



Boston Bar

A S S O C I A T I O N

Report of the Boston Bar Association Task Force on the Future of the Profession

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**Final Report of the
Boston Bar Association
Task Force on the
Future of the Profession**

Christine M. Netski, Co-Chair
Sugarman, Rogers, Barshak & Cohen

Maureen A. O'Rourke, Co-Chair
Boston University School of Law

Lawrence M. Friedman, Chair,
Sub-Committee on CLE
New England School of Law

Adrienne K. Walker, Chair,
Sub-Committee on the Incubator Program
Mintz Levin Cohn Ferris Glovsky & Popeo

Manisha Bhatt
Great Boston Legal Services

Deborah Birnbach
Goodwin Procter LLP

Ariel Cudcowicz
Seyfarth Shaw LLP

Scott Faust
Proskauer Rose LLP

Geoff Howell
DLA Piper LLP

Erin Jackson
Blue Cross and Blue Shield of MA, Inc.

Maureen Mulligan
Roberto, Israel, & Weiner, P.C.

Betsy Munnell
Elizabeth Munnell & Associates

Neal Rosen
Bingham McCutchen LLP

Ilene Seidman
Suffolk University Law School

Sarah Vitelli
Black & Vitelli LLC

Cindy Westervelt
Staples, Inc.

Gina Walcott

I. Introduction

The recession that began in 2008 and continues to linger has had major effects on the legal market. Law schools are finding it extremely difficult to place their students. They are also the subject of intense criticism on a number of fronts, ranging from the high price of attendance (and resulting student debt) to their perceived failure to equip students to practice law effectively on the day they graduate. Law firm clients are refusing to pay for the services of newly-minted JDs and young associates, work in some substantive areas (like securitization) has declined, and technology threatens a paradigm shift in the way that consumers seek and lawyers provide legal advice.

Boston, with its six law schools¹ and a substantial share of Massachusetts' 55,000 lawyers, has felt the effects of these changes as acutely as any legal market in the country. The Boston Bar Association (BBA) Council, under the leadership of President Don Frederico, appointed a Task Force on the Future of the Profession to consider what, if anything, the BBA should do to assist lawyers embarking on their careers during this transformative time in our profession. The Task Force first met on September 30, 2010, and monthly thereafter, and presented an Interim Report to the BBA Council dated May 17, 2011.

In this Final Report, the Task Force outlines the challenges facing new lawyers, describes some of the responses by other bar associations to these challenges, discusses the BBA's response to date and makes the following recommendations:

- Develop and offer an intensive CLE series targeted to new lawyers who have started or are interested in starting their own practices, focusing on the basics of law firm practice management and culminating in a certificate of completion awarded to participants who attend all sessions.

¹ Boston College, Boston University, Harvard, New England, Northeastern and Suffolk.

- Appoint an *ad hoc* committee to design the structure of a pilot incubator program that will offer a select group of candidates who have completed the CLE series an opportunity to receive assistance from the BBA in setting up and succeeding in their own firms.
- Consider utilizing the BBA's mentoring program to continue to serve new lawyers seeking to start their own practices and, specifically, to serve participants in the pilot program.

II. The Challenges

A. The Marketplace

Although analysts disagree on whether the legal market has undergone a fundamental shift or will return to "normal" or nearly so as the economy recovers, no one disputes that record numbers of attorneys have lost their jobs or that law graduates face the worst market for their services in years, if not in history. Briefly, about 5,600 lawyers were laid off in the two year period beginning January 1, 2008 and the number of associates in the 250 largest firms dropped by about 10%.² 68.4% of the approximately 43,000 law school graduates in the class of 2010³ had jobs requiring bar passage *nine months after graduation*, an all-time low, and graduates from the class of 2011 are not likely to fare better.⁴ A recent article argues that 48 of the 50 states are

² Bernard A. Burk & David McGowan, *Big But Brittle: Economic Perspectives on the Future of the Law Firm in the New Economy*, 2011 Colum. Bus. L. Rev. 1, 28-30 & n. 75 (providing figures from the Law Shucks web site and noting that the site's figures are understated because they do not include all firms or account for firm closings or performance-based "stealth" layoffs" or partner dismissals).

³ See David Segal, *Is Law School a Losing Game?*, N.Y. Times, Jan. 8, 2011, at BU1, available at <http://www.nytimes.com/2011/01/09/business/09law.html>. ("[A]bout 43,000 J.D.'s were handed out in 2009, 11 percent more than a decade earlier . . ."). The number for 2010 was likely similar to 2009.

⁴ Debra Cassens Weiss, *A Record Low for 2010 Law Grads: Only 68% Have Jobs Requiring Bar Passage*, available at <http://www.abajournal.com> (last visited Aug. 30, 2011) (reporting NALP statistics that also include findings that: (i) 50.9% of 2010 grads were in private practice, 5-10 points lower than usual; and (ii) the percent in firms of at least 501 dropped 5% from 2009).

over-supplied with lawyers, with Massachusetts cited as suffering from the fifth highest surplus at a yearly rate of 1,450.⁵

The reasons for the market's downturn are likely many, complex, and interrelated. They include the decline in the economy generally, the increasing trend by firms to shift certain tasks offshore, the increasing reluctance by many corporate clients to pay for work performed by new associates, and technological advances that allow commoditization of various tasks – to name just a few.⁶ One thing is certain though – for the foreseeable future, more and more new law graduates and lawyers leaving careers at large firms are likely to enter solo or small-firm practice. (Indeed, it bears emphasizing that despite the law schools', bar associations' and media's continued focus on "big law," ABA figures show that "[n]early 50 percent of all private lawyers in the U.S. are solo practitioners.")⁷

B. Bar Associations' Responses⁸

I. Education and Resources

Many state and local bar associations sponsor intensive annual conferences for the solo/small firm audience. Participants not only attend CLE classes; they also enjoy the benefit of networking with similarly-minded professionals during breaks. The programming for these gatherings generally includes some mix of substantive courses in particular practice areas, business management training, quality of life/ethics classes, and technology sessions designed to

⁵ Catherine Rampell, *The Lawyer Surplus, State by State*, available at <http://economix.blogs.nytimes.com/2011/06/27/the-lawyer-surplus-state-by-state/> (contending that only Wisconsin, Nebraska and Washington DC do not produce more lawyers annually than they need).

⁶ See generally William D. Henderson & Rachel Zahorsky, *Paradigm Shift*, A.B.A. J., July 2011, at 40.

⁷ Anika Anand, *Law Grads Going Solo and Loving It*, Jun. 20, 2011, available at <http://www.msnbc.com/cleanprint/CleanPrintProxy.aspx?unique=1314727635326>.

⁸ We are indebted to BU School of Law student Carol Sweeney for her research and writing, much of which appears in this section.

promote efficient use of recent developments in computing. Attachment 1 provides a sampling of classes listed in schedules for recent or upcoming conferences.⁹

In addition to these live conferences, bar associations have been utilizing on-line resources, including blogs, forum discussions and on-line programming in an effort to provide a wide range of valuable information to lawyers who are exploring solo practice as a career option. For example, the Washington State Bar Association's Law Office Management Assistance Program has compiled a checklist for starting a practice that covers both regulatory and practical basics, including office space, technology needs, business plans, and insurance.¹⁰ The ABA has also developed a wealth of such resources, including establishing a pool of links on its Solo Blog Network on topics ranging from security practices to selecting partners and providing a forum for exchanging strategies for and common frustrations in sustaining small practices.¹¹

Additionally, the ABA supplies targeted courses online through its Smart Soloing School that

⁹ For further descriptions and listings, see:

Florida: *Solo and Small Firm Annual Conference: Extraordinary Lawyer—Creating a Dream Practice in a Challenging Economy*, Fla. B., [http://www.floridabar.org/FBWEB/CLEReg.nsf/0/a3e4a02315b5760e85257822006ee846/\\$FILE/ExtraordinaryLawyerConfBrochure.pdf](http://www.floridabar.org/FBWEB/CLEReg.nsf/0/a3e4a02315b5760e85257822006ee846/$FILE/ExtraordinaryLawyerConfBrochure.pdf).

Illinois: *Seventh Annual Solo and Small Firm Conference*, Ill. St. B.A., <http://www.isba.org/sites/default/files/soloconference/2011/schedule.pdf>.

Maryland: *Hanging Out a Shingle: Developing a Rewarding Small Firm/Solo Practice*, Md. St. B.A., <http://www.msba.org/events/hos/default.asp> (last visited Aug. 7, 2011).

Wisconsin: *2011 Wisconsin Solo & Small Firm Conference*, St. B. of Wis., <http://www.wssfc.org/#schedule>.

Louisiana: *Solo and Small Firm Conference Schedule*, La. St. B.A., [http://www.lsbba.org/2007cle/cledocuments/221\(2\).pdf](http://www.lsbba.org/2007cle/cledocuments/221(2).pdf).

New York: *Building a Successful Solo/Small Firm Practice: Taking Steps to Achieve Success*, N.Y. St. B.A., <http://www.nysba.org/AM/Template.cfm?Section=Events1&Template=/Conference/ConferenceDescByRegClass.cfm&ConferenceID=4361> (last visited Aug. 7, 2011).

Oklahoma: *2011 OBA Solo & Small Firm Conference Schedule*, Okla. B.A., <http://www.okbar.org/solo/schedule.php> (last visited Aug. 7, 2011).

¹⁰ *Opening a Practice*, Wash. St. B.A., <http://www.wsba.org/Resources-and-Services/LOMAP/Opening-A-Practice> (last visited Aug. 6, 2011). See also *Frequently Asked Questions: Starting a Practice*, Wash. St. B.A., http://www.wsba.org/Resources-and-Services/LOMAP/~media/Files/Resources_Services/LOMAP/Frequently%20Asked%20Questions.ashx; *Checklist for Starting a Law Practice*, Wash. St. B.A., http://www.wsba.org/Resources-and-Services/LOMAP/~media/Files/Resources_Services/LOMAP/Checklist%20for%20Starting%20a%20Practice.ashx.

¹¹ *A.B.A. Smart Soloing Center*, A.B.A., <http://www2.americanbar.org/solos/Pages/default.aspx> (last visited Aug. 7, 2011).

may satisfy some of a given state's CLE requirements.¹² Current offerings include, among other timely topics, basic training in business and consumer bankruptcy, ethical pitfalls for solos, current trends in mediation and arbitration, and the fundamentals of immigration and elder law.¹³

2. *Mentoring Assistance*

Many state and local bar associations provide interested new lawyers with the telephone numbers of more seasoned attorneys who volunteer to be contacted when their mentees need advice.¹⁴ And, in recent years, some bar associations have assumed a more active role in structuring the mentor-mentee relationship, incorporating it into CLE programs and in some cases requiring it for licensure.

Bar associations in Ohio, Indiana, and Dallas, Texas have implemented optional mentoring programs to allow newly admitted lawyers to satisfy professional skills requirements under the personal guidance of their more experienced counterparts. In recognition of their commitment to the program, attorneys who volunteer to be mentors receive CLE credit.

The Ohio Lawyer to Lawyer Program is the oldest of the three mentor programs listed above. Piloted in 2006 with 174 attorneys and now open to all new lawyers in the state who submit applications within 60 days of admission to the bar, this program's stated goals are to:

assist in the development of the new lawyer's practical skills and increase his or her knowledge of legal customs; improve legal ability and professional judgment; promote collegial relationships among legal professionals and involvement in the organized bar; encourage the use of best practices and highest ideals in the practice of law; and contribute to a sense of integrity in the legal profession.¹⁵

¹² *A.B.A. Smart Soloing School*, A.B.A., <http://apps.americanbar.org/cle/smartsoloing> (last visited Aug. 7, 2011).

¹³ *Id.*

¹⁴ Most state and local bar associations—including Massachusetts, Illinois, Philadelphia, and Westchester County, to list a few—still use this mentoring model.

¹⁵ *Mentoring Program History and Objective*, Sup. Ct. of Ohio, <http://www.supremecourt.ohio.gov/AttySvcs/mentoring/history.asp> (last visited Aug. 7, 2011).

The Indiana and Dallas programs are also open to attorneys who have been in practice for a few years or are pursuing new areas within the field.¹⁶

While these programs last about a year and require a time commitment of at least nine hours over six in-person meetings between mentors and mentees, the bar associations facilitate them at no cost to participants, in contrast to other CLE offerings.¹⁷ At the beginning of the Indiana Mentor Match and the Ohio Lawyer to Lawyer programs, participants develop a mentoring plan within state-set parameters to guide their interactions and ensure that during the program's four quarters, they address matters of (1) the legal community and the community at large, (2) personal and professional development and ethics, (3) law office management, and (4) client communication, advocacy, and negotiation.¹⁸ The Dallas Bar Association organizes its Transition to Practice initiative around similar themes but alternates mentor-mentee meetings with more traditional group CLE sessions.¹⁹ At the end of the term, participants submit surveys rating their experiences. According to information on the Supreme Court of Ohio's website, nearly all of the new lawyers who responded would recommend the mentoring program to others (99%) and believe they are "better equipped to deal with ethical and professionalism considerations in their daily practice" after participating (97%).²⁰

Bar associations in Georgia, Utah, and South Carolina have moved one step further by incorporating mandatory mentoring into CLE requirements for newly admitted lawyers.

¹⁶ *Mentor Match Frequently Asked Questions*, Ind. St. B.A., <http://www.inbar.org/ISBALinks/MentorMatch/MentorMatchFrequentlyAskedQuestions/tabid/378/Default.aspx> (last visited Aug. 7, 2011); *Transition to Practice: A Mentoring Initiative for Local Bar Associations*, St. B. of Tex., http://www.texasbar.com/AM/Template.cfm?Section=Transition_to_Practice&Template=/CM/ContentDisplay.cfm&ContentFileID=687, at 3.

¹⁷ *Implementation Plan and Program Rules*, Sup. Ct. of Ohio, <http://www.supremecourt.ohio.gov/AttySvcs/mentoring/implementation.asp> (last visited Aug. 7, 2011).

¹⁸ *Mentor Match Program Mentoring Plan*, Ind. St. B.A., <http://www.inbar.org/LinkClick.aspx?fileticket=Pj40afqbh1Y%3d&tabid=382>; *Lawyer to Lawyer Mentoring Program Mentoring Plan*, Sup. Ct. of Ohio, http://www.supremecourt.ohio.gov/AttySvcs/mentoring/PDF/mentor_plan.pdf. Some listings are compulsory elements of new lawyer training; others are selected by the mentor/mentee pair at the beginning of the term.

¹⁹ *Transition to Practice*, *supra* note 19, at 4.

²⁰ *Welcome, New Lawyer (Or New Lawyer to Be)*, Sup. Ct. of Ohio, <http://www.supremecourt.ohio.gov/AttySvcs/mentoring/newLawyers.asp> (last visited Aug. 7, 2011).

Beginning in 2006, Georgia's Transition into Law Practice was the first program to combine a required mentoring component with standard first-year CLE courses at no additional cost to new lawyers.²¹ Following a two-day Enhanced Bridge the Gap program, mentors and mentees create an individually-tailored meeting plan covering the following areas: "(a) ethics and professionalism, (b) relationships with clients, other lawyers, ... the judiciary and the public..., (c) professional work habits, organizational skills and practice management, (d) the economics of practicing law..., [and] (e) responsibility and opportunities for pro bono work, bar activities, and community service."²²

Utah's New Lawyer Training Plan formally replaced the state's first year CLE program in 2009; in addition to a half-day class on ethics, lawyers now meet monthly with mentors rather than attending group courses on professional skills and responsibilities. Similar to the Ohio, Indiana, and Georgia programs discussed above, the mentor and mentee develop a plan for their meetings according to state guidelines, with the goals of exploring "the areas of ethics, civility, and professionalism" and helping the mentee acknowledge conflicts, manage client relations, and understand best management practices.²³

South Carolina has developed two pilot mandatory mentoring programs with similar goals to the Georgia and Utah initiatives; however, instead of assembling a plan around mandatory and elective state-set tasks, the new lawyer is instructed to develop one that will meet

²¹ *Transition into Law Practice Program*, St. B. of Ga., http://gabar.org/programs/transition_into_law_practice_program/ (last visited Aug. 7, 2011).

²² *Transition into Law Practice Program Executive Summary*, St. B. of Ga., <http://gabar.org/public/pdf/tilpp/7-G.pdf>, at 11.

²³ *Utah State Bar New Lawyer Training Program Manual*, Utah St. B., http://www.utahbar.org/nltp/assets/Manual_2011.pdf, at 4. See also *CLE/MCLE: New Mandatory Mentor Program*, Utah St. B., <http://www.utahbar.org/nltp/>; *Utah State Bar Model Mentoring Plan*, Utah St. B., http://www.utahbar.org/nltp/assets/Model_Mentoring_Plan_2010.pdf.

the nine objectives stipulated by the state's Supreme Court in the Uniform Mentoring Manual.²⁴ Following the lead of Georgia, Utah, and South Carolina, Oregon instituted a mandatory mentoring program just this past spring.²⁵

3. *The Next Step – “Incubator” Programs*

Educational and mentoring programs can hope to address some of the professional needs of a large percentage of new lawyers. At least three law schools and one bar association have announced commitments to assist smaller cohorts of new lawyers by sponsoring incubator programs to support those who are starting solo ventures.

CUNY School of Law began its Incubator for Justice Program in 2007 as an outgrowth of its Community Legal Resource Network (CLRN), a collaborative started in 1998 with the purpose of supporting graduates who work in solo or small-group practices and provide legal services to the poor and disadvantaged.²⁶ Over an 18-month period, “the Incubator trains CLRN members ... in basic business issues such as billing, record-keeping, technology, bookkeeping and taxes while, at the same time, facilitating Incubator participants' involvement in larger justice initiatives and in subject-based training in immigration law, labor and employment and other topics that will arise continually as these attorneys build their practices.”²⁷ Additionally, the CLRN supplies mentoring support to the Incubator lawyers and connects them with others involved in similar practices in their communities.

The University of Missouri-Kansas City School of Law (UMKC) launched a similar Solo and Small Firm Incubator program this year with the aid of the Missouri Bar Association and the

²⁴ *The Supreme Court of South Carolina Chief Justice's Commission on the Profession Uniform Mentoring Plan*, Sup. Ct. of S.C. Comm'n on CLE & Specialization, <http://www.commcle.org/MentorPDF/UniformMentoringPlan.pdf>, at 2.

²⁵ *Oregon State Bar New Lawyer Mentoring Program*, Or. St. B., <http://www.osbar.org/programs/mentoring> (last visited Aug. 7, 2011).

²⁶ *Community Legal Resource Network*, CUNY Sch. of Law, <http://www.law.cuny.edu/clinics/JusticeInitiatives/Community.html> (last visited Aug. 7, 2011).

²⁷ *Id.*

Kansas City Metropolitan Bar Association's Solo Practitioner/Small Firms committee. With the twin aims of providing affordable legal services to an underserved community and assisting recent graduates, this program provides office space, practice management assistance, and mentoring support to nine new lawyers “whose business plans demonstrate both an aptitude to develop their own successful practice and a commitment to include in their plans a significant contribution of pro bono or affordable legal services to members of the surrounding . . . community.”²⁸

Charlotte School of Law has recently announced plans to develop a program similar to UMKC’s called the Practice Center as a follow-on to two courses in its curriculum aimed at preparing law students for the business of running a small practice.²⁹ With the background of the Law Office Management course and the Small & Solo Firm Practice course, recent graduates will already have a knowledge base regarding topics such as “economics and organization, ethics and professionalism. . . marketing, proper client intake, risk management, effective timekeeping,” and setting and collecting fees.³⁰ The Practice Center will serve as an incubator for new lawyers beginning their own practices after law school by supplying office space and support services and pairing program participants with experienced mentors.

With the help of a \$50,000 grant from the Columbus Bar Foundation and additional support from other sponsors, the Columbus Bar Association began its year-long pilot incubator program in April.³¹ Columbus Bar Inc. started with six participants this spring, reserving two

²⁸ *Solo and Small Firm Incubator: Application Process*, UMKC Sch. of Law, <http://law.umkc.edu/careers-cle/solo-and-small-firm-application-process.asp> (last visited Aug. 7, 2011).

²⁹ David L. Batty, *The Charlotte School of Law’s Commitment to Training Law Students to be Practice-Ready Attorneys Drives Our Transactional Course of Study*, N.C.B.A. (June 28, 2011), <http://businesslaw.ncbar.org/newsletters/nbijune2011/charlotte.aspx>.

³⁰ *Id.*

³¹ *Columbus Bar Announces New Incubator Program*, Columbus B.A. (Jan. 21, 2011), <http://www.cbalaw.org/articles/news/recent-news/2011/1631>.

spots for the most recent crop of attorneys admitted to the bar.³² The eight pilot participants were selected from a pool of applicants who attended local law schools and were admitted to practice law in Ohio within the last two years. Participants commit to one year in an office facility provided by the Columbus Bar and receive extensive management training and on-site mentoring from retired judges, practice-area specific lawyers, and general practitioners. The CBA's Lawyer Referral Service and Lawyers for Justice Program supply the new lawyers with a portion of their client base. In exchange for the assistance and support in starting their practices, participants provide some pro bono services and pay a \$350 monthly fee for rent and office maintenance.³³

III. The BBA in the New Legal Marketplace

A. Existing Programs

The BBA clearly recognizes that its future membership (at least over the next several years) is likely to derive increasingly from the solo and small firm sector and has already focused considerable effort on attracting and serving members in these types of practice. Indeed, a review of CLE programs over the last three years reflects an impressive level of programming in response to the new economic reality, including a wide range of programs directed to new lawyers and lawyers practicing in solo and small firm settings. *See* Attachment 2. These have included numerous programs on the "basics" of specific areas of substantive law, as well as a robust array of practical skills, practice management and networking programs.

The New Lawyers Section and the Solo & Small Firm Section, in particular, have demonstrated an extraordinary commitment to addressing the many challenges facing new

³² Melanie McIntyre, *Columbus Bar inc Helping New Lawyers Start Their Own Practices*, *The Metropreneur Columbus* (June 7, 2011), <http://www.themetropreneur.com/columbus/columbus-bar-helping-lawyers-start-practices/>.

³³ *Id.*

lawyers. The strong attendance at the programs sponsored by these Sections is indicative of the valuable assistance the BBA is providing to its members in these areas and justifies providing continuing support to these efforts. And, of course, the new BBA website and the BBA's use of WestLegalEd Center on-line broadcasting are proving to be incredibly effective tools in disseminating the vast array of opportunities the BBA offers to its members.

The BBA also offers a group mentoring program as part of its Diversity & Inclusion Section. This program was the outgrowth of the recommendations of the BBA's Diversity Leadership Task Force and is designed to build networks for lawyers and support a new generation of diverse leaders in the Boston legal community. Each mentoring group includes six to ten mentees who have been admitted to the bar for eight or fewer years and is led by two experienced mentors. Each program lasts for 12 months, during which the mentors are required to meet monthly with their mentees. The mentees are strongly encouraged to maintain their involvement in the activities of the BBA sections and committees during the program. Following the completion of the program, the mentees automatically become members of an "alumni" group, to foster their continued active involvement in the BBA and further development as bar leaders.

The feedback from the participants in the group mentoring program has been uniformly positive and the program serves as an excellent model for building upon the BBA's efforts in responding to the needs of newer lawyers. Indeed, the BBA has begun to note an increased interest in this program among lawyers wishing to start their own practices and, as a result, has created a mentoring group made up of current and aspiring solo practitioners.

B. Recommendations of the Task Force

The Task Force recognizes that the BBA or any bar association cannot influence structural changes in the legal marketplace that are the result of larger economic forces and rapidly evolving technological advances. The Task Force also acknowledges that the BBA must manage numerous institutional priorities and that, in developing programs that provide individualized services to its members, it must give careful consideration to the financial and staff resources that will be required.

The Task Force fairly quickly coalesced around two ideas: (1) that the BBA could offer a comprehensive educational program on law practice management, targeting new lawyers who have launched or are interested in launching their own firms and leading to a valuable credential and (2) that the BBA should consider moving a select number of “graduates” from the educational program to an incubator program. The Task Force broke into two sub-committees – one to structure the CLE series (chaired by Lawrence Friedman) and the second to consider the incubator program (chaired by Adrienne Walker). The recommendations of the Task Force, including those of the subcommittees, follow.

1. Develop a law firm practice management certificate program

As a result of the CLE subcommittee’s work, the Task Force recommends that the BBA develop and offer a curriculum on the basics of law firm practice management and provide a certificate of completion to participants who attend all sessions. The Task Force believes that this initiative would benefit the BBA by further emphasizing its understanding of the importance of solo and small firm practice. Specifically, it would provide a pathway to entrepreneurialism for new lawyers and lawyers in transition, many of whom never intended or expected to have to start their own businesses in a poor economy. The program would focus on creative, non-

traditional models for structuring a law practice in today's economic climate and would draw upon the experience and wisdom of both business and legal experts.

The Task Force recommends that the curriculum include a series of substantive sessions on at least the following topics: (1) an overview of market opportunities, (2) the preparation of a business plan, (3) financing and budgeting, (4) location and operational issues (including information technology), (5) advertising and client generation and (6) networking. It would be ideal to utilize both non-lawyer subject matter experts and lawyers who have developed their own practices as presenters at each of the substantive sessions. The goal should be to develop a pool of qualified presenters who can be called upon to lead these sessions in subsequent iterations of the CLE series. The Task Force also recommends that a template be developed for each session that the presenters can build upon. This should help to standardize the program, reduce some of the burden on the volunteer presenters and make it easier to duplicate the program over time.

The CLE series would launch in 2012 and the Task Force recommends that the subcommittee continue in its efforts to design the program, with assistance from the appropriate BBA sections and committees.

2. Launch an incubator pilot program

The Task Force recommends that the BBA select a small number of lawyers who have successfully completed the CLE series to participate in a pilot program that would assist them in launching their own practices. The Task Force believes that the BBA has a real opportunity to be a leader in supporting lawyers in the new economy and can launch a program that will set it apart from other bar associations. Like other incubator programs, it would provide continued educational offerings in the areas of law practice management and business development, and

would feature mentoring services geared toward assisting participants in the ongoing development and implementation of their business plans. The pilot program would also consult with the BBA Lawyer Referral Service (LRS) Review Committee to better understand what resources might be available to help participants access and service the client demographic that typically seeks legal representation through the LRS. Unlike most other incubator programs the Task Force has studied, an explicit goal of this program would be to help participants identify and develop a market for their services so that they may enjoy self-sustaining practices.

The Task Force recommends that an *ad hoc* committee be appointed by the BBA President and approved by the BBA Council to continue to design the structure of the program over the next six to nine months, to identify the specific BBA resources (staff, volunteers and funding, if necessary) that would be required to implement each component of the program, and to explore relationships with potential partners to provide financial support where appropriate. The outcome of the CLE series obviously will inform the *ad hoc* committee's efforts to a significant degree.

The Task Force has identified the following issues it believes should be considered by the *ad hoc* committee.

a. Practice area focus

The ideal participants in the pilot program will likely be those whose business plans focus on practice areas that are well-suited to the solo firm model. The LRS statistics could be a helpful source of information in identifying the substantive areas that have the greatest demand for legal services. In addition, efficiencies might be maximized if there is some overlap in the practice areas sought to be developed by the individual participants.

b. Client base

In addition to consulting with the LRS, the pilot program should introduce the participants to opportunities for limited assistance representation. Because this referral source is somewhat limited, however, the pilot program will need to identify and pursue additional strategies for accessing the target client base.

c. Selection criteria

The Task Force recommends that the *ad hoc* committee develop a formal application process. The Task Force contemplates that only those individuals who have received a certificate of completion of the CLE series and have completed an acceptable business plan should be eligible for the pilot program. The *ad hoc* committee's findings concerning practice area focus will be a significant consideration in selecting the participants, as will the available pool of mentors. It will also be important to select a group that includes participants who bring a variety of relevant experience and talent to the program and who are likely to collaborate with each other, while also pursuing their individual professional goals.

d. Mentoring

Attracting qualified and committed mentors will be crucial to the success of the pilot program and the pool of mentors necessarily will drive the acceptance criteria for the participants, as well as any practice area focus. The Task Force strongly believes that some component of one-on-one mentoring would be of immense value to the participants, provided that it could be structured in a way that would not be unduly time-consuming to the mentors or unduly burdensome to the BBA staff to administer. The Task Force also believes that one-on-one mentoring could be augmented by ongoing group mentoring in the general topic areas covered in the CLE series.

d. Resources

Although it is premature to identify the specific resources that will be required to support the pilot program, the Task Force recommends that the *ad hoc* committee consider the following resource categories:

Meeting space: In addition to providing the venue for educational and mentoring events, the BBA might provide participants with the opportunity to reserve private rooms for client meetings.

Infrastructure tools: The BBA might be able to leverage its relationships with vendors to obtain discounts on products and services.

Virtual resources: The BBA might be able to facilitate a virtual community where the program participants could share resources and exchange ideas.

BBA sections: The pilot program should be administered within the BBA's section and committee structure, as appropriate.

f. Duration

The optimal length of the program necessarily will depend upon how it is structured and the specific BBA and volunteer resources that will be dedicated to it. There was, however, a general consensus among the Task Force members that an effective program would require at least a 12-month commitment, with a shorter trailing period during which participants would be provided with more limited assistance in transitioning out of the program.

3. Consider utilizing the mentoring program for young solo practitioners

Regardless of whether the BBA opts to launch an incubator pilot program, the BBA's recent experience with its mentoring program suggests that the BBA should consider continuing and perhaps expanding the program's emphasis on new lawyers who are embarking on solo

practice. As described in Part II above, other bar associations are also implementing various types of mentoring programs, and the BBA could learn from their experiences. Ultimately, of course, a vibrant mentoring program will provide an additional pipeline of new members and bar leaders.

IV. Conclusion

The current challenges facing our new lawyers are unprecedented and it appears likely that employment opportunities for new lawyers will not improve significantly in the near term. It also appears likely that the percentage of lawyers practicing in solo and small firm settings will continue to increase for the foreseeable future.

There is an acute need among recent law school graduates, particularly those headed for solo and small-firm practice, for practical training in areas such as practice management, networking, building trusted relationships and navigating the rapidly evolving legal landscape. There is also a very strong need for active and sustained mentorship for all new lawyers.

Whether these trends in our profession are merely cyclical or represent a more fundamental shift, the Task Force believes that its recommendations in the near term are tangible, manageable and realistic measures that the BBA is uniquely equipped to sponsor and that are also closely aligned with the BBA's mission.

Future of the Profession Task Force Roster

Name	Affiliation
Christine Netski, <i>Co-Chair</i>	Sugarman, Rogers, Barshak & Cohen, P.C
Maureen O'Rourke, <i>Co-Chair</i>	Boston University School of Law
Manisha Bhatt	Greater Boston Legal Services
Deborah Birnbach	Goodwin Procter LLP
Ariel Cudkowicz	Seyfarth Shaw LLP
Scott Faust	Proskauer Rose LLP
Lawrence Friedman	New England Law - Boston
Geoffrey Howell	DLA Piper LLP (US) - Boston Office
Erin Jackson	Blue Cross and Blue Shield of MA, Inc.
Maureen Mulligan	Ruberto, Israel & Weiner, P.C.
Elizabeth Munnell	Elizabeth Munnell & Associates
Neal Rosen	Bingham McCutchen LLP
Ilene Seidman	Suffolk University Law School
Gina Walcott	
Adrienne Walker	Mintz, Levin, Cohn, Ferris, Glovsky and Popeo P.C.

ATTACHMENT 1

Illinois Solo and Small Firm Conference (October 2011)

- Avoiding Pitfalls While Serving on Non-Profit Boards
- Managing Client Trust Accounts: Setting Up Trust Accounting Software
- Immigration Issues: Intersections with Family Law and Criminal Law
- The New Office Technology Shopping List: What Do I Really Need to Get Started?
- Medicaid and Long-Term Care Planning: What Attorneys Need to Know

Florida Solo and Small Firm Annual Conference (April 2011)

- Smart, Ethical Use of Mobile, Tablet, and Cloud Computing
- E-Discovery & Data Forensics Made Easy
- Leverage Your Marketing Dollar - Build Your Brand Through Social Media
- Best Apps For Lawyers - Use Your Smartphone to Increase Productivity

Maryland Hanging Out A Shingle Program (meets three times annually; next meeting in November 2011)

- Pros and Cons of Being a Solo Practitioner
- How to Avoid Grievance and Malpractice
- Practical Business Tips for Starting A Solo Practice
- Stress Management for Solo Practitioners
- How to Get and Keep Clients

Wisconsin Solo and Small Firm Conference (October 2011)

- Managing Your Time: Get More Done in Less Time
- Top 5 Ethical Violations Resulting in Malpractice Claims
- Ethical Perils of Internet Marketing
- Student Loan Repayment Options: Don't Let Your Debt Dictate Your Career Options
- Technology to Maximize Efficiency of Support Staff
- A Practical Look at a Paperless Office
- Internet, Network, and Desktop Security for Lawyers

ATTACHMENT 2

Meeting Title	Shift Date	Alt. Type	Sponsoring Section
Antitrust Law	2/16/10	29 CLE	Antitrust & Business Litigation Committee
Bankruptcy Law			
Bankruptcy Bench Meets Young Bar Program	2/4/10	105 Brown Bag	Bankruptcy Law Section
Bankruptcy Law Section Study Break For Recent Graduates and Law Students	6/8/10	22 Brown Bag	Bankruptcy Law Section
Bankruptcy Section 2010-2011 Kick-Off Breakfast	9/16/10	32 Brown Bag	New Bankruptcy Lawyers Committee
Young Lawyers' Committee of the Bankruptcy Section Cocktail Reception	11/30/10	27 Event	Bankruptcy Law Section
Bankruptcy/WIRC Career Development Panel	3/22/11	34 Brown Bag	Bankruptcy Law Section
4th Annual Young Bar Meets Bankruptcy Bench Program	3/29/11	96 Event	New Lawyers Section, Bankruptcy Law Section, and Diversity and Inclusion Section
Bankruptcy Law Study Break for Law Students and Recent Graduates	4/11/11	37 Event	Bankruptcy Law Section, Diversity & Inclusion Section
Electronic Records and E-Staff: Preservation, Discovery and Use in Bankruptcy Proceedings	6/14/11	10 Brown Bag	Bankruptcy Law Section
Business Law			
Business Valuation Basics			
The Anatomy of a Purchase Agreement	10/25/10	27 Brown Bag	Tort Committee, Insurance Law Committee
Forming a United Liability Company	10/27/10	69 Brown Bag	Corporate Law Committee, New Lawyers Section
The Nuts and Bolts of a Credit Agreement	2/24/11	73 Brown Bag	Business Law Section, New Lawyers Section
Construction Law	5/12/11	42 Brown Bag	Business Law Section, New Lawyers Section
Accounting 101 for Construction Lawyers	1/26/10	10 Brown Bag	Construction Law Committee
Powerful Witness Preparation	5/19/10	37 Brown Bag	Corporate Counsel, Arbitration & Business Lit. Commis.
The Basics of Estimating Construction Jobs	1/25/11	20 Brown Bag	Construction Law Committee
Negotiating and Drafting Construction Contracts	3/30/11	24 CLE	Real Estate Section, Litigation Section, and Construction Law Committee
Criminal Law			
Cars and Drugs: Practical Skills Series	11/9/09	63 Brown Bag	New Lawyers & Criminal Law Section
Practical Skills Series: Trial Court Implications of Melendez-Diaz	3/30/10	35 Brown Bag	Criminal Law & New Lawyers Section
Practical Tips and Advice From Recent Supreme Court and SJC Cases Affecting White Collar Criminal Procedure	11/17/10	40 Brown Bag	Criminal Law Section
Best Practices in Criminal Discovery in District Court	11/30/10	37 Brown Bag	New Lawyers Section, Criminal Law Section
Anatomy of an ID Case: The Role of Experts	12/2/10	87 Brown Bag	Criminal Law Section
Trying White Collar Cases	2/16/11	84 Brown Bag	Criminal Law Section
Anatomy of a Search Warrant	2/24/11	22 Brown Bag	New Lawyers Section, Criminal Law Section
How to Choose, Use, and Stay Out of Trouble with Private Investigators	3/17/11	12 Brown Bag	New Lawyers Section, Criminal Law Section, Solo & Small Firm Section
Sensencing Enhancements in Massachusetts: What You Need to Know	3/22/11	14 Brown Bag	Criminal Law Section
White Collar Practices in Federal Court: Practical Skills, Expert Advice, and Networking Event	5/19/11	86 Brown Bag	New Lawyers Section, Criminal Law Section, and Litigation Section
Energy Law			
Practicing Before the DPU	3/24/10	38 Brown Bag	Energy and Telecommunications Law Committee
Entertainment Law			
Entertainment Law Practice in the Digital Age: New Developments	12/1/09	39 Brown Bag	Arts, Entertainment, and Sports Law Committee
An Introduction To The Volunteer Lawyers For The Arts	3/23/10	14 Brown Bag	Business Law Pro Bono Committee
Estate Planning			
Preparing Estate Tax Returns	1/11/09	43 Brown Bag	Estate Planning Fundamentals Committee
Basics of Drafting Irrevocable Life Insurance Trusts	5/17/10	19 Brown Bag	Estate Planning Fundamentals Committee
An Introduction to Supplemental Needs Trust and Public Benefits	3/15/11	33 Brown Bag	New Lawyers Section, Elder Law and Disability Planning Committee
Private Foundation Terminations Under the New Attorney General Guidelines: Basic Procedures	3/18/11	31 Brown Bag	Estate Planning Committee
Family Law			
Tips for Negotiating and Drafting Separation Agreements	3/9/10	38 CLE	Family Law Section
Discovery in the Electronic Age	3/21/11	42 CLE	Family Law Section
International Law			
How to Practice International Law in Boston	11/24/09	38 Brown Bag	Foreign Lawyers Committee & New Lawyers Section
Tips and Strategies for Foreign Lawyers Trying to Find Legal Employment in Boston	4/7/11	35 Brown Bag	Foreign Lawyers Committee
Insurance Law			
Overview of Life and Disability Insurance	3/24/10	16 Brown Bag	Insurance Law Committee
Intellectual Property			
New Lawyers and Intellectual Property Law Section Social	4/15/10	28 Brown Bag	New Lawyers & Intellectual Property Law Sections

3/8/11	24	Brown Bag	Computer and Internet Law Committee, Real Estate Finance Committee
4/28/11	34	Brown Bag	New Lawyers Section, Intellectual Property Law Section
11/12/09	18	CLE	Labor & Employment Law Section
5/27/10	37	CLE	Labor & Employment Law Section
11/16/10	36	Brown Bag	Labor & Employment Law Section
2/23/11	58	Brown Bag	New Lawyers Section, Labor and Employment Law Section
3/15/11	40	CLE	Labor & Employment Law Section
10/22/09	41	Brown Bag	New Lawyers Section
11/19/09	98	Event	Litigation Section
4/29/10	97	Brown Bag	New Lawyers Section
5/18/10	37	Brown Bag	Corporate Counsel, Antitrust & Business Litig Commis
9/30/10	38	Brown Bag	Massachusetts Practice and Procedure Committee, New Lawyers Practical Skills Series Committee, and Federal Practice and Procedure Committee
10/19/10	21	Brown Bag	Securities Enforcement and Litigation Committee
12/31/10	69	Brown Bag	Massachusetts Practice and Procedure Committee, New Lawyers Section
2/18/11	87	Brown Bag	Litigation Section, New Lawyers Section
2/24/11	33	Brown Bag	Federal Practice and Procedure Committee
3/28/11	38	Brown Bag	New Lawyers Section, Litigation Section
4/26/11	60	Brown Bag	Litigation Section, New Lawyers Section
4/26/11	13	CLE	Securities Enforcement and Litigation Committee, Class Actions Committee, and Litigation Section
5/4/11	21	Brown Bag	New Lawyers Section, Alternative Dispute Resolution Committee
9/17/09	33	Brown Bag	Title & Conveyancing Committee
12/7/10	26	Brown Bag	Leasing Committee
2/24/10	13	Brown Bag	Leasing Committee
3/31/10	10	Brown Bag	Leasing Committee
9/14/10	42	Brown Bag	Real Estate Finance Committee
10/20/10	36	Brown Bag	Real Estate Finance Committee
11/09/10	23	Brown Bag	Real Estate Finance Committee, Leasing Committee
12/18/10	67	Brown Bag	Title & Conveyancing Committee, New Lawyers Section
1/5/11	18	Brown Bag	Professional Liability Committee
12/07/11	18	Brown Bag	Title & Conveyancing Committee
2/10/11	20	CLE	Real Estate Section, Leasing Committee, and New Lawyers Section
4/12/11	17	Brown Bag	Real Estate Finance Committee
5/25/11	27	Brown Bag	Leasing Committee
5/25/10	14	Brown Bag	Securities Law Committee
11/16/09	46	Brown Bag	Sub/Small Firm, New Lawyers, Bus. Law, Tax, Imm
5/29/10	26	CLE	Tax Section
5/19/10	44	Brown Bag	Tax, Business Law, and New Lawyers Section
6/9/10	28	Brown Bag	Tax, Business Law, and New Lawyers Section
1/13/11	41	Brown Bag	International Tax Committee
12/17/08	114	CLE	New Lawyers
10/21/09	67	Brown Bag	Sub/Small Firm, New Lawyers, Bus. Law, Tax, Imm
10/22/09	41	Brown Bag	New Lawyers Section
10/27/09	14	Brown Bag	Foreign Lawyers Committee
12/10/09	148	CLE	New Lawyers
12/11/09	75	Brown Bag	Sub & Small Firm Section
12/16/09	22	Brown Bag	New Lawyers and Sub & Small Firm Section

How to Work a Room	12/17/09	76 Event	New Lawyers and Solo & Small Firm Section
Starting Your Practice on a Limited Budget: Hitting the Numbers	12/11/10	73 Brown Bag	New Lawyers and Solo & Small Firm Section
Hot Topics for Lawyers in Transition	2/11/10	54 Event	New Lawyers in Transition Work Group
Pathways to Practice	4/16/10	N/A	MCLE Program
How to Accomplish and Manage Wealth	2/18/10	29 Brown Bag	New Lawyers Section
The Evolution and Future of Legal Marketing	3/4/10	52 Brown Bag	New Lawyers Section
Business Development Tips for New Lawyers	4/15/10	45 Brown Bag	New Lawyers Section
Law Practice with Bob Poppe and Barbara Ruell: Then, Now & Future	5/3/10	28 Brown Bag	New Lawyers, Senior Lawyers, others
Cloud Computing 101: Moving from Cloud None to Cloud Nine	6/24/10	13 Brown Bag	New Lawyers Section
Mistakes New Lawyers Make	6/28/10	93 CLE	New Lawyers Section
How to Set up a Law Practice Website	2/12/10	26 Brown Bag	Solo & Small Firm Section
Resolving Disputes with Your Law Firm Colleagues and Your Clients	2/26/10	19 Brown Bag	ADR, New Lawyers, L & E, Bus Law, Solo/Small Firm
How to Build Business Relationships Without Breaking the Bank	4/9/10	37 Brown Bag	Solo & Small Firm Section
Entrepreneurial Private Practice Alternatives in a Changing Legal Market	4/12/10	42 Other	Solo & Small Firm Section
Creating a Small Firm: A Step-by-Step Guide for Solo Practitioners	5/7/10	23 Brown Bag	Solo & Small Firm Section
Pricing Billing and Collecting & Getting the Business You Want!	5/27/10	10 CLE	Solo & Small Firm Section
Thriving in Challenging Times: Essentials of Professional Business Communication	6/7/10	32 Brown Bag	Solo/Small Firm, New Lawyers, others
Reaching Your Readers: Essentials of Professional Business Communication	6/16/10	27 CLE	Solo & Small Firm, New Lawyers, Fam Law, Imm Law
David vs. Goliath: Insight for the Solo Practitioner When Litigating Against Larger Opponent	9/23/10	53 Brown Bag	Solo & Small Firm Section
Internal Marketing: Maximizing Your Success At Your Current Job And Throughout Your Legal Career	9/23/10	40 Brown Bag	New Lawyers Section
Finding a Job in a Difficult Economy	9/30/10	46 Brown Bag	New Lawyers Section
Practicing Law in Federal and State Government	10/27/10	12 Brown Bag	New Lawyers Section
Financing a Great Job in the Great Recession	10/27/10	29 Brown Bag	Solo & Small Firm Section, New Lawyers Section
Success Strategies for Legal Practices: A Solo and Small Firm Focus	11/18/10	11 Brown Bag	Solo & Small Firm Section
Technical Considerations for Solo/Small Firm Retirement Plan Establishment and Maintenance	12/7/10	59 CLE	New Lawyers Section
Mistakes New Lawyers Make	1/20/11	30 Brown Bag	Solo & Small Firm Section
The Paperless Office	2/17/11	15 Brown Bag	Solo & Small Firm Section
Name Your Inbox: The Top 5 Ways that Microsoft Outlook Can Help You Be More Productive	4/15/11	N/A	MCLE Program
Pathways to Practice	5/21/11	26 CLE	Solo & Small Firm Section, New Lawyers Section
Start Your Up: How to Establish Your New Law Practice	5/20/11	132 Event	BBA
Gaining an Edge with Facebook, Twitter, Foursquare & LinkedIn	5/24/11	33 Brown Bag	Solo & Small Firm Section, New Lawyers Section
Basic Tax and Business Issues for Solos and Small Firms	6/9/11	23 Brown Bag	Solo & Small Firm Section, New Lawyers Section
Solo and Small Firm Practitioner Career Alternatives in A Changing Legal Market	6/16/11	28 CLE	New Lawyers Section
Mistakes New Lawyers Make	7/12/11	145 Event	Diversity & Inclusion Section, New Lawyers Section
13th Annual Strategies for Success: Summer Associates Diversity & Inclusion Luncheon			
Networking/ Mentoring			
Mentoring Program Reception	4/7/09	42 Event	Diversity & Inclusion Section
MILGAs: Annual Boston-Area Law Student Reception	6/24/09	N/A	Diversity & Inclusion Section
New Lawyers Section 25 Year Anniversary Celebration	9/23/09	66 Brown Bag	New Lawyers Section
Mentoring Program Reception	9/30/09	28 Event	Diversity & Inclusion Section
Welcome Back to School Law School Reception	1/13/10	70 Event	Diversity & Inclusion Section
Happy Hour and Boston Blazers Law Night at TD Garden	1/23/10	N/A	New Lawyers Section
New Lawyers Section May Happy Hour	5/27/10	44 Event	New Lawyers Section
Group Mentoring Program: Orientation	6/23/10	58 Other	Diversity & Inclusion Section
New Lawyers Section Speed Networking Event	11/30/10	200 Event	New Lawyers Section, Solo & Small Firm Section
New Lawyers Section Holiday Party	12/16/10	157 Event	New Lawyers Section
New Lawyers 7th Annual Wine Tasting	1/21/11	303 Event	New Lawyers Section
The Art of Working a Room: Networking for Lawyers	3/24/11	N/A	New Lawyers Section
Community Service Pro Bono			
Representing a Pro Bono Debtor	11/14/08	20 CLE	Bankruptcy Law Section
New Lawyers Pro Bono Holiday Party	12/5/08	127 Event	New Lawyers Section

Public Interest Opportunities for New Lawyers in Transition	9/24/09	134	Event	New Lawyers in Transition Work Group
Representing a Pro Bono Debtor	2/11/10	120	Brown Bag	Bankruptcy Law Section
Trailblazers in Public Policy	5/26/10	43	Brown Bag	Business Law Public Policy Committee
Representing a Pro Bono Debtor	8/22/10	14	Event	Bankruptcy Law Section
Take a Bite: Snack Size Pro Bono Opportunities That Fit Your Practice	9/22/10	52	Event	Senior Lawyers Section
Chapter 7 Bankruptcy Pro Bono Volunteer Lawyer Training: Representing a Pro Bono Debtor	10/7/10	34	Brown Bag	Bankruptcy Law Section, Bankruptcy Pro Bono Committee
Pro Bono Fair for Attorneys and Law Students	10/25/10	47	Event	Litigation Section
New Lawyers Section Pro Bono Celebration	10/28/10	55	Event	New Lawyers Section
Establishing a Healthy Pro Bono Practice	1/27/11	13	Brown Bag	New Lawyers Section
Pro Bono Opportunities Fair	6/8/11	48	Event	New Lawyers Section