF PROFESSIONAL REQUIREMENTS OF MONTANA LAWYERS

My answers in the right column are based on my observations of:

Graduates of the University of Montana Law School
First-year lawyers generally

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Based on your experience, what level of competence should a lawyer have in order to perform in a professionally competent manner?</th>
<th>Based on your contact with recent graduates, what level of competence do first-year lawyers have?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Circle the appropriate number in the left and right columns:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5  High level of competence</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4  Moderate</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3  Low</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1  No opinion</td>
<td></td>
</tr>
</tbody>
</table>

PART I. KNOWLEDGE OF SUBSTANTIVE AND PROCEDURAL LAW

Each item in this part should be read as if preceded by: "An understanding of the..."

Property

law relating to:

(1) N 1 2 3 4 5 ownership and transfer of personal property. N 1 2 3 4 5
(2) N 1 2 3 4 5 ownership and transfer of real property, N 1 2 3 4 5
(3) N 1 2 3 4 5 easements, N 1 2 3 4 5
(4) N 1 2 3 4 5 zoning, N 1 2 3 4 5
(5) N 1 2 3 4 5 landlord and tenant relationships. N 1 2 3 4 5

law relating to:

(6) N 1 2 3 4 5 wills, N 1 2 3 4 5
(7) N 1 2 3 4 5 trusts, N 1 2 3 4 5
(8) N 1 2 3 4 5 future interests. N 1 2 3 4 5

law relating to:

(9) N 1 2 3 4 5 the establishment and maintenance of mining claims, N 1 2 3 4 5
(10) N 1 2 3 4 5 the acquisition of interests in oil and gas, N 1 2 3 4 5
(11) N 1 2 3 4 5 the transfer of interests in oil and gas. N 1 2 3 4 5
(12) N 1 2 3 4 5 historical development of the United States public land law and judicial and regulatory jurisdiction over these lands and their resources. N 1 2 3 4 5

Please add and rate any items you think important.
A STUDY OF NEW LAWYERS

Commercial (other than Property)

(13) N 1 2 3 4 5 rights, duties, and liabilities among principals, agents, and third parties.

(14) N 1 2 3 4 5 rights and duties created during the formation, operation, and dissolution of a partnership.

Uniform Commercial Code pertaining to:

(15) N 1 2 3 4 5 sales,

(16) N 1 2 3 4 5 bulk transfers,

(17) N 1 2 3 4 5 warehouse receipts and bills of lading,

(18) N 1 2 3 4 5 investment securities (excluding state and federal securities regulation laws),

(19) N 1 2 3 4 5 the creation of security interests in personal property,

(20) N 1 2 3 4 5 negotiable instruments and other commercial paper,

(21) N 1 2 3 4 5 banks and their relationship with other banks and their customers,

(22) N 1 2 3 4 5 letters of credit.

Law and problems connected with the:

(23) N 1 2 3 4 5 performance of contracts,

(24) N 1 2 3 4 5 formation of contracts,

(25) N 1 2 3 4 5 appropriate remedies upon breach of contract.

(26) N 1 2 3 4 5 relative advantages and disadvantages of the corporate entity as well as the procedures and requirements of forming a corporation.

(27) N 1 2 3 4 5 rights, duties, and liabilities of the corporation and its constituent officers, directors, and shareholders to each other and to third parties.

(28) N 1 2 3 4 5 procedures and remedies available to both debtors and creditors, including the debtor's protections and exemptions, and methods used by creditors to satisfy their claims.

Law relating to the creation, performance, and foreclosure of security interests in:

(29) N 1 2 3 4 5 real property,

(30) N 1 2 3 4 5 personal property.

- 2 -
(31) State and federal regulations affecting the initial issuance and transfer of securities. Please add and rate any items you think important.

**Interpersonal Relations**

<table>
<thead>
<tr>
<th>Law of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intentional torts,</td>
</tr>
<tr>
<td>Negligence,</td>
</tr>
<tr>
<td>Strict liability,</td>
</tr>
<tr>
<td>Defenses to tort liability.</td>
</tr>
</tbody>
</table>

(32) Liability to injured consumers of those who sell or manufacture defective articles.

(33) Problems relating to the marriage relationship and its dissolution.

(34) Law pertaining to juveniles, including adoption, juvenile courts, and the relationship of child to parent.

(35) Law of employment, including worker's compensation and employment discrimination.

(36) Labor-management relations at both the state and federal levels. Please add and rate any items you think important.

**Governmental**

(37) Administrative process at the federal, state, and local levels.

(38) Conflicts of law problems peculiar to occurrences that cut across state and national boundaries.

(39) Process of environmental regulation and of substantive areas such as air and water pollution control.

(40) Law pertaining to Native Americans including their rights as individuals with reference to federal, tribal, and state entities; federal-tribal and tribal-state relationships; tribal self-governing powers; and the resultant jurisdictional law.

(41) Problems inherent in the preparation, passage, and interpretation of legislation.
A STUDY OF NEW LAWYERS

(46) constitutional power of congress to regulate interstate commerce.

(47) constitutional relationship between state regulation and the national economy.

(48) separation of powers between the branches of government at the federal and state levels.

(49) individual freedoms guaranteed under the federal and state constitutions.

(50) rights and relationships between local governmental bodies and the state government, federal government and other local entities, as well as understanding of the legal aspects of principal functions of local government, local taxation, and financial administration.

state tax law relating to:

(51) income,

(52) property transferred at death.

federal tax law relating to:

(53) individual income tax,

(54) corporate taxation,

(55) capital gains and losses,

(56) installment sales,

(57) depreciation,

(58) the taxation of natural resources,

(59) partnerships,

(60) estates and trusts,

(61) business reorganizations,

(62) gifts,

(63) pension and profit sharing plans.

Please add and rate any items you think important.

Procedural

(64) steps in a state civil action from pleadings to the trial as well as organization of the courts, their jurisdiction, and venue.
(65) steps in a federal civil action from pleadings to the trial as well as organization of the courts, their jurisdiction, and venue.

(66) general principles of substantive criminal law and of the more important crimes as developed by the common law and as codified in current statutes.

(67) criminal law procedures as defined by constitutional cases, common law, and modern statutes.

(68) law pertaining to the production and presentation of evidence.

Please add and rate any items you think important.

Other Areas

(69) the code of professional responsibility, broader ethical implications of a lawyer's conduct.

(70) medical terminology and procedures as they relate to issues treated in tort or criminal litigation.

(71) theories of what law is, role of law in society.

(72) historical development of the Anglo-American legal system.

Please add and rate any items you think important.

PART II. TECHNICAL SKILLS

The ability to prepare:

(73) pleadings.

(74) discovery documents.

(75) the jurisdictional allegations necessary to initiate a federal action.

(76) the documents necessary to remove a matter from state to federal court.

a contract that is:

(77) simple.

(78) moderately complex.

(79) very complex.
A STUDY OF NEW LAWYERS

(82) the pleadings required in the dissolution of a marriage.

(83) an agreement relating to marital property division and child custody.

documents required in the transfer of:

(84) personal property,

(85) real property.

documents necessary to establish and transfer interests in:

(86) water,

(87) minerals,

(88) oil and gas.

documents necessary to create, maintain, and foreclose security interests in:

(89) real property,

(90) personal property.

federal tax returns relating to:

(91) individual income,

(92) partnerships,

(93) corporations,

(94) decedents and estates.

(95) a simple will,

(96) a moderately complex will,

(97) a complex estate plan,

(98) a common testamentary trust provision,

(99) a complex testamentary trust provision.

The ability to:

(100) introduce evidence at trial,

(101) make appropriate objections to evidence at trial.

(102) act effectively in the pretrial proceedings in a criminal matter.

(103) evaluate a tort claim for purposes of settlement on trial.
probate:

(104) N 1 2 3 4 5 an estate of a typical parent.

(105) N 1 2 3 4 5 a complex estate, e.g., one involving trusts or business interests.

(106) N 1 2 3 4 5 handle a personal bankruptcy.

(107) N 1 2 3 4 5 form a corporation and issue its stock.

(108) N 1 2 3 4 5 deal effectively with policies of title insurance.

(109) N 1 2 3 4 5 take a deposition.

(110) N 1 2 3 4 5 perform legal research.

(111) N 1 2 3 4 5 try a jury case.

(112) N 1 2 3 4 5 try a non-jury case.

(113) N 1 2 3 4 5 interview clients and witnesses effectively.

(114) N 1 2 3 4 5 negotiate effectively.

(115) N 1 2 3 4 5 ascertain the facts of a situation through investigation or interrogation.

Please add and rate any items you think important.

TITLE III. PERSONAL ATTRIBUTES

Capacity to:

(116) N 1 2 3 4 5 analyze.

(117) N 1 2 3 4 5 communicate effectively orally.

(118) N 1 2 3 4 5 communicate effectively in writing.

(119) N 1 2 3 4 5 act ethically.

(120) N 1 2 3 4 5 understand the lawyer's role in society.

(121) N 1 2 3 4 5 understand human behavior.

(122) N 1 2 3 4 5 deal effectively with others.

(123) N 1 2 3 4 5 approach tasks in a thorough fashion.

(124) N 1 2 3 4 5 counsel and refer clients who have problems requiring non-legal solutions.

(125) N 1 2 3 4 5 deal effectively with public employees and agencies.

(126) N 1 2 3 4 5 separate a multifaceted legal problem into its legal parts.
A STUDY OF NEW LAWYERS

(127) 1 2 3 4 5 maintain a pattern of continued professional education.

(128) 1 2 3 4 5 work effectively with other lawyers as part of a team.

(129) 1 2 3 4 5 assume a position of leadership in the community.

(130) 1 2 3 4 5 think and react on one's feet.

(131) 1 2 3 4 5 organize work flow.

(132) 1 2 3 4 5 direct work of others.

Possess these traits:

(133) 1 2 3 4 5 industry,

(134) 1 2 3 4 5 motivation,

(135) 1 2 3 4 5 judgment,

(136) 1 2 3 4 5 maturity,

(137) 1 2 3 4 5 integrity,

(138) 1 2 3 4 5 reliability,

(139) 1 2 3 4 5 honesty,

(140) 1 2 3 4 5 self-confident,

(141) 1 2 3 4 5 autonomy,

(142) 1 2 3 4 5 tolerance and patience,

(143) 1 2 3 4 5 empathy.

Manifests:

(144) 1 2 3 4 5 a willingness to serve clients without compensation.

(145) 1 2 3 4 5 a desire for personal growth.

(146) 1 2 3 4 5 a desire for professional growth.

(147) 1 2 3 4 5 a desire to achieve personal and individual potential.

(148) 1 2 3 4 5 An understanding of the professional relationship between lawyers and judges and the ethical implications and responsibilities of that relationship.

(149) 1 2 3 4 5 An understanding of the basic business problems of maintaining and operating a private law office; such as the cost of labor and equipment, maintaining time records, billing procedures, use of calendar and monitoring system, and client trust funds.

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