Professional-Identity/Professional-Formation/Professionalism Learning Outcomes: What Can We Learn About Assessment from Medical Education

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PROFESSIONAL-IDENTITY/PROFESSIONAL-FORMATION/PROFESSIONALISM LEARNING OUTCOMES: WHAT CAN WE LEARN ABOUT ASSESSMENT FROM MEDICAL EDUCATION?

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I. INTRODUCTION

The 2014 changes in the ABA accreditation standards require law schools to implement competency-based education (CBE) where each school must state learning outcomes that articulate the competencies needed to be a member of the legal profession. The 2014 changes also require formative and summative assessments to foster and measure student development toward the learning outcomes.1 Facing the same type of changes in accreditation standards in 1999, medical educators have fifteen years of experience from which legal educators can learn with respect to what curricular engagements are most effective to help each student grow toward competency-based learning outcomes, especially with regard to assessments. This article outlines medical education’s major “lessons learned” regarding effective assessment of professional-identity learning outcomes.

Taking advantage of the 2014 accreditation changes requiring competency-based education, each law school now has an exceptional opportunity to differentiate its education so that its students better meet the needs of clients, legal employers, and the legal system. Hand in glove with this accreditation-change opportunity, the shift to competency-based education means each law school faces the challenge of actually implementing this major change from a time-based curriculum to a competency-based curriculum. A time-based (also known as a structure and process) curricular model

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is where education corresponds to fixed time spent in training. A competency-based education model, on the other hand, focuses on what a learner can demonstrate and do. It emphasizes each student’s transition to grow from a beginner to demonstrate by graduation some level of adequate competence at actual professional-practice knowledge and skills derived from an analysis of client, legal employer, and legal system needs. Table 1 explains the basic principles of CBE.

**Table 1**

**PRINCIPLES AND CHARACTERISTICS OF COMPETENCY-BASED EDUCATION MODELS**

<table>
<thead>
<tr>
<th>Principles</th>
<th>Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Competencies are role-derived (e.g. lawyer), specified in behavioral terms and made public.</td>
<td>1. Learning is individualized.</td>
</tr>
<tr>
<td>2. Assessment criteria are competency-based and specify what constitutes stages of development culminating in a mastery level of achievement.</td>
<td>2. Feedback to the learner is critical.</td>
</tr>
<tr>
<td>3. Assessment requires performance as the prime evidence but also takes knowledge into account.</td>
<td>3. Emphasis is more on the exit criteria than on the admission criteria.</td>
</tr>
<tr>
<td>4. Individual learners progress at rates dependent on demonstrated competency.</td>
<td>4. Development of competencies through a progression of stages from novice to expert.</td>
</tr>
<tr>
<td>5. The instructional program facilitates development and evaluation of the specific competencies.</td>
<td>5. Systemic curriculum has a progression of modules that build on one another.</td>
</tr>
<tr>
<td>6. Accountability is shared by both the learner and the program.</td>
<td></td>
</tr>
</tbody>
</table>

Table 2 compares time-based education with competency-based education.

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2. Yoon Soo Park et al., *Evaluating the Paradigm Shift from Time-Based Toward Competency-Based Medical Education: Implications for Curriculum Assessment*, in *Assessing Competence in Professional Performance Across Disciplines and Professions* 411, 412 (Paul Wimmers & Marcia Mentkowski eds., 2016). This is a tea-seeping approach where students are likened to tea leaves soaked in hot water for a fixed duration. *Id.* at 414.

3. *Id.* at 415, 418.

4. Table 1 is adapted from Eric Holmboe et al., *The Milestones Guidebook* 6 tbl.2 (2016), https://www.acgme.org/Portals/0/MilestonesGuidebook.pdf [hereinafter *Milestones Guidebook*].
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Table 2
Comparing a Time-Based and a Competency-Based Curriculum

<table>
<thead>
<tr>
<th>Goal of educational encounter</th>
<th>Traditional Time-Based Education</th>
<th>Competency-Based Education</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition of knowledge</td>
<td>Application of knowledge</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Responsibility for driving educational process</th>
<th>Teacher</th>
<th>Learner</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Responsibility for learning</th>
<th>Teacher</th>
<th>Learner and teacher</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Timing of assessment</th>
<th>Emphasis on summative</th>
<th>Emphasis on formative</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Typical assessment context</th>
<th>Proxy on a single subject</th>
<th>Authentic in mimicking real tasks of professional work/multiple into evaluation portfolio</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Evaluation standards</th>
<th>Relative to peers</th>
<th>Relative to objective standard of competency</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Program completion</th>
<th>Fixed time</th>
<th>Variable time</th>
</tr>
</thead>
</table>

The change from time-based to competency-based education will take time and much experimentation to develop the necessary elements: (1) models for the stages of development for each competency a faculty includes in its learning outcomes, (2) curriculum modules to foster progressive development of each student toward later stages of each competency, and (3) formative and summative assessments to give effective feedback to each learner and to support and document the learner’s progressive development of each competency. Given the time needed to develop competency-based education, legal education will see a hybrid of time-based and competency-based education for many years.

One key change that Table 2 emphasizes is that learners in a CBE system “must be active agents co-guiding both the curricular experiences and assessment activities.” What does it mean for a student to be an active

5. Table 2 is adapted from Jeffrey Kuvn, Training Present and Future Cardiologists, 108 Am. J. Card. 1508, 1511 tbl.2 (2011).
6. MILESTONES GUIDEBOOK, supra note 4, at 15.
agent in her own learning and assessment? “Learners must learn to be self-directed in seeking assessment and feedback.”7 Learners should ideally:

1. be both introduced to the overall competency-based education curriculum at the beginning and engaged in dialogue about the overall program on an ongoing basis;
2. actively seek out assessment and feedback on an ongoing basis;
3. perform regular self-evaluations together with feedback from external sources;
4. direct and perform some of their own assessments, such as seeking out direction; observation of the learner by an experienced professional and creating portfolios of evidence regarding specific competencies; and
5. develop personal learning plans that students revisit and revise at least twice a year.8

The reader should reflect on whether he or she believes law graduates are entering an era where more rapid technology and market changes will place even greater demands on lawyers to continually develop themselves in response to the changes. In this future, each lawyer must internalize a drive to be a lifelong learner and networker.

This article focuses in particular on the requirement that law schools utilize both formative and summative assessments to measure and improve student development9 toward what the next section will call professional-identity or professional-formation learning outcomes and what legal education can learn from medical education about this type of assessment.

Formative assessment methods are measurements at different points during a particular course or at different points over the span of a student’s education that provide meaningful feedback to improve student learning. Summative assessment methods are measurements at the culmination of a particular course or at the culmination of any part of a student’s legal education that measure the degree of student learning.10

Part II outlines the results of a survey of law-school websites. Law schools are in the process of posting their learning outcomes on their websites. Part II also identifies the professional identity/professional formation learning outcomes that law schools are adopting. Part III analyzes medical education’s framework for formative and summative assessments regarding professional identity/professional formation learning outcomes. Finally, Part IV looks at what are the most promising “lessons learned” for legal education from medical education’s experience over the last fifteen years on

7. Id. at 16.
8. Id.
9. ABA STANDARDS, supra note 1, at 23 (Standard 314).
10. Id. at 23 (discussing Interpretation 314-1).
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formative and summative assessments regarding this type of learning outcome.

II. JANUARY 2017 SURVEY OF POSTED LAW SCHOOL LEARNING OUTCOMES

ABA accreditation standard 302 requires all law schools to establish learning outcomes that include competency in:

(a) knowledge and understanding of substantive and procedural law; (b) legal analysis and reasoning, legal research, problem solving, and written and oral communication in the legal context; (c) the exercise of proper professional and ethical responsibilities to clients and the legal system; and (d) other professional skills needed for competent and ethical participation as a member of the legal profession.

While learning outcomes must be in place by the end of the 2017–18 academic year, ABA accreditation site teams visiting schools in the 2016–17 academic year will be reporting on the progress a law school is making in establishing learning outcomes.

To what degree are law schools creating learning outcomes that give further definition to Standard 302(c)’s competency in “the exercise of proper professional and ethical responsibilities to clients and the legal system” while also defining “other professional skills needed for competent and ethical participation as a member of the legal profession”? As of January 20, 2017, 70 out of the 205 ABA-accredited law schools had posted learning outcomes on the school’s website. Of these seventy law schools,

12. AM. BAR ASS’N, MANAGING DIRECTOR’S GUIDANCE MEMO: STANDARDS 301, 302, 314 AND 315, at 1 (June 2015), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2015_learning_outcomes_guidance.authcheckdam.pdf. See also id. at 4 (“Learning outcomes must consist of clear and concise statements of knowledge that students are expected to acquire, skills students are expected to develop, and values that they are expected to understand and integrate into their professional lives.”) (citing ABA STANDARDS, supra note 1, at 15 (discussing Standard 302(c))).
13. Id. at 6; see also id. at 4 (“Learning outcomes for the school’s overall program of legal education must appear in its website and in its publications where the law school describes its mission and its curriculum.”).
14. See infra Appendix A. These data from a January 20, 2017 survey of law school websites were first published in a Mercer Law Journal symposium. See Neil Hamilton, Off-the-Shelf Formative Assessments to Help Each Student Develop Toward a Professional Formation/Ethical Professional Identity Learning Outcome, 67 MERCER L. REV. 687 (2017). For this January 20, 2017 survey, Professor Jerry Organ, Professor Neil Hamilton, and Holloran Center coordinator, Brady King, reviewed together and discussed all the data collected from law school websites. We decided that statements that a law school was introducing law students to a particular competency or listed a particular competency in list of possible examples of competencies a student might study or was giving law students “an opportunity” to develop a particular competency did not meet the requirements of a learning outcome that each student must understand and demonstrate a particu-
twenty-one have adopted essentially the minimum Standard 302(c) learning outcome that students will be competent in “the exercise of proper professional and ethical responsibilities to clients and the legal system,” 15 while forty-nine have adopted learning outcomes that go beyond the minimum of Standard 302(c) and further define “professional and ethical responsibilities to clients and the legal system” to include “values that [students] are expected to understand and integrate into their professional lives.” 16 These data are all included in Appendix A.

Of the forty-nine law schools:

1. thirty-one have a learning outcome that includes competency in understanding the value of providing pro bono legal services to the disadvantaged;
2. twenty-six have adopted a version of a learning outcome that includes the competency of demonstrating understanding and integration of proactive self-evaluation and professional development toward excellence at the competencies needed to serve clients and the legal system (self-directed learning); 17
3. twenty-six law schools have adopted a version of a learning outcome that includes the competency of professionalism, high or the highest ethical standards, a personal code of ethics, or the internalization of values grounded in morality or faith;
4. twenty-four law schools include the competency of teamwork/effective collaboration;
5. twenty-three include a learning outcome that students develop self-awareness and cross-cultural competency to work with those of diverse backgrounds;
6. thirteen law schools include integrity/honesty in professional life;
7. nine include the competency of judgment;
8. nine include the competency of improving the profession/legal system;
9. seven include the competency of active listening; and
10. six include the competency of leadership.

lair competency. Hamilton’s earlier articles applying a less rigorous standard had reported higher numbers of law schools with posted learning outcomes.

15. ABA STANDARDS, supra note 1, at 15 (discussing Standard 302(c)). Note that this Standard 302(c) language is ambiguous whether these “professional and ethical responsibilities to clients and the legal system” require more than competency in meeting the minimum standards of the law of lawyering.

16. MANAGING DIRECTOR’S GUIDANCE MEMO, supra note 12, at 4 (the number of schools with these various learning outcomes exceeds forty-nine because several schools have learning outcomes which address more than one of these aspects of professional formation).

17. Note that the Interpretation 302-1 for ABA Standard 302 includes “self-evaluation” as one of the “other professional skills” that a law school faculty may include in its learning outcomes. See ABA STANDARDS, supra note 1, at 16 (discussing Interpretation 302-1).
If these same proportions hold true when all 204 ABA-accredited law schools post learning outcomes, approximately ninety law schools will have adopted a competency in understanding the value of pro bono legal services. Seventy-six schools will have adopted learning outcomes both on self-directed learning and on professionalism/high ethical standards/personal code of ethics. Seventy will have adopted a teamwork learning outcome, and sixty-seven will have adopted a cross-cultural competency learning outcome. Thirty-nine will have adopted integrity as a learning outcome.

It is possible to synthesize two major themes from the forty-nine law schools that have adopted learning outcomes stating values beyond the minimum required by ABA Standard 302(c).

A. A First Clear Theme

A first clear theme is that the meaning of the competency of “the exercise of proper professional and ethical responsibilities to clients and the legal system” can be further defined by asking students to demonstrate understanding and integration of proactive self-evaluation and professional development toward excellence at the competencies needed to serve clients and the legal system.18 As explained earlier, this first clear learning outcome of demonstrating self-directed learning is foundational for competency-based education.

B. A Second Clear Theme

The meaning of the competency of “the exercise of proper professional and ethical responsibilities to clients and the legal system” can be further clarified by asking students to demonstrate understanding and integrating values and skills like:

1. pro bono service to the disadvantaged,
2. professionalism/high ethical standards/an ethical professional identity/moral core/personal code of ethics,
3. teamwork/effective collaboration,
4. self-awareness and cross-cultural competency,
5. integrity/honesty,
6. active listening, and
7. leadership.

18. This is self-directed learning, defined as “a process in which individuals take the initiative, with or without the help of others, in diagnosing their learning needs, formulating learning goals, identifying the human and material resources for learning, choosing and implementing appropriate learning strategies, and evaluating learning outcomes,” MALCOLM KNOWLES, SELF-DIRECTED LEARNING: A GUIDE FOR LEARNERS AND TEACHERS 18 (1975); see also Michael Hunter Schwartz, Teaching Law Students to be Self-Regulated Learners, 2 Mich. St. DCL L. Rev. 447, 477 (2003). Self-directed learning builds on a foundation of ongoing self-evaluation.
Stepping back from the values and skills numbered above, we can see that they are relational in nature and build on the relational values and skills that the student brought to law school. The second clear theme is that law schools adopting learning outcomes like the values and skills numbered above are essentially asking each student to demonstrate continuing growth over time from high short-term self-interest and low responsibility to others that would most likely have been the case earlier in life toward an internalized deep responsibility and service to clients and the legal system. The values and skills numbered above build on and flow from an internalized deep responsibility and service to others that is applied specifically to clients and the legal system. These two major clear themes are learning outcomes that define the formation of an ethical professional identity beyond the minimum Standard 302(c) competency of “the exercise of proper professional and ethical responsibilities to clients and the legal system.”

Part III below analyzes medical education’s framework for formative and summative assessments regarding these types of professional identity/professional formation learning outcomes.

III. Medical Education’s Framework for Formative and Summative Assessments Regarding Professional Identity/Professional Formation Learning Outcomes

A. History of Medical Education’s Core Competencies, Milestones, and Entrustable Professional Activities

1. Core Competencies and Milestones

In 1998, the Accreditation Council for Graduate Medical Education (ACGME) launched an effort to identify core competencies, and the American Board of Medical Specialties (ABMS) joined as a partner. With the ACGME acting as a catalyst, an ABMS Task Force synthesized these into six core competencies to be formed and evaluated both at the resident level and as part of the physician recertification process. Both the ACGME and the ABMS endorsed the core competencies in 1999. The definitions of ACGME/ABMS’s six core competencies for residents and fellows are as follows:

19. Part of this next section is borrowed from Neil Hamilton, What Legal Education Can Learn From Medical Education About Competency-Based Learning Outcomes Including Those Related to Professional Formation and Professionalism, 29 GEO. J. LEGAL ETHICS 399, 406–418 (2016).


21. MILESTONES GUIDEBOOK, supra note 4, at 5.
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1. Patient care and procedural skills—provide care that is compassionate, appropriate, and effective treatment for health problems and to promote health;

2. Medical knowledge—demonstrate knowledge about established and evolving biomedical, clinical, and cognate sciences and their application in patient care;

3. Practice-based learning and improvement—be able to investigate and evaluate their patient care practices, appraise and assimilate scientific evidence, and improve their practice of medicine;

4. Systems-based practice—demonstrate awareness of and responsibility to larger context and systems of healthcare and be able to call on system resources to provide optimal care (e.g. coordinating care across sites or serving as the primary case manager when care involves multiple specialties, professions, or sites);

5. Professionalism—demonstrate a commitment to carrying out professional responsibilities, adherence to ethical principles, and sensitivity to diverse patient populations; and

6. Interpersonal and communication skills—demonstrate skills that result in effective information exchange and teaming with patients, their families, and professional advocates (e.g. fostering a therapeutic relationship that is ethically sound, uses effective listening skills with non-verbal and verbal communication, and working as both a team member and at times a leader).22

Five of the six competencies emphasize some aspect of the physician’s internalization of responsibility and service to others by including terms like “compassionate treatment,” “investigation and evaluation of [student’s own] patient care practices,” “responsibility to the larger context,” “adherence to ethical principles and sensitivity to diverse populations,” and “therapeutic relationship that is ethically sound.”

The ACGME and the ABMS then engaged in a “massive effort to define competencies and measures in each specialty, both for residency training and continuing evolution of practicing physicians.” In 2005, six years after the establishment of the six core competencies, these measures were still working their way into implementation in residency training programs.23 Progress continued, and by late 2011, each of the twenty-four medical specialties within the ABMS had begun to develop milestones to define assessable learning outcomes related to each of these six core com-


23. Lucian Leape & Donald Berwick, Five Years After To Err is Human, What Have We Learned?, 293 J. AM. MED. ASS’N 2384, 2386 (2005).
petencies.\footnote{Thomas J. Nasca et al., The Next GME Accreditation System—Rationale and Benefits, 366 NEW ENGL. J. MED. 1051, 1052 (2012), http://www.nejm.org/doi/pdf/10.1056/NEJMsr1200117.} Milestones provide narrative descriptions of the core competencies and sub-competencies along a developmental continuum with varying degrees of granularity.\footnote{MILESTONES GUIDEBOOK, supra note 4, at 9.} They describe performance levels that residents are expected to demonstrate for skills, knowledge, and behaviors in the six core competency domains. They lay out a framework of observable behaviors and other attributes associated with a resident’s development as a physician.\footnote{Id.} All milestone sets are now completed for the twenty-four American Board of Medical Specialties medical specialties.\footnote{See Milestones, ACCREDITATION COUNCIL FOR GRADUATE MED. EDUC., https://www.acgme.org/What-We-Do/Accreditation/Milestones/Overview (last visited Nov. 14, 2017).}

Dr. Eric Holmboe, senior vice president at the Accreditation Council for Graduate Medical Education, explains that “the Milestones are intentionally designed to help create a developmental language (i.e. a shared mental model) for the six general competencies” in the context of a particular specialty.\footnote{Eric Holmboe, The Journey to Competency-based Medical Education—Implementing Milestones, 3 MARSHALL J. MED., no. 1, 2017, at 3, 4.} By defining the essential competencies and sub-competencies within a discipline, the Milestones provide guidance for both the curriculum and meaningful assessment.\footnote{MILESTONES GUIDEBOOK, supra note 4, at 13.} For residents, Milestones:

1. provide a descriptive roadmap for training and an increased transparency for performance requirements;
2. encourage informed self-assessment, self-directed learning, and self-directed learning feedback-seeking behaviors; and
3. facilitate better feedback to learners.\footnote{Id. at 14; Holmboe, supra note 28, at 5 (“For residents, Milestones are intended to lead to more self-directed assessment and better and more systematic feedback, and also to help guide their own individual learning plans and development.”).}

Overall, the Milestones reflect the Dreyfus and Dreyfus model of development from novice to expert shown in Figure 1 below:
Table 3 shows the general description of Milestones reflecting the Dreyfus and Dreyfus Development Model.
As indicated by Table 3, the milestones create a guide for the level of the particular competency that a resident/fellow should be expected to have achieved at a particular time in the student’s matriculation. The milestones map progression as a student and physician continues her development.
### Table 4

**Self-Assessment of Developmental Stages of an Internalized Commitment to Professional Development Toward Excellence at All the Competencies of Effective Lawyering**

<table>
<thead>
<tr>
<th>Student Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Level 1 - Dependent Stage</strong></td>
</tr>
<tr>
<td>- Assumes passive role with respect to professional self-development</td>
</tr>
<tr>
<td>- Lacks interest in developing competencies except minimum required by external authority</td>
</tr>
<tr>
<td>- Does not generally want or seek feedback into strengths and weaknesses</td>
</tr>
<tr>
<td>- May react negatively to such feedback</td>
</tr>
<tr>
<td>- Depends on external authority for explicit direction and validation</td>
</tr>
</tbody>
</table>

| **Level 2 - Interested Stage** |
| - Can see self-interest in professional self-development |
| - May recognize weaknesses, but motivation to improve is principally externalized |
| - Responds reasonably to questions and feedback on strengths and weaknesses |
| - Is willing to engage mentors/coaches in goal-setting and implementation strategies |
| - Shows some initiative and persistence to learn competencies |

| **Level 3 - Involved Stage** |
| - Is committed to professional self-development |
| - Identifies strengths and weaknesses in development of competencies |
| - Responds positively to and reflects on feedback concerning strengths and weaknesses and how to improve |
| - Seeks insight from mentors and coaches in goal-setting and creation and implementation of written professional development plan |
| - Is internalizing motivation to learn new knowledge and skills continuously |
| - Is internalizing standard of excellence at all competencies |
| - Shows substantial persistence in learning competencies |

| **Level 4 - Self-Directed** |
| - Is intrinsically motivated to professional self-development and learning new knowledge and skills over a career |
| - Actively identifies both strengths and weaknesses in development and sets goals and creates and executes written professional development plan |
| - Proactively develops mentor and coach relationships and proactively seeks help and feedback from mentors and coaches |
| - Reflects on feedback and responds to feedback appropriately |
| - Knows when and how to seek help |
| - Actively seeks challenges |
| - Has internalized standard of excellence at all competencies |

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31. Table 4 is adapted from Gerald Grow, *Teaching Learners to be Self-Directed*, 41 Adult Educ. Q. 126, 129 fig.1 (1991). For links to self-directed learning milestones for Family...
As examples of how a Milestones model would fit legal education, Table 4 below shows a self-directed learning stage development model for law students. Twenty-six of the seventy (37%) law schools have adopted a version of a learning outcome emphasizing self-directed learning. Table 5 shows a stage development model for the formation of an ethical professional identity. Twenty-six of the seventy (37%) law schools have adopted a version of a learning outcome including professionalism, high or the highest ethical standards, a personal code of ethics, or the internalization of values grounded in morality or faith.
Table 5
DEVELOPMENTAL STAGES OF AN INTERNALIZED RESPONSIBILITY TO
CLIENTS AND THE LEGAL SYSTEM—A FOUNDATIONAL ELEMENT OF AN
ETHICAL PROFESSIONAL IDENTITY

<table>
<thead>
<tr>
<th>Student Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Level 1</strong></td>
</tr>
<tr>
<td>a. Has self-awareness of own values/first principles regarding responsibilities and service to others.</td>
</tr>
<tr>
<td>b. Has had previous experience in terms of responsibility to others on matters important to them, and has reflected on how the previous experience is relevant to the practice of law.</td>
</tr>
<tr>
<td><strong>Level 2</strong></td>
</tr>
<tr>
<td>a. Demonstrates knowledge of basic legal ethics principles and is able to identify legal ethical issues in hypothetical situations.</td>
</tr>
<tr>
<td>b. Demonstrates understanding of the profession’s core values and ideals including the importance and priority of responsibility to the client and the legal system, for example with respect to trustworthiness.</td>
</tr>
<tr>
<td><strong>Level 3</strong></td>
</tr>
<tr>
<td>a. Consistently recognizes legal ethical issues in the most common and frequent experiential situations and is able to discuss, analyze, and manage such issues.</td>
</tr>
<tr>
<td>b. Demonstrates progress, in the most common and frequent experiential situations, with respect to integration into student’s ethical identity of the profession’s core values and ideals including the importance and priority of responsibility to the client and the legal system, for example with respect to trustworthiness (an ethical professional identity).</td>
</tr>
<tr>
<td><strong>Level 4</strong></td>
</tr>
<tr>
<td>a. Is consistently able to effectively recognize, discuss, analyze, and manage legal ethical issues in complicated and challenging experiential situations.</td>
</tr>
<tr>
<td>b. Demonstrates consistent integration into student’s ethical identity in complicated and challenging experiential situations of the profession’s core values and ideals including the importance and priority of responsibility to the client and the legal system, for example with respect to trustworthiness.</td>
</tr>
<tr>
<td><strong>Level 5</strong></td>
</tr>
<tr>
<td>a. Is exemplary in effectively recognizing, discussing, analyzing, and managing legal ethical issues in complicated and challenging experiential situations.</td>
</tr>
<tr>
<td>b. Demonstrates exemplary continuing growth, leadership, and mentorship in all situations in integrating the profession’s core values and ideals including the importance and priority of responsibility to the client and the legal system, for example with respect to trustworthiness.</td>
</tr>
</tbody>
</table>

32. Table 5 is adapted from Nasca et al., supra note 24, at 1053 tbl.1. Note that the Milestones in the original table, which were developed by an ACGME expert panel, reflected the...
2. Core Entrustable Professional Activities for Entering Residency

In addition to core competencies and Milestones for residency programs, medical educators have recently undertaken evaluation of other methods of fostering formation in M.D. medical education (called “undergraduate medical education” by medical educators). In 2013, Professor Olle ten Cate suggested the concept of Entrustable Professional Activities (EPAs).33 “EPAs are observable, measurable, learnable, and independently executable professional activities in a given context and timeframe that reflect one or more competencies.”34 The American Association of Medical Colleges (AAMC—the professional organization for M.D. programs) is proposing Core EPAs for Entering Residency, partially in response to concerns from residency program directors that medical students were not adequately prepared for residency.35 EPA competency assessments are made based on the degree of trust in the student to perform the entrustable activity with decreasing levels of supervision until the student can do the activity without ongoing direct supervision in residency.36

What are the key differences among competencies, milestones, and entrustable professional activities? AAMC has articulated the basic differences in these frameworks:

**Competency:** An observable ability of a health professional, integrating multiple components such as knowledge, skills, values, and attitudes. Since competencies are observable, they can be measured and assessed to ensure their acquisition.37

**Milestone:** A milestone is a behavioral descriptor that marks a level of performance for a given competency (derived from the ACGME Milestones project).38

**Entrustable Professional Activity (EPA):** EPAs are units of professional practice, defined as tasks or responsibilities that trainees following expected levels of performance that the evaluator assesses: Level 2, typical graduating medical student; Levels 3 and 4, resident during the program; Level 5, graduating resident; Level 6, advanced, specialist resident or practicing physician. See also THE ACCREDITATION COUNCIL FOR GRAD. MED. EDUC. & THE AM. BOARD OF RADIOLOGY, THE DIAGNOSTIC RADIOLOGY MILESTONES PROJECT 10 (2015), https://www.acgme.org/Portals/0/PDFs/Milestones/DiagnosticRadiologyMilestones.pdf.

33. Olle ten Cate, Nuts and Bolts of Entrustable Professional Activities, 5 J. GRADUATE MED. EDUC. 157, 157 (2013).
36. Id.
37. Id. (citing Jason R. Frank et al., Competency-based Medical Education: Theory to Practice, 32 MED. TEACHER 638, 638 (2013)).
38. Id.
are entrusted to perform unsupervised once they have attained sufficient specific competence. EPAs are independently execut-
able, observable, and measurable in their process and outcome, and, therefore, suitable for entrustment decisions.39

The EPAs are a list of the thirteen activities that medical students should be proficient in before entering residency,40 and further build upon the ACGME’s six core competencies and Milestones Project. The EPAs are more specific as to how the particular competencies should be demonstrated and evaluated at each stage. They are primarily focused on facilitating the transition between M.D. medical education and residency with the primary motivation of patient safety, and are intended to supplement the graduation competencies of the individual medical schools and specialties.41

Similar to the six core competencies, professional formation is highlighted throughout the EPAs as a foundational component to each of the thirteen specific tasks. The AAMC notes that the “[p]rofessionalism competencies are integrated throughout the Core EPAs” and “are among the most frequently cited as critical to performing the EPAs.”42 One of the key differences that the creators of the EPAs see between what they describe as “pre-entrustable learners” and “entrustable learners” is the level of an internalized responsibility and service to others in the student.43 The EPAs integrate the competencies and, thus, necessarily integrate growth in professional formation in order to build patient trust and increase patient safety.44

The ACGME describes this relationship between the competencies and the EPAs as the “EPAs by definition require the integration of competencies, and competencies are best assessed in the context of performance (as can be provided by the EPA framework).”45 EPAs help because competencies alone can be abstract,46 and EPAs have the benefit of representing the day-to-day work of the professional and making assessment more practical “by clustering milestones into meaningful activities.”47 The EPAs provide the “clinical context” for the competencies and integrate them into practice.48 Practitioners understand EPAs intuitively better than they understand and can implement assessment of competencies. Essentially, core compe-

39. Id. (citing Cate, supra note 33, at 157–158). EPAs situate one or more competencies into the clinical context in which physicians actually practice. Id. at 3.
40. See infra Appendix B for a list of the thirteen EPAs.
41. Core EPAs, supra note 35, at 2.
42. Id. at 5.
43. See id.
44. Id. at 4.
45. Id. at 2.
46. Id. at 3 tbl.1.
47. Core EPAs, supra note 35, at 5.
48. Id.
tencies and milestones provide the building blocks for the EPAs as indicated in Figure 2.

**Figure 2**

![Diagram of Competencies, Milestones and EPAs](image)

The two competencies that are foundational to all of the EPAs are: “1) trustworthiness and 2) self-awareness of limitations that leads to appropriate help-seeking behavior.”

The projected impact of the EPAs is likely to be significant.

### B. Formative and Summative Assessments for Milestones

The shift to competency-based education has required an “increased emphasis on assessment, especially ongoing, longitudinal assessment that enables the faculty more accurately to determine the developmental progress of the learners as well as to help the learners through feedback, coaching, and adjustments to their learning plans.”

The Milestones Guidebook emphasizes that the research on effective assessment is in its early stages, but, combined with educational theory, there is useful guidance for assess-

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49. *Id.* at 5.

50. The EPAs will be a key influence in furthering competency-based education in medicine. See discussion *infra* at note 68.

51. **Milestones Guidebook**, supra note 4, at 8.
ment.52 The Guidebook offers some general principles on effective assessment:

1. Assessments that help learners become active agents in guiding their curricular experiences are very important.53 The primary focus of an assessment tool should be on the tool’s “catalytic effects.”54 “In other words, the assessment should help to drive future learning forward.”55

   a. Have learners complete individualized learning plans using the Milestones as a guide that they revisit and revise at least twice a year.56
   b. Consider having each learner complete a self-assessment of his or her Milestones that the learner can compare and contrast, with a trusted adviser coach’s help, to the Milestone judgments of the faculty with respect to the learner.57 Self-assessment combined with external data is a valuable and impactful activity.58
   c. Enable a learner to seek out assessments (i.e. self-directed assessment seeking), especially direct observation from faculty members.59
   d. Encourage learners in general to actively seek assessment and feedback and to reflect on the feedback.60

2. “Observe, observe, observe! Faculty [and staff] observation of key competencies is essential to effective feedback, coaching, and professional development.”61 Embed observation of learners in what faculty [and staff] do on a daily basis.62

   a. “While rating scales and evaluation forms can certainly be useful, it is the narrative that is often the most useful, especially for feedback.”63 Faculty and staff should do narrative assessments as part of their direct observation of learners.64
   b. Faculty and staff will need evaluation forms to provide guidance for these assessments.65

3. “Assessment tools should be selected intentionally to allow routine, frequent formative feedback to the [learner] to affirm

52. Id. at 15.
53. Id.
54. Id. at 21.
55. Id.
56. Id. at 16.
57. MILESTONES GUIDEBOOK, supra note 4, at 15.
58. Id. at 16.
59. Id. at 15.
60. Id.
61. Id. at 17.
62. Id.
63. MILESTONES GUIDEBOOK, supra note 4, at 21.
64. Id. at 17.
65. Id.
areas of successful performance and to highlight competen-
cies on which [the learner] needs to improve.”

4. “Feedback to the [learner] is an essential and required activ-
ity of the Milestones assessment system. Research has clearly
shown that feedback is one of the most effective educational
tools faculty and programs have to help [learners] learn and
improve. The Milestones should be used to help [learners]
develop action plans and adjustments in their learning activi-
ties and curriculum. Feedback sessions should be conducted
in person. Research is clear that interpreting and under-
standing multi-source performance data [such as a 360-degree re-
view] as represented by the Milestones, should be facilitated
and guided by a trusted advisor.”

5. There is no “magic combination” of assessments. Medical
programs will have to choose and experiment with a set of
assessments and multiple assessors.

Three of the specialties (Emergency Medicine, Radiology, and Pathol-
ogy) state the Milestones for the specialty together with recommended as-
sessments for each Milestone. For example, with respect to assessing the
self-directed learning Milestone, all three specialties recommend direct ob-
servation of learners in work in actual patient care and in simulations. Two
recommend the use of portfolios and the assessment of the learner’s portfo-
lio work product. Two recommend self-assessment and reflection. With
respect to assessing the professional-values/ethical behavior/integrity Mile-
stone, all three specialties recommend direct observation of work with pa-
tients (two include simulations also), and all three include multi-source
feedback (360-degree employee evaluation). One includes portfolios.

C. Formative and Summative Assessments for EPAs

EPA assessment requires direct observation from multiple assessors of
an entrustable activity, whether in actual patient care or simulations. The
assessors need sufficient evidence to make the decisions about the level of
entrustment for which the learner qualifies on each EPA. Table 6 below
indicates the five levels of entrustment for each EPA.

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66. Id. at 26.
67. Id. at 22.
68. Id. at 19.
69. See infra pp. 36–37 for a detailed discussion of portfolios.
70. Kimberly Lomis et al., Implementing an Entrustable Professional Activities Framework in Undergraduate Medical Education: Early Lessons from the AAMC Core Entrustable Professional Activities for Entering Residency Pilot, 92 ACAD. MED. 765, 768 (2017).
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TABLE 6
PROPOSED ENTRUSTMENT AND SUPERVISION SCALE FOR M.D. STUDENTS

1. **Not allowed to practice EPA**
   a. Inadequate knowledge/skill (e.g. does not know how to preserve sterile field); not allowed to observe
   b. Adequate knowledge, some skill. Allowed to observe

2. **Allowed to practice EPA only under pro-active, full supervision**
   a. As coactivity with supervisor
   b. With supervisor in room ready to step in as needed

3. **Allowed to practice EPA only under reactive/on-demand supervision**
   a. With supervisor immediately available, all findings double checked
   b. With supervisor immediately available, key findings double checked
   c. With supervisor distantly available (e.g. by phone), findings reviewed

4. **Allowed to practice EPA unsupervised**

5. **Allowed to supervise others in the practice of the EPA**

In August 2014, AAMC initiated a pilot study consisting of teams from ten medical schools in the United States where the pilot schools implemented the Core EPA framework for use with the entering class of 2015.71 The teams are focused on each of the thirteen Core EPAs with respect to four main concept areas.

1. **Formal entrustment:** As we consider the desired educational outcome of entrustment, are novel curriculum and assessment practices needed? Who will make entrustment decisions? When and upon what evidence? Are entrustment decisions time-limited? How will residency program directors view the credibility of entrustment decisions?

2. **Assessment:** Can all Core EPAs be assessed in a reliable, valid, and cost effective manner? How is formative feedback used in the process of entrustment? Who provides the assessment? How might students, residents, patients, and other health care professionals be engaged in the assessment process?

3. **Curriculum development:** What are the learning experiences required to inform entrustment decisions? When in the curric-

71. *Id.* at 766.
ulum should they occur? How should the Core EPAs be sequenced?

4. Faculty development: What are effective practices to prepare faculty to perform competency assessments, to provide formative feedback linked to the Core EPAs, and to participate in decisions to entrust learners?72

In their second year of work, the teams described their current shared understandings in each of the concept areas above.73

1. Formal entrustment

Early discussions have focused on how the Core EPA framework differs from other assessment methods. Fundamentally, entrustment is a workplace-based construct. The Core EPAs are an intuitive approach to determining competency, since clinical supervisors routinely make implicit, ad hoc entrustment decisions throughout the process of care delivery. However, such ad hoc entrustment decisions are based on multiple factors, only some of which are under the control of the learner. Amplifying this implicit entrustment process with a formal structure may foster a more systematic, informative, reliable, and ultimately transferable method of credentialing learners for unsupervised practice.

In addition to performing the key functions and achieving the requisite competencies of a given Core EPA, entrustment demands that each learner be trustworthy. Trustworthiness includes knowing one’s limits (discernment), communicating honestly (truthfulness), and fulfilling one’s commitments (conscientiousness). Because of concerns about declaring a developing learner to be untrustworthy, specific feedback regarding these elements should be provided using alternative language. Also, it is important to acknowledge the impact of stressors in the working and learning environment on an individual’s behavior and to foster appropriate responses among learners. The residency program directors participating in the pilot repeatedly endorsed the primacy of this aspect of the entrustment process. Explicit measures of the components of trustworthiness and opportunities for coaching should be a central aspect of this framework.74

2. Assessment

Because frontline faculty are in a position to observe students in clinical environments, they must be commissioned to record their observations in a systematic fashion . . . . The AAMC Core EPA guides have started that process, but much remains to be described. We must systematically determine

72. Id. at 767.
73. Id.
74. Id. at 767–768.
the typical developmental pathways for each Core EPA as well as the appropriate level of supervision required as learners make their way toward entrustment. We must explicitly define the body of evidence needed to support formal entrustment decisions, including the levels of case complexity and acuity, and build systems to generate that evidence. Workplace-based evidence will be essential, but we need to develop assessment tools that can be used easily by frontline faculty and residents. As part of the pilot, we are currently exploring the use of the supervision scale adopted for UME by Chen and colleagues, with the inclusion of contextual information, as a tool to capture workplace-based assessments. We envision a process by which multiple forms of assessment evidence, including ad hoc entrustment decisions in the workplace, will be used to render summative entrustment decisions.75

3. Curriculum development
A systematic approach is needed to embed the teaching and assessment of the Core EPAs throughout the UME curriculum. Although full entrustment may not be achieved until students approach graduation, learners need the opportunity to develop their skills over time. Through early experiences, students should build the relevant competencies, which they later can apply in the clinical workplace to successfully care for patients. In many health systems, students have been relegated to a more peripheral role in patient care activities, so they may not have sufficient opportunities to participate in some of the Core EPAs. [Undergraduate Medical Education] (UME) programs in collaboration with their associated health systems must ensure sufficient clinical experiences for students to develop competence. Clinical programs in UME are typically constructed to provide breadth of experience, with short periods on a variety of clinical teams. Yet, many faculty members are hesitant to formally assess students with whom they have had only brief interactions. In addition to developing facile tools to capture episodic observations, we may find that a reorganization of clinical experiences to create longitudinal relationships will be needed to inform summative entrustment decisions.76

4. Faculty development
Building faculty knowledge and skills related to the Core EPA framework in UME will be imperative, including developing content that is essential for each Core EPA; methods to teach this material; techniques for direct observation and provision of feedback; assessment expertise to provide data that

75. *Id.* at 768.
76. Lomis et al., *supra* note 70, at 768.
is accurate, timely, and standardized, appropriate documentation of performance; and expertise in the judicious review of evidence to render entrustment decisions. Various faculty roles will require differing levels of training, and a systematic program is needed to address those diverse needs throughout the UME curriculum. The report endorses the formation of a learning community across all medical schools to increase the collaborative effort on EPAs. Professor Olle ten Cate, who originally proposed the EPA concept, recommends that EPAs “can serve as building blocks for portfolios.” The learner’s portfolio keeps track of what level of entrustment the learner has achieved on each EPA.

D. Teaching Medical Professionalism’s Analysis of Assessment

A recent book, Teaching Medical Professionalism: Supporting the Development of a Professional Identity provides further insight into medical education’s analysis of the most effective assessments for professional identity learning outcomes. The book’s contributors note that “decisions about how to create a system of assessment rely on the development of clear learning goals that are broadly communicated.” A system of assessment also relies on an understanding of the developmental stages of trainees on the professional identity learning outcomes or competencies. “[L]earners need to be explicitly taught a framework for understanding professional identity formation . . . . Doing so will allow them to understand both the transformational process that they will undergo and the nature of the identity that they are expected to develop.”

Once the professional identity learning outcomes and developmental stages for each outcome are clear, Teaching Medical Professionalism outlines nine key lessons regarding assessment of learners.

1. Importance of the Habit of Self-Reflection on Experience and an Assessment Rubric

The book emphasizes that: (a) “A strong professional identity requires that students develop a proactive stance toward their own learning and ca-

77. Id.
78. Id. at 769.
79. Olle ten Cate, AM Last Page: What Entrustable Professional Activities Add to a Competency-Based Curriculum, 89 ACAD. MED. 691, 691 (2014).
81. Id. (“It is especially important to locate the developmental stage of trainees . . . .”).
82. Robert Sternszus, Developing a Professional Identity: A Learner’s Perspective, in TEACHING MEDICAL PROFESSIONALISM, supra note 81, at 26, 34.
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Professional identity develops over time from “a long-term combination of experience and reflection on experience.” Thus, the curriculum should provide multiple opportunities for guided reflection on experiences with feedback to the student. The faculty will need to develop a scoring rubric(s) to assess the quality of a student’s reflection on any experience.

Medical educators have developed some reflection scales that show good internal consistency and some construct validity shown below in Table 7.

83. William M. Sullivan, Foreword to Teaching Medical Professionalism, supra note 80, at ix, xiv. “Carried on in context explicitly structured around the norms of professionalism, reflection proves an important aid toward becoming a self-directed learner, an essential quality for a successful later life as a physician.” Id. “It is clear that fundamental to encouraging students to actively participate in the development of their own professional identities is reflection.” Sylvia R. Cruess & Richard L. Cruess, General Principles for Establishing Programs to Support Professionalism and Professional Identity Formation at the Undergraduate and Postgraduate Levels, in Teaching Medical Professionalism, supra note 80, at 113, 119 [hereinafter Cruess & Cruess I].

84. Sean Hilton & Henry Slotnick, Proto-Professionalism: How Professionalisation Occurs Across the Continuum of Medical Education, 39 Med. Educ. 58, 63 (Jan. 2005). Dr. Hilton and Slotnick note “Skills, knowledge and experience are necessary for professionalism, but sophisticated reflection on the doctor’s part is also required to produce insights enabling the individual to better address the needs of patients specifically and society generally.” Id. at 59.

85. Richard L. Cruess & Sylvia R. Cruess, Professionalism and Professional Identity Formation: The Cognitive Base, in Teaching Medical Professionalism, supra note 80, at 5, 15 [hereinafter Cruess & Cruess II]; see also Sternszus, supra note 80, at 34.

86. Table 7 is from Wendy Levinson et al., Understanding Medical Professionalism 205 (2014).
2. Importance of Direct Observation in Assessment

Drs. Sylvia and Richard Cruess observe that

[A]s attitudes and values [of professionalism] are difficult to assess, the emphasis [in medical education] shifted to the assessment of observable behaviors that reflect these values and attitudes. To provide reliability and validity, it became clear that multiple assessors using multiple methods were required. In addition, it was understood that the assessment of observable behaviors, while providing useful information, missed something, and some form of narrative assessment by individuals familiar with students and residents was desirable.87

How the learner performs when being observed can be assessed in both real encounters with patients and professional colleagues and in simulations.88 The observer makes judgments about the quality of the learner’s performance.89 Good observational assessment requires broad sampling across different encounters.90 Multi-source feedback “is an assessment tool that is completed by multiple persons within a learner’s sphere of influence. Multi-rater assessments are ideally completed by other students, peers, nurses, faculty supervisors, patients, families, and the residents them-

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87. Cruess & Cruess I, supra note 83, at 120–121.
88. Norcini & Shea, supra note 80, at 160.
89. Id.
90. Id. at 162–163.
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selves.\footnote{Linda Snell, \textit{Supporting Professionalism and Professional Identity Formation at the Postgraduate Level}, in \textit{Teaching Medical Professionalism}, \textit{supra} note 80, at 248, 254.} The requirements for high quality assessment using rating scales are well known and aggregating multiple data points is central to achieving reproducible scores.\footnote{Norcini & Shea, \textit{supra} note 80, at 126.} For example, a rating form like the Professionalism Mini-Evaluation can be used in a variety of observed clinical encounters.\footnote{\textit{Id.} at 161.} Rating forms should include narrative assessments by individuals familiar with the learner’s work.\footnote{\textit{Id.} at 161.}

Simulations as well as real encounters with professional colleagues and patients are very useful. Simulations with standardized patients, where the student interacts with actors trained to play the role of a patient using a script, can provide observable experiences where supervisors can assess professional identity competencies using rating forms.\footnote{Cruess & Cruess I, \textit{supra} note 83, at 121.}

Assessment of observable behaviors also includes recording all instances of unprofessional conduct, for example when a learner does not meet the requirements of the student conduct code or the profession’s code.\footnote{\textit{Id.} at 162.} All University of Texas system medical schools have developed some mechanism for identifying and recording student lapses in professionalism and engaging the student to reflect on the lapses.\footnote{Mark Holden et al., \textit{Developing and Implementing an Undergraduate Curriculum}, in \textit{Teaching Medical Professionalism}, \textit{supra} note 80, at 231, 239–240.}

3. Self-Assessment of Learner’s Stage of Development on the Professional-Identity Competencies

Hand in glove with both the habit of self-reflection on experience (with a reflection stage development rubric) and direct observation of a learner’s competence by others is a learner’s self-assessment. Drs. Richard and Sylvia Cruess observe

As the emphasis [in medical education] switches from teaching professionalism to supporting professional identity formation, self-assessment must come to play a more important role because the presentation of self is so important to one’s identity. While self-assessment of knowledge and skills is believed to be unreliable, self-assessment, along with assessment . . . [by others] is central to determine how individuals chart their own progress toward development of their professional identity.\footnote{Cruess & Cruess II, \textit{supra} note 85, at 16. Note that there is a self-report bias in this type of research because, “[i]n general, research participants want to respond in a way that makes them look as good as possible;” they want to respond in ways they consider “socially desirable.” \textit{See} Stewart I. Donaldson & Elisa J. Grant-Vallone, \textit{Understanding Self-Report Bias in Organizational Behavior Research}, 17 J. BUS. & PSYCHOL. 245, 247 (2002).}
In a separate chapter, Drs. Sylvia and Richard Cruess note that “[d]ocumenting an individual’s perception of his or her own progress toward acquiring a professional identity becomes an invaluable tool. This progress is non-linear, occurs in jumps and starts, and is accelerated during periods of transition; there are also times of actual regression.”

4. Focus the Professional-Identity Curriculum Particularly on High-Risk and Transition Periods for the Student

Dr. William Sullivan emphasizes that:

Medical education is marked by major transitions between different environments for learning—transitions that require students and more advanced practitioners alike to navigate large discontinuities in the roles they occupy, as well as in the cognitive and emotive stance they are expected to assume . . . . Programs intending to foster identity development can draw upon a growing base of experience and research for tested methods of making it through the transitions with an enhanced, rather than wounded, sense of agency and meaning.

Dr. Sternszus comments that:

Current curricula may not pay enough attention to high-risk periods which can impact learners’ academic performance, professional behaviors, and wellness. Developmental psychology suggests that these periods of transition are also critical for identity transformation. As such, supporting learners in their formation of a professional identity would require curricula to focus on these periods in order to be successful.

5. “Go Where the Students Are” and Build on Each Student’s Pre-Existing Identity

It is clear both that a student’s professional identity is formed in the context of the student’s pre-existing individual identity and that professional identity formation is a developmental process for all learners where the student, over time, is acculturated into a community of professional practice and goes through a series of identity transformations toward exemplary practice. However, learners sometimes feel that the current curricular focus in medical education emphasizes too much judgment about students’ negative behaviors, and too much coverage of generic understandings of professionalism that does not engage the issues that students

100. Sullivan, supra note 83, at xiv.
101. Sternszus, supra note 82, at 33.
102. Id. at 30–31.
103. See id. at 31.
face, and does not help them navigate the tension between their personal and professional selves. 104

Dr. Sternszus observes: “It appears this may be the result of curricula that fail to focus on the interaction between learners’ pre-existing identity and the medical profession.”105 It would be better to shift curricular focus “to providing learners with a framework with which to understand their own personal identity development.”106 Drs. Richard and Sylvia Cruess suggest that “learners must first be attracted to the process of identity formation by making it personal.”107 Interest in the subject should be maintained through activities designed to foster a level of engagement throughout the educational process.108 The discussion below in Part III emphasizes empirical data showing that law students’ principal goal is post-graduation meaningful employment. Thus this principle encourages helping students understand how professional identity development will help each student reach their goal of meaningful employment.

6. Concept of a Progression of Engagements in the Curriculum that Foster Each Student’s Growth toward Later Stages of the Professional-Identity Competencies

The curriculum should foster “students’ progression from the curious observer exploring professional opportunities to the engaged learner internalizing the knowledge and values of the profession. . . . The professional identity formation] phases of transition, early developing, and developed identities may require changes in attitudes, habits, and relationships.”109 The curriculum should target deep personal and professional transformation of each student from where the student is developmentally in a progression of activities that include adopting professional behaviors and practicing being in the role of a professional while the underlying principles are being internalized.110

7. Role Modeling, Mentoring, and Coaching as Highly Effective Curricula

The authors in Teaching Medical Professionalism repeatedly emphasize role-modeling,111 mentoring,112 and coaching113 as highly effective

104. Id. at 30, 32.
105. Id. at 30.
106. Id. at 32.
108. Id.
110. See Cruess & Cruess I, supra note 83, at 117 (“present different aspects of professionalism at different stages of training”).
111. Cruess & Cruess II, supra note 85, at 15 (“Role models are individuals admired for their ways of being and acting as professionals.”) (quotations omitted).
curricula to foster each student’s identity formation. Drs. Sylvia and Richard Cruess note that:

Experience has shown that relationships are of great importance in developing professional identities. We have assigned many of the activities designed to engage students and maintain that sense of engagement to our mentorship program. It has been shown to foster a strong sense of relationships and professional identity in both the students and the mentors.\textsuperscript{114}

It is important for the mentor or coach to know the stage of a student’s development as a necessary first step in facilitating movement toward an integrated, internalized identity. Drs. Arnold, Sullivan, and Quaintance note:

Given that knowledge, the right amount of challenge can be provided to move individuals into a state of disequilibrium along with the scaffolding necessary to keep individuals in their zone of proximate development . . . a state in which the individual can complete a given task with scaffolding. The zone of proximal development lies in the space between where the individual can complete a task independently and where the individual cannot complete the task even with expert guidance.\textsuperscript{115}

A common strategy to utilize mentors and coaches is end-of-semester or end-of-year meetings between students and mentors or advisors that include consideration of the student’s progress on key competencies including the professional identity competencies. During the M.D. years, the discussion around professional identity at these meetings “centers on issues of self-direction, self-assessment, ability to use feedback, and accepting responsibility for meeting obligations.”\textsuperscript{116} These meetings are an opportunity to acknowledge the "growth of individual learners on longitudinal assessments."\textsuperscript{117}

\begin{itemize}
\item[\textsuperscript{112}] "Mentors—experienced and trusted counselors—have more prolonged contact with individuals [than role models] and hence can exert greater influence." \textit{Id.} (quotations omitted).
\item[\textsuperscript{113}] Coaching “involves helping individuals while they attempt to learn or perform a task. It includes directing learner attention, providing ongoing suggestions and feedback, structuring tasks and activities, and providing additional challenges or problems.” Yvonne Steinert, \textit{Educational Theory and Strategies to Support Professionalism and Professional Identity Formation}, in \textit{Teaching Medical Professionalism}, supra note 80, at 68, 70.
\item[\textsuperscript{114}] Cruess & Cruess I, supra note 83, at 118.
\item[\textsuperscript{115}] Louis Arnold, Christine Sullivan & Jennifer Quaintance, \textit{Remediation of Unprofessional Behavior}, in \textit{Teaching Medical Professionalism}, supra note 80, at 169, 171.
\item[\textsuperscript{116}] Holden et al., supra note 97, at 240.
\item[\textsuperscript{117}] Sternszus, supra note 82, at 32.
\end{itemize}
8. **Formative Assessments are Particularly Important**

Drs. Sylvia and Richard Cruess emphasize that “[t]he impact of formative assessment on learning, including its impact on a learner’s understanding of self, is powerful.”118 Drs. Norcini and Shea comment that:

> It is especially important to locate the developmental stage of trainees, offer them insight to their values, attitudes, and behavior, and expose them to the types of experiences that support further development. This implies a system that is rich in formative assessment, with summative assessments playing a more prominent role toward the end of training when patient safety and institutional accountability take precedence.119

The approach of the University of Texas system medical schools has been first “to construct assessments for learning, rather than assessments of learning. [Formative assessments to foster development] identify the current status of students for the purpose of planning a future course of action.”120

9. **Portfolios as a Highly Effective Assessment**

Several scholars in *Teaching Medical Professionalism* recommend portfolios as a particularly effective formative assessment. A portfolio is “a purposeful collection of student work that demonstrates the student’s efforts and progress in selected domains.”121 While no single assessment sufficiently captures the breadth and depth of professional identity formation, “[p]ortfolios are also recommended for capturing the combined assessments and providing a longitudinal perspective.”122 Drs. Holden, Bock, and Luk note that “[p]ortfolios designed to capture evidence of competency attainment can include a section about identity development. The aggregation of information into a portfolio would provide a longitudinal perspective allowing for a broader view of students’ developmental trajectory not readily available from more narrow or discrete pieces of information.”123

Dr. Steinert observes “[p]ortfolio learning is closely tied to reflection and a narrative-based approach to learning professionalism and acquiring a professional identity.”124 Narrative-based learning means that students “can use narrative to reconstruct their autobiographical past and imagine the future in such a way as to provide a person’s life with some degree of unity.

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119. Norcini & Shea, *supra* note 80, at 164. In developing systems of assessment for professional identity, “the emphasis needs to shift from summative to formative assessments with a focus on supporting identical formation. Both are essential, but the potential for formative assessments to generate significant education gains is largely untapped.” *Id.*
120. Holden et al., *supra* note 97, at 236.
121. Steinert, *supra* note 113, at 78.
122. Holden et al., *supra* note 97, at 236.
123. *Id.* at 237.
purpose, and meaning.”125 “In medicine, portfolios can encourage self-directed learning, foster reflection, and demonstrate progress toward identifiable outcomes. Portfolios also have the added advantage of respecting individuality and diversity while developing life-long learning skills.”126

Dr. Snell summarizes, “[p]ortfolios provide a flexible, multifaceted means of collecting qualitative and quantitative evidence of achievement of competence or demonstration of progression over time. Portfolio entries can be linked with self-assessment or guided reflection and thus become an effective tool to support identity formation.”127

Note that McGill University’s Faculty of Medicine tried to implement required portfolios with a portfolio template of twenty-six possible entries, but then, after experience, decided to drop the requirement and revise the concept. Some students felt that the portfolio was an imposition requiring extra work with little gain. Some faculty members also expressed reservations because of a perception that they were to provide critical review of the students’ portfolios but they were not adequately prepared to provide such feedback.128

The next part analyzes how the lessons learned from medical education set forth in Part III, above, apply to legal education.

IV. WHAT ARE THE MOST PROMISING “LESSONS LEARNED” FOR LEGAL EDUCATION FROM MEDICAL EDUCATION’S EXPERIENCE WITH ASSESSMENT OF PROFESSIONAL-IDENTITY LEARNING OUTCOMES?

Section A, below, first explores some structural differences between medical and legal education that affect what lessons legal education can draw from medical education about the assessment of professional identity learning outcomes. Section B then analyzes the most promising “lessons learned” for legal education from medical education’s fifteen years of earlier experience with formation-of-a-professional-identity assessments.

A. STRUCTURAL DIFFERENCES BETWEEN MEDICAL AND LEGAL EDUCATION THAT AFFECT POSSIBLE “LESSONS LEARNED”

There are three major structural differences between medical and legal education that affect the analysis of what lessons medical education’s longer experience with competency-based education and assessment has for legal education.

125. Id. (quotations omitted).
126. Id.
127. Snell, supra note 91, at 255.
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1. The ABA and AALS Are Not Leading as ACGME and AAMC Are Leading

One major structural difference is that the accrediting authority for residency education, the American Council for Graduate Medical Education (ACGME), has been leading the change to competency-based education, the creation of stage-development models for each competency, and experimentation with formative and summative assessments. Because all medical schools want their M.D. graduates to enter residency, ACGME’s emphasis on competency-based education and milestones has had substantial influence also on the M.D. educational programs.129 In addition, the American Association of Medical Colleges (AAMC) is promoting the development of EPAs as discussed earlier.

In contrast, while in 2014 the American Bar Association (ABA) has changed the accreditation requirements to reflect CBE, neither the ABA nor the American Association of Law Schools (AALS) is leading the change to stage development models for any competency and effective assessments of each student’s stage of development for any competency. This means that these changes in legal education face a much greater challenge than in medical education to persuade the four major stakeholders (the law faculty, the students, the legal employers, and the staff) that change is needed and how to effectuate change most effectively. Since in the author’s experience, lawyers, law professors, and law students all tend to be resistant to changes that look different from the traditional models, this is a formidable hurdle.

2. Legal Education Is Much Shorter Than Medical Education130

A student studies for four years to earn the M.D. degree followed by one to three years of residency (depending on the state) to obtain a medical license and three to six years of residency (depending on the specialty) for board certification. A full-time law student takes three years to get the J.D. degree. Legal education can build on existing strengths in the first year—and some of the second year—to help students develop a foundation of doctrinal knowledge, legal and policy analysis, and some significant competency with respect to research and effective oral and written communication. But legal education, with many fewer years of the student’s time than medical education, must focus the limited remaining time in law school on the most important of the additional competencies. The professional formation competencies are clearly the most important. This is because once a student has internalized a deep responsibility to the client and others, and a


130. This section is borrowed from Hamilton, supra note 19, at 436–437.
commitment to develop excellence in all the competencies needed to serve well, the student will continue to develop professionally after graduation. Legal education should foster each student’s development of the critical skill of how to recruit senior mentors and coaches to help the student after graduation.

3. A Smaller Proportion of Doctrinal Law Professors Have Significant Experience in the Practice of the Profession “Beyond Thinking Like a Lawyer” in Terms of Analysis

The author’s experience is that a much higher proportion of medical professors have some practice experience with patients and are doing some patient care even while teaching, but many law professors (especially doctrinal classroom faculty) have very limited practice experience and very little current work with clients. This lack of actual experience in the profession and serving clients may make it more challenging for many law professors to help students grow toward the broader set of competencies that clients, legal employers, and the legal system need. The legal professorate’s comparative lack of actual experience serving clients (in comparison with the medical professorate’s extensive work with patients over a career) also may account for a high degree of skepticism and resistance to a competency-based curriculum that includes a greater emphasis on the professional formation competencies. The best approach is to implement educational programs with a coalition of willing faculty and staff. Professor William Henderson suggests that there would be a critical mass if twelve percent of the faculty were willing to move toward a competency-based curriculum.

4. Law Graduates Face Much Greater Challenges to Secure Meaningful Employment

Law graduates and legal education face a more serious challenge in terms of a difficult market for post-graduate employment than medical school graduates and medical education. Law students’ ultimate goal is meaningful post-graduation employment and passing the bar, but employment statistics for law graduates are significantly lower than medical school graduates. Approximately 95% of graduates from U.S. medical school programs are placed in residency programs, while approximately 73.5% of law graduates find good employment ten months after gradua-
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The much greater employment challenge facing law students means that law faculty and staff will get more student “buy-in” on professional identity learning outcomes, curriculum, and assessment if the faculty and staff can show how these professional identity competencies match the competencies that legal employers want. Thus, this type of curriculum and assessment will increase students’ probability of securing meaningful employment.

This challenge is an opportunity for both students and law schools to differentiate themselves. A competency-based curriculum and culture will provide graduates with the capacities and skills that clients and legal employers want. The professional-identity competencies, particularly a student’s internalization of a deep ethic of service to the client and others as well as a commitment to grow toward excellence at the competencies needed to serve well, could be strong differentiators for students and law schools.

5. Law Schools Do Not Have Substantial Grant Funding

Historically, medical education has been substantially subsidized through grants and insurance payments. This has permitted lower student-teacher ratios, high use of mentoring and coaching pedagogies, and actual practice with a patient under the supervision of a physician. Legal education needs to continue to experiment to find lower-cost but effective hybrid engagements with the student that will provide good experiential learning that focuses on these additional important competencies.

B. Promising Lessons Learned from Medical Education

Medical education’s fifteen years of earlier experience with CBE yields eight essential lessons.

1. Structural Differences Require Legal Educators to Adopt a “Bottom Up” and More Focused Strategy Regarding Assessments

The first major lesson learned is that the structural differences discussed above—particularly the fact that national organizations like the ABA and the AALS will not lead as the ACGME and AAMC have been


136. This section is borrowed from Hamilton, supra note 19, at 436–437.
leading in this area—mean that changing legal education in the foreseeable future will require using a “bottom-up” social movement toward the curricular and assessment changes that medical education has been making for the last fifteen years. The challenge is to persuade a core group of major stakeholders at each law school that it is in their enlightened self-interest to undertake these changes.

These structural differences also mean that the law schools trying these changes will focus initially on the lowest hanging fruit that most benefit the stakeholders at individual schools. To maximize the probabilities for success, it makes the most sense for each law school to identify on one (or at most two) professional identity learning outcome(s) and to undertake a pilot program to generate an effective formative assessment for each student on that learning outcome. If there are multiple professional-identity competencies incorporated within a broader learning outcome (for example, a broad learning outcome of “professionalism” or “high professionalism” would include a sub-competency of “honoring commitments”), the law school should focus on one competency or sub-competency that has the highest probability of success with all four major stakeholders: the faculty, the staff, the students, and the employers. Ask which professional-identity competency in the faculty’s learning outcomes presents the best “enlightened self-interest” persuasive argument to each of the four stakeholders, and form a coalition of the willing faculty and staff at the law school to create a stage-development model for that competency, a progression of curricular modules that help students grow toward later stages of that competency, and formative assessments.

2. **Choose One or Two Competencies from the Faculty’s Professional-Identity Learning Outcomes for a Pilot Project**

Medical education’s framework for assessment on professional-identity learning outcomes, discussed in Parts I and III above, emphasizes that learners in competency-based education must be active agents guiding both their curricular experiences and assessment activities. Learners must grow toward later stages of self-directed learning and actively seek assessment and feedback and reflect on the feedback. The assessments that the faculty and staff create should have a catalytic effect on driving student future learning forward. For the twenty-six out of seventy law schools (37%) that Appendix A indicates have adopted a learning outcome reflecting self-directed learning/self-evaluation, medical education’s emphasis on

138. See discussion supra pp. 360–361.
139. Id.
140. See discussion infra Section IV.B.4.
self-directed learning as a foundational competency suggests that these faculties should choose this competency for the initial pilot project. An internalized drive toward lifelong learning is important in the changing markets that law graduates will face during their careers.

Teaching Medical Professionalism emphasizes “going where the students are” developmentally and engaging them at their current developmental stage. This principle means that the faculty and staff at each school with a learning outcome relating to self-directed learning need to assess where the students are developmentally with respect to this learning outcome. Data from four law schools indicate that approximately fifty percent of the first-year students are self-assessing at one of the two earlier stages of self-directed learning. Since these early-stage students, by definition, are more passive and less likely to take advantage of elective engagements, faculty and staff need to act as co-educators on a required curriculum to address this learning outcome.

Data from six law schools indicate that students’ ultimate goals are post-graduation employment and bar passage. But the data above indicate that many students are at an earlier stage of development on self-directed learning. This indicates that many students neither have, nor are implementing, a plan to use law school most effectively to achieve their goal. These students have not yet taken ownership over their own professional development.

The faculty and staff can help each student connect the dots to understand how the formation-of-professional-identity competencies in the faculty’s learning outcomes are also competencies that legal employers want. The professional-formation curriculum and culture will help the student achieve his or her goal of meaningful employment and bar passage. Figure 3 demonstrates how to help students connect the dots.

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143. See Gantt & Madison, supra note 134.
FIGURE 3
HELPING EACH STUDENT CONNECT THE DOTS TO UNDERSTAND THAT THE STUDENT CAN BEST REACH HER GOAL OF MEANINGFUL POST-GRADUATION EMPLOYMENT BY DEVELOPING TOWARD THE COMPETENCIES THAT LEGAL EMPLOYERS WANT THAT ARE REFLECTED IN THE FACULTY’S LEARNING OUTCOMES.\(^{144}\)

Starting Point
Each Student’s Initial Developmental Stage

Formation of Professional-Identity Bridge
1. Formal Curriculum
2. Other Experiences Beyond Formal Curriculum

Goal
Student’s Goal of Bar Passage and Meaningful Employment

Each student should use these resources during the three years of law school to: (1) develop and create evidence of the professional-identity competencies* desired by employers/clients; and (2) grow toward the faculty’s learning outcomes of self-directed learning and responsibility to others.

*The professional-identity competencies that legal employers and clients want (outlined in Appendix C) are: (1) Trustworthiness/Integrity; (2) Commitment to Professional Development Toward Excellence including the Habit of Actively Seeking Feedback and Reflection; (3) Initiative/Strong Work Ethic/Diligence; (4) Relationship Skills including Collaboration and Teamwork, Understanding of and Responsiveness to Client, and Listening; and (5) Good Judgment.

3. Create a Stage-Development Model for the One or Two Competencies Selected for the Pilot Program

Medical education’s experience since 1999 strongly recommends that the faculty and staff create milestones or benchmarks to define the stages of development for each competency in the faculty’s professional identity learning outcomes. A milestone or stage development model is a narrative description of a core competency along a developmental continuum that creates a shared developmental language or shared mental model for each competency. For example, Table 4 in Part II of this article suggests a stage development model for self-directed learning, and Table 5 suggests a stage-development model for an internalized responsibility to clients and the legal system.

4. Create Formative Assessments (Including Self-Assessments) for the Competency Selected for the Pilot Program

The goal of the formative assessments is to serve as a catalyst to help each student grow toward the next developmental stage on the competency selected for the pilot program. Medical education emphasizes that the most effective formative assessments are based on observation of the student performing the competency. Good observational assessment requires broad sampling across different encounters completed by multiple persons who are able to observe the learner. While the most important observers are faculty and staff (including adjunct faculty), multi-rater assessments (e.g. 360-degree assessments) should also be sought from other students, clients, simulated clients, mentors, coaches, employers, and others who directly observe a student’s work.

The faculty and staff must create assessment forms that are easily used by these various observers of a particular competency. For example, it would be very helpful to develop an app for an observer to give input regarding a brief observation of a student on a particular competency. Where possible, the observer should also provide a narrative assessment, which is often the most useful for feedback to the student. The assessment should include observation of any unprofessional conduct.

As an example, consider the array of observers within a law school who observe each student’s conduct and developmental stage on self-directed learning: (1) Full-time and adjunct faculty who require students to do graded projects other than a standard written final exam—this includes supervised research and research assistant work; (2) Internship/Externship/Clinic faculty and staff; (3) Faculty/staff/coaches/mentors/judges who observe simulations including moot court, competitions, oral arguments, negotiations, and mediations; (4) Other students who observe simulations or a competency like teamwork; (5) Career-service professionals; (6) Students in student organizations; (7) Staff like librarians or administrative assistants who interact with students; (8) Lawyers, judges and others who observe the student in paid or volunteer work. The faculty and staff will need to create a portfolio system in which the observations are collected. Portfolios are discussed later in Section 8 of this Part.

5. Select Assessments that Foster the Habit of Self-Reflection and Self-Evaluation

Hand in glove with formative assessments based on observation of a student’s performance of a competency is a student’s own self-assessment of their own performance and developmental stage on that competency. A strong professional identity requires that a student take a proactive stance toward his or her own learning. Professional identity develops over time
from a long-term combination of experience, feedback on the experience, and reflection on the experience and feedback.

Faculty, staff, mentors, and coaches who assess the quality of a student’s self-reflection/self-evaluation will need a developmental stage rubric to give feedback to the student. Appendix D has one possible grading rubric.

6. Emphasize the Importance of Mentoring and Coaching in Giving Feedback and Guiding Student Reflection

Feedback to the learner is central to a student’s formative assessment. Feedback sessions should be conducted in person. Research is clear that interpreting and understanding multi-source performance review data should be facilitated by a trusted advisor.145 The mentor/coach can help the student reflect on where the feedback from observers agrees or disagrees with the student’s self-assessment. Ideally the mentor/coach, through active listening and engagement, understands the student’s stage of development on the competency. Good questions and stories can create a cognitive dissonance and scaffolding that helps the student grow to the next stage of development.146 These meetings should give routine and frequent formative feedback to the learner in order to affirm areas of successful performance and growth as well as to highlight areas of possible improvement with specific steps to take.

7. Create a Progression of Curricular Modules and Assessments to Foster Each Student’s Growth Toward the Next Stage of Development of the Competency

The AAMC Core EPA ten pilot schools discussed earlier include curriculum development in their ongoing studies. “Although full entrustment may not be achieved until students approach graduation, learners need the opportunity to develop their skills over time. Through early experience, students should build the relevant competencies, which they can later apply in the clinical workplace to successfully care for patients.”147

For example, the Milestones Guidebook suggests that each student develop a written individualized learning plan that the student revisits and revises at least twice a year with a coach based on new experiences, feedback, and ongoing reflection and self-evaluation. The individualized learning plan could include steps to seek out assessments (called self-directed assessment seeking) of the student’s work from faculty, staff, or senior lawyers and judges.

145. See MILESTONES GUIDEBOOK, supra note 4, at 22.
146. Hamilton & Organ, supra note 142, at 878.
147. Lomis et al., supra note 70, at 3–4.
Profs. Hamilton and Organ in Thirty Reflection Questions to Help Each Student Find Meaningful Employment and Develop an Integrated Professional Identity outline the design of an effective curriculum that helps each student grow across an arc of development with respect to the two fundamental learning outcomes set forth in Part II: each student should demonstrate an understanding and integration of (1) proactive professional development toward excellence at all the competencies needed to serve clients and the legal system well (self-directed learning) and (2) an internalized deep responsibility to clients and the legal system.

8. Consider Student Portfolios as an Effective Formative Assessment

Several scholars in Teaching Medical Professionalism recommend student portfolios as a particularly effective formative assessment. For example, Drs. Holden, Bock, and Luk emphasize that “[p]ortfolios are also recommended for capturing the combined assessments and providing a longitudinal perspective.” They note that “[p]ortfolios designed to capture evidence of competency attainment can include a section for information about identity development. The aggregation of information into a portfolio would provide a longitudinal perspective allowing for a broader view of students’ developmental trajectory not readily available from more narrow or discrete pieces of information.”

Over forty-five percent of the medical schools in the United States are now using student portfolios, with seventy-two percent of those using a longitudinal, competency-based portfolio strategy. Eighty percent of students and sixty-nine percent of faculty agreed that portfolios engage students. Ninety-seven percent agreed that there is room for improvement with respect to the use of portfolios. It will be important to follow medical education research on the use of portfolios in the curriculum.

A few law schools are experimenting with portfolios. For example, Elon University School of Law requires each student to develop a portfolio. Daniel Webster Scholars at the University of New Hampshire School of Law are required to develop portfolios. The University of Nebraska College of Law has an optional e-portfolio app. The University of St.

149. Holden et al., supra note 97, at 236.
150. Id. at 237.
152. Id.
Thomas (MN) requires the ROADMAP curriculum in the spring semester of the 1L year. Unfortunately, there are no published studies focusing specifically on assessing this experimentation with portfolios.

Portfolios are an effective formative assessment. An e-portfolio is a digital repository for the purposeful collection of a student’s work efforts and progress in learning in selected domains. It demonstrates that learning on particular competencies has taken place. An e-portfolio is not just the collection and storage of information and the recitation of experiences. It is the creation of evidence that demonstrates later-stage development of both the specific competencies that the faculty’s learning outcomes require and the specific competencies that the legal employers in the student’s areas of employment interest want. Note that the student may have to “bridge” from the faculty’s learning outcomes to reframe them in language that matches up with the competencies that legal employers want. The evidence can come from the student’s experience both before and during law school including extra-curricular activities and work experience. After the student collects evidence of stage or milestone development regarding a particular competency, the student then selects the most credible and persuasive evidence demonstrating that stage of development has been achieved. The student then reflects on what needs to be done to grow to the next stage of development regarding that competency and how to develop credible evidence of that stage of development.

Note that, in order to prevent both student and faculty “burnout” with respect to the creation and review of portfolios, it is important to start with an easily manageable selection of one to three competencies for which a student will develop a portfolio. Self-directed learning is foundational and should be considered as one of the portfolios. The student could select the other portfolio depending on the competencies the student is most emphasizing in the student’s search for meaningful employment.

An e-portfolio curricular strategy applied to the stages of development for a technical skill like legal writing, for example, would require each student to collect evidence that demonstrates later-stage development of this competency. After the student collects evidence of stage or milestone development regarding legal writing, the student then selects the most credible and persuasive evidence that the student has achieved that particular stage of development. The student would need to focus on what is the most persuasive evidence for audiences like law faculty as well as audiences like legal employers in the student’s areas of employment interest. The student then reflects on what the student needs to do to grow to the next stage of development.

157. See Hamilton, supra note 144, at 848.
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development regarding that competency and how to develop credible evidence of that growth.

A portfolio approach to formative assessment would contribute to:
1. Section 4’s observation that there must be a central location where all the observations from different stakeholders about a student’s performance regarding a competency are collected;
2. Section 5’s suggestion that the student’s own on-going reflection should be gathered into a longitudinal file;
3. Section 6’s suggestion that mentors and coaches review a student’s portfolio on a given competency to provide a basis for feedback (these mentor/coach observations should be included in the portfolio);
4. Section 7’s suggestion that each student develop a written individualized learning plan that is revised regularly based on new experiences, feedback, and further reflection. The student is collecting the most persuasive evidence of later stage development on particular competencies.

Dr. Steinert observes “[p]ortfolio learning is closely tied to reflection and a narrative-based approach to learning professionalism and acquiring a professional identity.”158 Narrative-based learning means that students “can use narrative to reconstruct their autobiographical past and imagine the future in such a way as to provide a person’s life with some degree of unity, purpose, and meaning.”159 “In medicine, portfolios can encourage self-directed learning, foster reflection, and demonstrate progress toward identifiable outcomes. Portfolios also have the added advantage of respecting individuality and diversity while developing life-long learning skills.”160

V. CONCLUSION

A. Overview

The accreditation changes requiring competency-based education are an exceptional opportunity for each law school to differentiate its education so that its students better meet the needs of clients, legal employers, and the legal system. While ultimately competency-based education will lead to a change in the mind model of how law faculty, staff, students, and legal employers understand legal education, this process of change is going to take a number of years. However, the law schools that most effectively lead this change are going to experience substantial differentiating gains in terms of both meaningful employment for graduates and legal employer and client appreciation for graduates’ competencies in meeting employer/client needs.

158. Steinert, supra note 163, at 78.
159. Id. (quotations omitted).
160. Id.
This will be particularly true for those law schools that emphasize the foundational principle of competency-based learning that each student must grow toward later stages of self-directed learning—taking full responsibility as the active agent for the student’s experiences and assessment activities to achieve the faculty’s learning outcomes and the student’s ultimate goal of bar passage and meaningful employment.

Medical education has had fifteen more years of experience with competency-based education from which legal educators can learn. This article has focused on medical education’s “lessons learned” applicable to legal education regarding effective assessment of professional-identity learning outcomes. The principal lessons learned in Part III with respect to assessment are:

1. realize that structural differences require legal educators to adopt a “bottom-up” and more focused strategy regarding assessments;
2. choose one or two competencies from the faculty’s professional-identity learning outcomes for a pilot project;
3. create a stage development model (milestones/benchmarks) for the one or two competencies selected for the pilot program;
4. create formative assessments (including self-assessments) for the competency selected for the pilot program emphasizing observation of student performance and multi-source assessments;
5. select assessments that foster the habit of self-reflection and self-evaluation;
6. emphasize mentoring and coaching in giving feedback and guiding student reflection;
7. create a progression of curricular modules and assessments to foster each student’s growth toward the next stage of development of the competency; and
8. consider student portfolios as an effective formative assessment.

B. Major Constraints to Work Around

1. Faculty and Staff

One major challenge is that a competency-based education model requires a progression of curricular modules and longitudinal assessments, especially based on observation from multiple sources, to foster each student’s growth toward later stages of a professional-identity competency. Medical educators are also giving increasing attention to the hidden curriculum as a major influence on student professional identity. The hidden curriculum compares the actual actions of faculty and staff observed by students to the espoused values and goals.\footnote{See Karen Mann & Elizabeth Gaufberg, \textit{Role Modeling and Mentoring in the Formation of a Professional Identity}, in \textit{Teaching Medical Professionalism}, supra note 80, at 84, 87;}

\footnote{161. See Karen Mann & Elizabeth Gaufberg, Role Modeling and Mentoring in the Formation of a Professional Identity, in Teaching Medical Professionalism, supra note 80, at 84, 87;}
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Much greater emphasis on both a progression of curricular modules and 360-degree multi-source assessment and the hidden curriculum will require a whole-building co-educator model to foster each student’s growth toward the learning outcomes. For example, a self-directed learning outcome (and a written professional development plan) that is regularly revisited and revised longitudinally involves a level of cooperation and coordination among faculty and staff.

Law schools historically have been structured in silos with strongly guarded turf in and around each silo. Each of the major silos (including doctrinal classroom faculty, clinical faculty, lawyering skills faculty, externship directors, career services and professional development staff, and counseling staff) wants control over and autonomy regarding its turf. Coordination among these silos is going to take time and effort and involve some loss of autonomy but, in return, a substantial increase in student development and employment outcomes. For staff in particular, there should be much greater recognition that they are co-educators along with faculty to help students achieve the learning outcomes.

Full-time faculty members were not trained in a competency-based education model, and many have limited experience with some of the competencies, for example teamwork, that many law schools are including in their learning outcomes. In my experience, many full-time faculty members also have enormous investments in doctrinal knowledge and legal and policy analysis concerning their doctrinal field. They believe that the student’s law school years are about learning doctrinal knowledge, strong legal and policy analysis, and research and writing skills. These faculty members emphasize that they have to stay focused on “coverage” with the limited time in their courses. But this model overemphasizes some competencies compared to those desired by legal employers. This emphasis may not be leading to meaningful employment for many students.

In the initial years of moving to a competency-based education model, it will be critical to engage the coalition of the willing faculty and staff and be realistic with respect to the time and effort needed to develop and test effective curriculum and assessment. Note that there will be a great advantage for law schools that have adopted a similar learning outcome, as indicated in Appendix A, to work together to create milestone stage development models and assessments for the competency they have in common. As an initial step, the Holloran Center has organized five working

Brian D. Hodges, Professional Identities of the Future: Invisible and Unconscious or Deliberate and Reflexive?, in TEACHING MEDICAL PROFESSIONALISM, supra note 80, at 277, 280–281. “Indeed, it appeared that most of what we might call identity formation was a product of what happened when students were not focused on the formal curriculum. The experiences of being on-call with a more senior resident, witnessing the way clinicians treated patients in the emergency department, overhearing the social conversations of senior trainees, and observing role models were all far more potent influences in shaping the emerging professional identities of medical students . . . .” Id. at 280 (emphasis in original).
groups with professors and staff from different law schools to focus on five learning outcomes: (1) self-directed learning, (2) professionalism/highest ethical standards, (3) cross-cultural competency, (4) teamwork, and (5) integrity.

2. **Students**

Consider also the student reaction to changes in the required curriculum, for example, that emphasize self-directed learning and a proactive responsibility for developing a student’s professional development plan. In my experience, many students are also resistant to innovative change in the curriculum, especially changes in the required curriculum that are not linked to bar preparation. Managing student expectations with new initiatives like this is critical to get as much student “buy-in” as possible. William Henderson emphasizes that students expect to learn about the standard subjects in the standard ways. They are unprepared to learn that the practice of law is about a much broader array of competencies than the focus on the traditional law curriculum. Students want bar passage and meaningful employment; so the faculty and staff must emphasize how the curricular changes discussed here help each student develop the competencies that legal employers and clients want and, thus, help the student toward those goals. Section IV.B.2 explored this.

C. **Faculty and Staff Development**

Faculty and staff development has been critical in medical education to enable them to implement competency-based education regarding student professional identity. As discussion about EPA assessment earlier emphasized:

Building faculty knowledge and skills related to the Core EPA framework in [undergraduate medical education] will be imperative, including developing content that is essential for each Core EPA; methods to teach this material; techniques for direct observation and provision of feedback; assessment expertise to provide data that is accurate, timely, and standardized; appropriate documentation of performance; and expertise in the judicious review of evidence to render entrustment decisions. Various faculty roles will require differing levels of training, and a systematic program is needed to address those diverse needs throughout the [undergraduate medical education] curriculum.

A law school will need a step-by-step faculty and staff development program. Dr. Steinert lays out possible elements of such a program in her

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163. *Id.*
164. *See* Lomis et al., *supra* note 70, at 4–5.
chapter, *Faculty Development to Support Professionalism and Professional Identity Formation*. The *Milestones Guidebook* also has a number of useful suggestions regarding development programs.

If a law school is proceeding through the lessons learned in Part IV above, the school will first experiment with a pilot project and a coalition of the willing on the competency where there is the highest probability of success with the key stakeholders. Once a school has success with a pilot project, then that model can be used to implement the steps on other learning outcomes.

**D. Learn from Continuing Research**

There will be ongoing empirical research published regarding what competencies legal employers and clients need and want, what medical education is learning about the most effective curricula and assessments, and what other law schools are learning about the effectiveness of their new initiatives in this area. This research will help guide each school’s initiatives. Legal educators implementing competency-based education are starting on a great new chapter of our history to help our students more effectively serve clients and the legal system.

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166. See *Milestones Guidebook*, *supra* note 4, at 17–18.
APPENDIX A — SURVEY OF POSTED LEARNING OUTCOMES AS OF JAN. 20, 2017

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This January 20, 2017 survey, conducted by Professor Jerry Orman, Professor Nell Hamilton, and colleagues, reviewed and discussed all the data collected from law school websites. We decided that statements that a law school was introducing new students to a particular competency or listed a particular competency in a list of possible examples of competencies a student might study or was giving new students “an opportunity” to develop a particular competency did not meet the requirements of a learning outcome that each student must understand and demonstrate a particular competency. Hamilton's earlier article had reported higher numbers of law schools with posted learning outcomes applying a less rigorous standard.
WHAT CAN WE LEARN FROM MEDICAL EDUCATION?

Professionalism (13)
- UC Hastings
- UC San Diego
- UC Davis
- Emory
- Little Rock
- St. Louis
- Temple University
- Texas Tech University
- Thomas Jefferson University

Improve the Prof/System (9)
- Converse
- UDC
- Little Rock
- Loyola Chicago
- UMass
- Montana
- New Mexico
- Thomas Jefferson University

Judgement (9)
- Creighton
- UDC
- Indiana University
- Little Rock
- Maryland
- UMass
- Ohio State University
- Pennsylvania State University

Active Listening (7)
- CUNY
- Marquette
- UC San Diego
- Tennessee University
- UMass
- Washburn

Ethical + (4)
- BYU
- UC Hastings

UMass
- South Carolina University
- Southern Illinois University
- Texas A&M University
- UT Southwestern

Leadership (9)
- Hawaii
- Indiana University
- Loyola Chicago
- Southwestern University
- Texas Tech University
- Villanova University

Diligence (2)
- Creighton
- UDC
- Little Rock
- Loyola Marymount University
- UMass

Personal Code of Ethics (6)
- Ave Maria
- Creighton University
- UDC
- Little Rock
- Maryland
- Regis University

High/Highest Professional Standards (5)
- Penn State University
- Tennessee
- University of Michigan
- University of Maryland
- Washington University

Feedback (2)
- CUNY
- University of Minnesota

Respect for Others (2)
- Dayton
- Temple University

Self-Care (2)
- Creighton University
- Minnesota University

Technology/Business (3)
- Boston University
- Chicago Kent University
- George Mason University
- Harvard University
- Loyola Marymount University
- Montana State University
- Penn State University
- Tennessee

Networking (2)
- Indiana University
- Villanova University

Basic (21)
- Alabama State University
- Arizona State University
- Berkeley
- Boston College
- California Western University
- Chapman University
- Chicago
- Cornell
- Drake University
- George Mason University
- Gonzaga University
- Harvard University
- Michigan State University
- Nova Southeastern University
- Pennsylvania State University
- USC Gould School of Law
- Vanderbilt University

49 Schools with Learning Outcomes
(beyond "Basic" from Standard 302)
21 Schools with "Basic" Learning Outcomes from Standard 302
70 Total Schools with Learning Outcomes

*Note: Totals currently do not include the "Technology/Business" or "Networking" categories.
APPENDIX B — CORE ENTRUSTABLE PROFESSIONAL ACTIVITIES FOR ENTERING RESIDENCY

EPA 1: Gather a history and perform a physical examination.
EPA 2: Prioritize a differential diagnosis following a clinical encounter.
EPA 3: Recommend and interpret common diagnostic and screening tests.
EPA 4: Enter and discuss orders and prescriptions.
EPA 5: Document a clinical encounter in the patient record.
EPA 6: Provide an oral presentation of a clinical encounter.
EPA 7: Form clinical questions and retrieve evidence to advance patient care.
EPA 8: Give or receive a patient handover to transition care responsibly.
EPA 9: Collaborate as a member of an inter-professional team.
EPA 10: Recognize a patient requiring urgent or emergency care and initiate evaluation and management.
EPA 11: Obtain informed consent for tests and/or procedures.
EPA 12: Perform general procedures of a physician.
EPA 13: Identify system failures and contribute to a culture of safety and improvement.
Appendix C

Where do we see faculty learning goals (outcomes) overlap legal employer/client goals in the professional-identity/professional-formation space?

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The professional formation-learning outcomes that faculty hope students will achieve overlap with the competencies that employers want. The empirical research listed below is the best data we have on what competencies employers want. We will see more of these studies of what competencies legal employers want, but so far, there is fairly strong convergence among the studies available which tends to increase our confidence in the data.

1. Competencies emphasized by Educating Tomorrow’s Lawyer survey (24,000 lawyers in 2015) as “necessary in the short term.” The numbers indicate how the respondents ranked that competency in terms of what is “necessary in the short term.” I grouped the various necessary competencies into umbrella categories of Trustworthiness, Respect for Others and Relationship Skills, Strong Work Ethic/Conscientiousness, and Common Sense/Good Judgment.

   a. Trustworthiness
      1. Keep confidentiality
      3. Honor commitments
      4. Trustworthiness/Integrity
      15. Take individual responsibility
      18. Strong moral compass

   b. Respect for Others and Relationship Skills
      2. Arrive on time
      5. Treat others with respect
      6. Listen attentively and with respect
      7. Respond promptly
      17. Emotional regulation and self-control
      20. Exhibit tact and diplomacy

   c. Strong Work Ethic/Conscientiousness
      8. Strong work ethic
      9. Diligence
      10. Attention to detail
      11. Conscientiousness

   d. Common Sense/Good Judgment (this was 12th.)

Note that Research the Law was 13th, Intelligence was 14th, Speak Professionally was 16th, and Write Professionally was 19th.
2. Competencies emphasized by National Conference of Bar Examiner’s New Lawyer Survey (2013) and Hamilton’s surveys of MN lawyers (2013-14)
   a. Trustworthiness/Integrity/Honesty
   b. Strong Work and Team Relationship Skills
   c. Dedication to Client/Responsiveness to Client
   d. Good Judgment/Common Sense
   e. Habit of Seeking Feedback
   f. Initiative/Strong Work Ethic

3. Note that there are very few empirical studies of what competencies clients want. The Shultz/Zedeck study discussed below is the best of these studies but note that the survey population consists of lawyers imagining they were clients and then indicating what competencies they would most want.

   In 2003, Professors Marjorie M. Shultz and Sheldon Zedeck at the University of California at Berkeley identified 26 factors important for lawyer effectiveness by interviewing people from five stakeholder groups associated with Berkeley Law: alumni, students, faculty, clients, and judges. They asked questions such as “If you were looking for a lawyer for an important matter for yourself, who would you identify, and why?” and “What qualities and behavior would cause you to choose that attorney?”

   The 26 factors important to lawyer effectiveness that emerged from the interviews are shown in Table 3.

   The Shultz-Zedeck study did not list the 26 lawyer effectiveness factors in order of importance so for comparative purposes, the table below lists the 26 lawyer effectiveness factors using the same umbrella categories as the table above on the Educating Tomorrow’s Lawyers’ competencies “necessary in the short term.”

   | Table 3 - Shultz-Zedeck List of 26 Lawyer Effectiveness Factors |
   | Trustworthiness |
   | • Integrity/honesty |
   | • Self-development |
   | Relationship Skills |
   | • Building relationships with clients and providing advice and counsel |
   | • Developing relationships within the legal profession |
   | • Networking and business development |
   | • Listening |
   | • Able to see the world through the eyes of others |
   | • Community involvement and service |
   | • Organizing and managing others |
WHAT CAN WE LEARN FROM MEDICAL EDUCATION?

- Evaluation, development and mentoring of others

**Strong Work Ethic/Diligence**
- Passion/engagement
- Diligence
- Stress management

**Common Sense/Good Judgment**
- Problem solving
- Practical judgment
- Creativity and innovation

**Technical Competencies**
- Analysis and reasoning
- Researching the law
- Fact finding
- Questioning and interviewing
- Influencing and advocating
- Writing
- Speaking
- Strategic planning
- Organizing and managing one’s own work
- Negotiation

We see convergence that legal employers want these ethical-professional-identity competencies:

1. trustworthiness\(^{167}\),
2. respect for others and relationship skills including client relationship skills and teamwork,
3. strong work ethic/initiative/conscientiousness,
4. commitment to self-development including the habit of self-evaluation, and
5. good judgment.

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167. David Maister defines a trustworthiness quotient with a numerator of Credibility + Reliability + Intimacy over a denominator of Self-Orientation. See David Maister et al., The Trusted Advisor 69 (2004). In other words, the greater a student’s or lawyer’s self-orientation, the smaller the person’s trustworthiness. See id.
### APPENDIX D

**PROFESSIONAL RESPONSIBILITY — GRADING TEMPLATE FOR REFLECTION PAPERS**

1. **Selection of One Theme Related to the General Topic in the Syllabus for this Assignment Stated Clearly in One Underlined Sentence in the First Paragraph**

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<td>3</td>
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<tr>
<td>(needs work)</td>
<td>(competent)</td>
<td>(excellent)</td>
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2. **Quality of the Writing**

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<tr>
<td>(writing is unclear and disorganized)</td>
<td>(writing is generally clear and disorganized)</td>
<td>(writing is uniformly clear and well-organized)</td>
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3. **Attention to Detail**

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<td>(more than five errors/typos)</td>
<td>(between 3 and 5 errors/typos)</td>
<td>(two or less errors/typos)</td>
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4. **Analysis of Theme Selected and Synthesis with Student’s Own Reflection on the Theme** (Each stage of reflection includes the earlier stages. 13 is exemplary.)

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<td>9/10/11</td>
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<tr>
<td>Description of thoughts/actions processing, on theme</td>
<td>Exploring, awareness of underlying questioning thoughts/actions on theme</td>
<td>Movement toward whether conceptual framework of past thought/ action on theme</td>
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Analysis of conceptual framework should be changed

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168. See Quoc Dinh Nguyen et al., *What is Reflection? A Conceptual Analysis of Major Definitions and a Proposal of a Five-Component Model*, 48 MED. EDUC. 1176, 1180–1182 (2014) (outlining five major components for reflection to occur). “Reflection is the process of engaging the self in attentive, critical, exploratory and iterative interaction with one’s thoughts and actions, and their underlying conceptual frame” with an openness to affirming or changing the conceptual framework. Id. at 1182.
5. Now What? How to Take the General Theme of Your Paper to the Next Level of Your Development

1. (no lesson learned or next in development)
2. (competent)
3. (excellent on lesson learned and next step in development)

Total points ___________.
Approximate Overall Grade ______. [I have to total the weighted overall points from both paper submissions and the final exam at the end of the course and comply with the mandatory grading average for this class before assigning a firm final grade].