

**EXECUTIVE SUMMARY**

**COMMITTEE ON THE STANDARDS OF THE  
PROFESSION  
STATE BAR OF GEORGIA**

**COMMITTEE REPORT AND  
RECOMMENDATIONS  
FOR A  
MANDATORY TRANSITION INTO LAW  
PRACTICE PROGRAM**

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**Background and Pilot Project**

The Committee on the Standards of the Profession was appointed in 1996 by then Bar President Benjamin F. Easterlin IV pursuant to a resolution of the Board of Governors. Composed of lawyers from across the state, as well as the deans of the four ABA-accredited Georgia law schools, the Committee was charged with investigating and reporting to the Board of Governors as to whether the State Bar should require beginning lawyers to complete a period of internship or other supervised work prior to admission to membership in the State Bar.

The resolution was prompted by concerns cited by President Easterlin:

- (1) Law schools cannot train students in all the practical skills necessary to practice law, for even the best three-year law school curriculum cannot impart the lessons obtained from hands on experience.
- (2) It is unrealistic to expect new lawyers to possess a high level of competence and a developed sensitivity to ethical and professionalism issues without experience and guidance.
- (1) Most other learned professions, including medicine, certified public accounting, architecture, psychology, and engineering require a period of internship before an

unrestricted license is received. Likewise, other common law countries such as Great Britain, Canada, and New Zealand employ an apprenticeship requirement for licensing. The legal profession in this country, then, is out of step with other professions and other countries on this issue.

- (1) Consternation about drastic changes in the practice of law brought about by increasing numbers and competition in practice, technology, commercial pressures, sharp economic swings, declining respect for the profession among the public, incivility, unprofessional tactics.

The resolution was founded on the premises that if we, the lawyers in Georgia, wish to maintain the practice of law as a highly respected profession, we have an obligation to assist beginning lawyers in acquiring the practical skills, seasoned judgment, and sensitivity to ethical and professionalism values necessary to practice law in a highly competent manner.

The Committee studied internship, apprenticeship, and courses for newly admitted lawyers in other states, as well as the clerkship requirements in Canada and England and other professions in the United States. After extensive study, the Committee unanimously recommended against proposing mandatory clerkships or internships as a condition for admitting new lawyers to the practice of law. The reasons were:

- (1) Approximately 1,200 people begin law practice in Georgia each year. Arranging 1200 new internships each year while assuring a high-quality, uniform learning experience for all interns would be a daunting task;

- (2) Imposing on those emerging from four years of college and three years of law school, often with significant debt, an extended one or two year period in a low-paying internship seemed unfair; and
- (3) Improving the transition into practice for beginning lawyers can be accomplished without resorting to such mandatory internships.

Attempting to use the most effective features of the internships, clerkships, and courses for newly admitted lawyers and to avoid the attendant problems, the Committee found a middle ground by recommending extensive enhancements to the existing Bridge-the-Gap program, the continuing legal education program required of all newly admitted lawyers to the State Bar of Georgia. The enhanced Bridge-the-Gap would include specially designed courses that focus on the key roles that lawyers play, as counselors, advocates, problem preventers, problem solvers, and negotiators. These courses would lay a foundation for small group or one-on-one extended discussions between beginning lawyers and experienced lawyers who would serve as their mentors. The purpose of the enhanced transitional education program would be to provide professional guidance and counsel to beginning lawyers who are newly admitted to the State Bar of Georgia in acquiring the practical skills, judgment and professional values necessary to practice law in a highly competent manner.

A Pilot Project was proposed to test whether a program creating a new synergy between the components of mentoring and continuing legal education could be delivered that would effectively convey to beginning lawyers the practical skills and professional values that only experience teaches. In June, 1997, the Board of Governors, by unanimous resolution, authorized the Pilot Project (the “Project”).

Of 180 seasoned members of the State Bar who were invited to participate as mentors, 131 accepted (73%). These mentors represented a broad cross-section of the State Bar, diverse in geography, law firm size and area of practice, gender, race, and ethnicity. The mentors were selected based on their standing at the Bar and their reputation for character and professionalism. A Mentor Orientation was held prior to assigning mentors and beginning lawyers. Guidelines for both Mentors and Beginning Lawyers were developed and reviewed (Attachments 1 and 2).

Selected law school graduates who had already passed the Bar exam were invited to serve as beginning lawyers in the Pilot. They were chosen to represent a cross-section of the Bar, diverse in geography, firm size, and area of practice, gender, race, and ethnicity. They were nominated for the Project by their law schools or their employers.

101 beginning lawyers and 98 mentors participated in the Pilot Project. While most beginning lawyers and mentors were matched one-on-one, other configurations were included. The large majority of the participants in the Pilot Project were in “in firm” mentorships; i.e., the mentors and beginning lawyer worked for the same firm. 15 of the mentorships, however, were composed of beginning lawyers who “hung out their own shingles.” These mentors and beginning lawyers had no employment relationship with each other.

The Pilot Project required each mentor and beginning lawyer to carry professional liability insurance with policy limits of at least \$100,000 per claim/\$300,000 in the aggregate for each of the two years of participation in the Pilot Project (January 1, 2000 to December, 2001.) All mentors and beginning lawyers in the Project were required to sign and file with the Project an Insurance Confirmation Memorandum (Attachment 3 ) certifying that they had in force, and would obtain in a timely fashion, renewed or additional professional liability insurance meeting

these requirements.

The Pilot Project asked mentors and beginning lawyers within the same firm to check with their regular professional liability insurance carriers to confirm coverage of mentors and beginning lawyers in Pilot Project activities. The Project warned mentors that mentoring a beginning lawyer who was not in the mentor's firm might present questions of professional liability insurance coverage. The Project suggested that these mentors check with their carriers to determine if their regular professional liability policies would cover activities as mentors of an "outside the firm Mentee" in the Pilot Project. Each mentor and beginning lawyer in an outside mentorship were required to sign and file with the Project a Continuing Legal Education Pilot Project Agreement (Attachment 4). The purpose of this Agreement was to clarify the mentor-mentee relationship for lawyers in different firms, and to make sure that all concerned understood that the mentor was engaged solely in a continuing legal education effort that did not include giving professional advice to the mentee's clients.

The State Bar of Georgia was able to secure a policy of excess professional liability coverage for mentors in the Pilot Project. This policy covered claims against mentors arising out of participation in the mentoring program. As of the date of this report, neither the Committee nor the State Bar has been made aware of any claims under this policy.

The Pilot Project ran for two years, from January, 2000 to December, 2001. During this time, beginning lawyers in the Project completed 30 hours of continuing legal education (Attachments 5 and 6) and Schedule of Activities and Experiences (Attachment 7) with their mentors, including follow-up discussions from the content of the continuing legal education courses. The distinctive feature of the Project was the foundation laid by the curriculum for the

activities and small group or one-on-one extended discussions between mentors and beginning lawyers.

By all objective measures, the Pilot Project was a success. Thorough assessment of the Project was conducted by a professional research firm, the Schapiro Research Group of Atlanta. According to the Schapiro Group, surveys conducted at intervals over the course of the Pilot Project showed that approximately 85% of both mentors and beginning lawyers rated the Project as satisfactory and effective.

Beginning lawyers in the Pilot Project reported that regular contact with mentors in a structured setting accelerated their learning curves and avoided costly misjudgments, thus achieving the goal of this educational program for transition into law practice.

Mentors expressed appreciation for the structure of the mentoring component and its linkage to CLE over a defined period of time with a menu of objectives presented in an organized fashion, supported by relevant written materials. They reported that the Project gave structure to an otherwise informal mentoring process and nudged the mentor and beginning lawyer to discuss specific areas of importance. Even in firms with in-place mentoring and associate training programs, mentors reported that the Project heightened and formalized their firms' training efforts.

The Project showed improvement in the targeted measures of professionalism. When beginning lawyers were asked which of the lawyer skills the Pilot Project had an impact on, the two skills that were rated as most strongly impacted by the Project were the handling of ethical aspects of law practice and dealing with other lawyers. These measures were consistent at the end of both the first and second years of the Pilot Project. The beginning lawyers' rating of their

ability to handle the ethical aspects of law practice, dealing with other lawyers, judges, and court personnel increased consistently from the baseline over the course of the Pilot Project.

### **Recommendation**

Based on the evaluations of and experience with the Pilot Project, the Standards of the Profession Committee unanimously recommends that the Board of Governors endorse and petition the Supreme Court of Georgia to authorize the establishment of a mandatory Transition Into Law Practice Program (the “Program”) for beginning lawyers in Georgia. The purpose of this one-year Program will be to provide professional guidance and counsel to assist beginning lawyers who are newly admitted to the State Bar of Georgia in acquiring the practical skills, judgment and professional values necessary to practice law in a highly competent manner.

After six years of investigation, including study of all known transitional education programs, and implementation and evaluation of the Pilot Project, the Committee unanimously concluded that this Program must be mandatory. This conclusion is based on the goal of ensuring that every beginning lawyer in Georgia be afforded access to an experienced lawyer equipped to teach the skills, judgment and professional values of the practice of law. Mentors will be selected based on their standing at the Bar and their reputation for character and professionalism. Only through a mandatory program can uniform coverage of high quality content for all beginning lawyers be assured. Voluntary mentor programs unsupported by structured curricula have been uneven in quality and have not reached all new lawyers that may need or benefit from mentoring.

The Program would not call for conditional licensure. It contemplates that beginning

lawyers will be admitted to practice as now without restriction. However, they will be required to complete the program requirements, and both the mentor and beginning lawyer must certify to the Supreme Court that the requirements have been met. If the beginning lawyer fails to complete the program at the end of the year, his or her license would be suspended in the same manner as a lawyer who fails to meet mandatory continuing legal education requirements.

The Program recommended by the Committee is intended to reach and benefit *all* new lawyers beginning the practice of law, while taking into account differences in their practice settings. Beginning lawyers will enter the Program in different ways: some will be employed by a law firm or a lawyer (with at least five years of law practice experience); others will enter the practice on their own or not in association with an experienced lawyer.

When a beginning lawyer starts his or her practice as part of a firm in which one or more members has at least five years of experience, an experienced mentor will usually be at hand. Here, the function of the Program will be to support and enhance the in-firm mentoring of that new lawyer.

When the beginning lawyer does not start to practice in association with a lawyer having at least five years of practice experience, either the beginning lawyer will select an experienced mentor or the Transition Into Law Practice Program will assign the beginning lawyer to an experienced mentor or to a small mentoring group in his or her geographical area. Experience with the Pilot Project showed that one-on-one mentoring is not the only effective means of mentoring. There are collateral benefits in group mentoring where a select team of experienced lawyers meets for extended discussion of practical lawyering concerns with small groups of beginning lawyers. It is possible to respond to the mentoring needs of beginning lawyers who do

not practice in association with experienced lawyers and to provide them with access to professional guidance by recruiting a team of experienced lawyers from the state at large who would be willing to mentor small groups of beginning lawyers. These teams of at-large mentors could meet periodically on a regional basis to share the lessons of practical experience and acquired wisdom with beginning lawyers and to offer advice and counsel.

In both in-firm mentoring and out-of-firm mentoring, beginning lawyers will meet periodically during the year with their individual or group mentors to discuss relevant topics and to facilitate professional guidance. The mandatory mentoring required for all new lawyers should be sufficiently structured to ensure that the mentoring experience is meaningful and consistent in covering prescribed activities. At the same time, mandatory mentoring must be sufficiently flexible to accommodate the differences that necessarily will stem from the various practice settings and areas of concentration.

Mandatory mentoring will be supported by new continuing legal education programs specially designed to focus on certain key aspects of law practice. These programs will lay a foundation for small group or one-on-one extended discussions between mentors and beginning lawyers.

Beginning lawyers will be required to choose between two CLE programs during this first year. One CLE program will be an enhanced version of the current Bridge-the-Gap that will cover basic topics such as *Dealing With Your Client*, *Acting For Your Client*, and *Negotiating For Your Client* and provide instruction in the various roles the lawyer plays and in the various interactions required of the lawyer, with colleagues, opposing lawyers and parties, judges, court personnel, witnesses, and the public. These topics will be introduced in large group settings

where materials will be distributed as a guide for individual mentor and beginning lawyer meetings later in the particular practice setting.

A more extensive CLE program, called “Program on the Fundamentals of Law Practice” will treat these same topics in greater depth. The purpose of this Program on the Fundamentals of Law Practice is to try to replicate the “close-order” mentoring that usually occurs in actual law practice when a beginning lawyer works in close contact with an experienced lawyer. To facilitate greater discussion, the format will involve small breakout groups led by experienced attorneys. Attendance at this program will be limited to 100 beginning lawyers (or less) in each of two live sessions a year to allow close interaction between beginning lawyers and experienced lawyers. Lawyers practicing on their own or not in association with an experienced lawyer will be given priority in registering for these two sessions.

Should the Board of Governors of the State Bar and the Supreme Court of Georgia authorize the Standards Committee to move forward with the Transition Into Law Practice Program, the Committee would use calendar years 2004 and 2005 to prepare to implement the program. Then the program would begin, with actual assignments of mentors and beginning lawyers, in January of 2006.

### **Conclusion**

The Standards Committee recognizes that these recommendations are ambitious and multi-faceted. The recommendations seek to improve the transition into practice for all beginning lawyers entering practice and, at the same time, to distinguish between lawyers beginning practice in association with experienced lawyers and those beginning practice on their own or in firms where no lawyer has had five years of practice experience. The Committee’s

recommendations seek to take advantage of existing training and mentoring likely to occur for new lawyers in established firms, while seeking to extend and solidify the quality of that mentoring. At the same time, the recommendations concentrate the Bar's efforts and resources on those beginning lawyers who start their careers outside a practice setting that offers mentors and supervisors in house.

Evaluations from the Pilot Project testify to the success of putting experienced lawyers with beginning lawyers to teach relevant, meaningful, and timely lessons at the heart of our profession. The Transition Into Law Practice Program presents a truly unique opportunity to see that beginning lawyers get off the right start in their careers. The Standards Committee believes that the proposed Transition Into Law Practice Program has the potential to make a significant difference over time in the level of competence and professionalism among members of the State Bar of Georgia.