Book Review


Reviewed by Neil Hamilton

I. Introduction

The Formation of Professional Identity: The Path from Student to Lawyer provides much-needed concise and effective curriculum to address two closely related fundamental challenges for each law student and law school. The fundamental challenge for each law student is how to grow from being an aspiring-entrant-to-the-profession student to being a lawyer with adequate competency on the full array of capacities and skills that employers and clients want and need. The fundamental and complementary challenge for each law school—and for higher education for the professions generally—is how most effectively to foster each new student’s growth from being an aspiring-entrant student to being a licensed contributing member of the profession.

Starting more than twenty years ago, medical educators realized that emphasis on doctrinal medical knowledge and cognitive analytical skills, even when those skills are being applied in a clinical context, was insufficient to meet patient and population needs.¹ Medical education has been moving toward more emphasis on patient-focused and teamwork-centered medical care.²

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2. Id. at 408. Among the six core competencies that the medical accreditors for residency programs require residents to demonstrate (beyond medical knowledge and cognitive analytical skills) are (i) “to provide care that is compassionate, appropriate, and effective for the treatment of health problems. . .”; (ii) to be “able to investigate and evaluate their patient care practices . . . and improve their practice of medicine”; (iii) “to demonstrate awareness of responsibility to larger context and systems of healthcare”; (iv) to “demonstrate . . . adherence to ethical principles and sensitivity to diverse patient populations”; and (v) to “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,
Legal education has historically emphasized legal doctrinal knowledge and
cognitive analytical skills and de-emphasized required experiential education
(such as clinics, externships, and other simulation courses teaching other
skills). Finally in 2014, the ABA mandated that each law school require six
credits of experiential education. Some law schools are realizing that even
six credits of experiential education, especially if this instruction principally
emphasizes doctrinal legal knowledge and legal analysis applied in a practice
setting, is not sufficient to meet client and legal employer needs. This group
of schools sees that values like those the medical schools are emphasizing are
also of fundamental importance in the law. For example, we are seeing both
a rapid increase in the number of required professional development courses
in the 1L year plus many schools’ adoption of institutional learning outcomes
that go substantially beyond the technical legal skills that law schools have
traditionally emphasized. Since 2017 the number of law schools with required
1L courses focused on professional development has roughly doubled,
with over sixty of the 200 ABA-accredited schools now having this type of
curriculum. Approximately two-thirds of the credit-bearing professional
development courses are including learning outcomes like ethics and integrity
and building a relationship of trust with the client. Similarly, one-quarter
of the ABA-accredited law schools have adopted an institutional learning
outcome that includes a version of professionalism/high ethical standards/a
personal code of ethics/the internalization of professional values [referred to
here as an internalization of professional values learning outcome].

The increasing wave of law schools adopting required 1L professional
development curriculum and the one-quarter of law schools with an
internalization of professional values learning outcome need effective and
concise curricula materials to foster each student’s growth toward later stages
of development. Patrick Longan, Daisy Hurst Floyd, and Timothy Floyd have
authored an outstanding book to meet this need. Part II of this book review

working both as a team member and sometimes a leader.” Id. at 413.

4. Id. at 576.
5. Id. at 580.
7. Id. at 21.
8. As of January 2, 2020, 193 law schools were making available their institutional learning outcomes. University of St. Thomas School of Law Holloran Center, Learning Outcomes Database, https://www.stthomas.edu/hollorancenter/learningoutcomesandprofessionaldevelopment/learningoutcomesdatabase/ (last accessed April 17, 2020). Note that fifteen percent of the law schools reported institutional learning outcomes including integrity.
9. From my personal experience, I know all three of the authors are exceptionally gifted formation-of-professional-identity teachers. Patrick Longan is the best professional-identity teacher I have ever observed.
explains how the authors define professional identity. Part III outlines the authors’ six virtues defining the core values of the profession. Part IV looks at the benefits for students of developing a professional identity that integrates the six virtues, and Part V provides some suggestions for teachers who are going to use this book.

II. Understanding Professional Identity

The authors initially explain to the student reader that each new entrant to the legal profession is forming a professional identity—“a deep sense of self in a particular role”—as a law student and eventual lawyer (4). For example, each law student is forming an answer to complete the sentence “I am the kind of law student who _______,” and each new lawyer continues to form an answer to complete the sentence “I am the kind of lawyer who _________” (4). The answer can vary from “I am the kind of law student and lawyer who wins at all costs” or “is a pit bull” or “makes the most money” to “is faithful to my clients” or “serves the public interest” (4).

This process of forming a sense of self in the role of a law student and lawyer—a professional identity—is inevitable, and can happen by design or drift (4). The student can be active or passive about which kind of lawyer to become (4).

III. Six Virtues Defining the Core Values of the Profession

The authors urge the student reader both to be intentionally proactive in forming a professional identity and to internalize the traditional core values of the profession into the student’s existing value system (3-4). They then define the traditional core values of the legal profession in terms of virtues—capacities or dispositions that bring a person closer to an ideal (5).

The authors argue that there is a substantial consensus in the profession about “the virtues necessary to be the kind of lawyer who serves clients well and helps fulfill the public purposes of the profession” (5). There are six professional virtues that the student should internalize into the student’s existing value system to form a professional identity (5-8):

1. the virtue of competence;
2. the virtue of fidelity to the client;
3. the virtue of fidelity to the law;
4. the virtue of public spiritedness;
5. the virtue of civility; and
6. the virtue of practical wisdom (the master virtue).

My own earlier research on the elements of an ethical professional identity looked at the definition of professionalism, professional formation, and professional identity by the organized profession, legal scholars, exemplary lawyers, and the five Carnegie Foundation for the Advancement of Teaching’s
The six virtues that the authors have selected match up closely with all of these other sources. Note that these other sources defining the elements of an ethical professional identity often uses synonyms like public service (especially for the disadvantaged) rather than “public spiritedness,” or respect for all participants in the legal system rather than “civility.” But the meaning is essentially the same as the virtues the authors have selected.

These earlier sources emphasize the importance of the capacity or habit of reflection as a separate fundamental element of an ethical professional identity, but the authors include reflection as a subelement (1) in the virtue of competence (37), (2) in the virtue of fidelity to the client (55-56), (3) in the virtue of fidelity to law (67-68), and (4) in the virtue of practical wisdom (111-13). One major element of an ethical professional identity often mentioned in these other sources, but not included in the authors’ six virtues, is integrity.

The authors analyze each of the six virtues in separate chapters. Each chapter has a similar structure where it:

1. defines the meaning of the virtue in the context of both the Model Rules of Professional Conduct and the needs of clients, legal employers, and the profession;
2. explains what gets in the way of the lawyer’s developing and demonstrating the virtue;
3. offers strategies for cultivating the virtue;
4. provides discussion questions and problems; and
5. supplies suggested readings.

The structure of the book reflects several of the best empirically researched principles for an effective curriculum fostering the formation of each student’s professional identity.


11. See Legal Education’s Ethical Challenge, supra note 10, at 333-40. Honesty is often included with integrity in these sources, and the authors include honesty in their discussion of civility.
1. The book provides repeated opportunities for reflection on the responsibilities of the profession and the development of the habit of reflective self-assessment on these responsibilities.¹²

2. The book has problems and discussion questions at the end of each chapter that create cognitive dissonance to challenge the student reader’s existing ideas and assumptions at the student’s current stage of development.¹³

3. The book provides instruction that helps each student to understand how the curriculum is helping the student to achieve his or her goals.¹⁴ The next section of this review analyzes these benefits for the student reader.

IV. Benefits of a Professional Identity for the Student Reader

Why should the student reader internalize the six virtues into the student’s existing value system to form a professional identity? Chapter 2 on Motivation and Professional Identity argues that it is in “the student’s personal interest to do so, for the sake of [the student’s] own well-being and sense of fulfillment as a lawyer” (13). By internalizing the six virtues, the student is more likely to: (1) serve clients well; (2) fulfill the public purposes of lawyers; and (3) find work meaningful (4-5).

Chapter 2 turns to both Self-Determination Theory (SDT), a branch of positive psychology, and virtue ethics to provide evidence that supports these benefits for the student reader (14). SDT posits that “humans have three basic psychological needs that are essential for well-being. They are autonomy, competence, and relatedness. One’s actions are autonomous if they are perceived as self-directed and volitional, rather than controlled by others. Competence is the sense of mastery and of feeling able to operate effectively in important aspects of life. The third fundamental need, relatedness, includes a sense of belonging” (14-15).

SDT holds that supporting the satisfaction of the above three fundamental needs (thus leading to well-being) are four intrinsic values—“self-understanding/growth, intimacy with others, helping others, and being in/building community” (15). In contrast, SDT predicts that certain extrinsic values (high earnings, status, appearance, and influence over others) will be associated with a lack of well-being (15).¹⁵


¹³ Id. at 874.


¹⁵ The authors also explain that “SDT associates thriving with intrinsic motivations and
The authors then discuss how the formation of a professional identity that incorporates the six virtues will feed the three basic psychological needs—autonomy, competence, and relatedness—and thus lead to well-being (15). For example, a professional identity that internalizes the virtue of competence serves the basic psychological need for competence and also aligns with the values of growth and helping others (15). The book walks through the connection of each of the other five professional virtues to the three basic psychological needs and four intrinsic values that then lead to higher well-being (16). The authors then discuss the excellent work of Lawrence Krieger and Kennon Sheldon that provides strong empirical evidence from studies of law students and lawyers supporting the SDT predictions above that satisfying the three basic psychological needs and the four intrinsic values increases student and lawyer well-being (17).

Chapter 2 then analyzes virtue ethics (a branch of philosophy dealing with normative theories of ethics) as another body of evidence that demonstrates how and why it is in the student reader’s personal interest to internalize the six virtues into his or her existing value system to form a professional identity (18). Virtue ethics is primarily concerned with the traits of character that contribute to human flourishing (18-19). The authors explain philosopher Alasdair MacIntyre’s concept of “practice” and how both being a law student and being a lawyer are types of practice (19-20). MacIntyre posits that a person who achieves excellence in a practice (like being a law student) characteristically enjoys both the achievement and the activity undertaken to realizing the achievement (20). In other words, if a student reader engages in being a student (and later being a lawyer) in accordance with the highest standards of the profession as defined by the six virtues, the student will experience intrinsic, internal rewards (20-21).

The authors observe early in their book: “We offer no scientific evidence to back this up, but our experience has been that many of our students [in the mid-twenties] are in the early stages of evolving from a self-centered orientation to an other-centered view of the world” (3). There is good empirical data to support the authors’ experience. For example, Jeffrey Arnett has done extensive research on people in the distinct life stage of emerging adulthood from ages eighteen to twenty-nine. Arnett observes, “There is no time in life that is more self-focused than emerging adulthood . . . [when] there are few ties that entail daily obligations and commitments to others . . . . To be self-focused is not necessarily to be selfish, and to say that emerging adulthood is a self-focused time it not meant pejoratively . . . . The goal of their self-focusing is to learn to stand alone as a self-sufficient person.”

Christian Smith’s studies of the eighteen-to twenty-three-year-old age group indicated identified motivations as opposed to extrinsic motivations” (15). This line of argument does not seem as central to the authors’ theme that SDT provides empirical support that integrating the six virtues will lead to student and lawyer well-being so is not discussed here.

that “[t]he majority of those interviewed stated that ‘nobody has any natural or general responsibility to help other people’ while a minority said ‘people do have responsibilities to help others.’”

Hamilton and Monson, in a series of empirical studies exploring the meaning of professionalism for law students, early career lawyers, and exemplary lawyers using the Four Component Model assessment tools from moral psychology discussed by the authors in chapter 1 (8-9), demonstrate substantial growth in mental complexity (a move from an egocentric view of the world to a more penetrating, more responsible, less egocentric view of the world) from law student to exemplary practicing lawyer.\footnote{Neil Hamilton & Verna E. Monson, Ethical Professional (Trans)Formation: Themes from Interviews About Professionalism with Exemplary Lawyers, 52 Santa Clara L. Rev. 921, 958–60 (2012); Thirty Reflection Questions, supra note 12, at 863–68.}

My experience in teaching courses with formation of professional identity learning outcomes since 1987 is that students at later stages of development on these six virtues are drawn to elective courses with learning outcomes that encourage further growth, but required courses draw the full range of students, some of whom are at quite early stages of development. For this latter group of emerging adult students, the instructor must go where the student is. In order for the early-stage student to see any benefit to internalize the six virtues into the student’s existing value system to form a professional identity, the student must see clearly that the curriculum is helping the student to stand alone as a self-sufficient person. We also have strong empirical data that the most important goal of applicants to law school and currently enrolled law students is meaningful post-graduation employment.\footnote{Neil Hamilton, Connecting Prospective Law Students’ Goals to the Competencies that Clients and Legal Employers Need to Achieve More Competent Graduates and Stronger Applicant Pools and Employment Outcomes, 9 St. Mary’s J. Legal Mal. & Ethics 260, 266–68 (2019).}

The challenge is that the authors’ discussion of how SDT and virtue ethics provide good reasons to the student reader to internalize the six virtues into the student’s existing value system may be too abstract and theoretical for some early-stage law students. Those students in particular need stronger reasons that help them achieve their goals of both standing alone as self-sufficient persons and securing meaningful post-graduation employment. The authors briefly provide data about how the six virtues relate to discuss the Institute for the Advancement of American Legal Studies’ Foundations of Practice 2016 empirical survey of over 24,000 lawyers asking what competencies, skills, characteristics, and qualities new lawyers need to be ready for practice (17). The authors point out that the twenty most common responses include many competencies, skills, characteristics, and qualities included in the six virtues (17).

A teacher using the Formation of Professional Identity book could give the
early-stage students even stronger data that help these students understand how internalizing the six virtues develops competencies that legal employers and clients want, and thus a student developing evidence of being at a later stage of these virtues would have a higher probability of meaningful post-graduation employment. There are such data in Roadmap: The Law Student’s Guide to Meaningful Employment20 and even more recent new data in The Gap Between the Foundational Competencies Clients and Legal Employers Need and the Learning Outcomes Law Schools Are Adopting.21 My experience with all law students, not just the early-stage students, is that they need considerable help to translate a curriculum using terms like virtues into specific stories and evidence about the competencies that legal employers understand and value.

V. Suggestions for Teachers Using the Book

The authors have created an excellent short book (127 pages) that can be used in: (1) required professional responsibility courses; (2) the recent wave of required transition courses mentioned earlier; (3) elective or required experiential courses including clinics, externships, and simulations; (4) professionalism curricula being developed by the twenty-five percent of all law schools that have adopted an internalization of professional values learning outcome; and (5) elective ethics or leadership courses. Medical education has identified significant transitions—periods of psychological inner reorientation and self-definition that a student must go through in order to incorporate significant situational changes into a new understanding of professional life’s developmental process—as particularly important times for coaching students and fostering student reflection.22 The strongest recommendation of a 2018 meta-analysis of seventy articles on medical student transitions was to focus on transitions that include authentic professional experiences (real-life or mimicking real-life) and provide coaching and opportunities for reflection to foster student understanding of key principles (1, 4). This book would be extremely effective in particular when combined with authentic professional experiences such as clinics, externships and simulations. Another critical time for students to reflect on the book’s six virtues is right after the authentic professional experiences of summer clerkships.

A second suggestion relates to the authors’ emphasis that the student reader is not replacing the student’s values with the six professional virtues. Rather the student is integrating the six professional values into existing personal values (1, 4). My experience is that many students in required courses need

some initial help to define the personal values that they will integrate with their professional values. I start my large-section required professional responsibility course (required for all 2Ls) with a short essay assignment that may be useful to teachers using The Formation of Professional Identity. I ask the students to write a short essay “to analyze your tradition and decision-making process with respect to discretionary decisions that involve both responsibilities to others and positive and negative impacts of your decisions on others. How can you help yourself develop further your tradition and decision-making process? Be specific on one or two ideas to help yourself develop your tradition and decision-making processes.”

Over the past four years, 236 students have submitted essays focusing on their traditions, set forth in Table 1 below.

Table 1

Traditions to Which Law Students Turn on the Discretionary Calls of Lawyering

<table>
<thead>
<tr>
<th>Tradition</th>
<th>Percentage of Students</th>
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<tbody>
<tr>
<td>Christianity generally</td>
<td>39</td>
</tr>
<tr>
<td>Catholic specifically</td>
<td>22</td>
</tr>
<tr>
<td>Golden Rule</td>
<td>14</td>
</tr>
<tr>
<td>Utilitarianism (including cost/benefit and stakeholder analysis)</td>
<td>13</td>
</tr>
<tr>
<td>Virtue ethics</td>
<td>6</td>
</tr>
<tr>
<td>Mindfulness</td>
<td>2</td>
</tr>
<tr>
<td>Jewish</td>
<td>1</td>
</tr>
<tr>
<td>Kant/Rawls</td>
<td>1</td>
</tr>
<tr>
<td>Buddhist</td>
<td>1</td>
</tr>
<tr>
<td>Other (including the “wing it” tradition)</td>
<td>1</td>
</tr>
</tbody>
</table>

Note that six percent of the essays start by saying that the student had not given this topic any serious thought until this essay, but they thought I was sending a strong message that they needed a tradition to inform the discretionary decisions of lawyering. I bring in a number of speakers from practice each semester who affirm both the reality that there are many discretionary calls of lawyering in different practice areas, and the importance of having a tradition to inform the lawyer’s decision-making. It is important for all students to understand that they are internalizing the six virtues into the
existing value systems/traditions that they have been developing throughout their lives and will continue to develop throughout life.

My final suggestion is that as law schools continue to move toward competency-based education over the coming years, each of the six virtues will need what medical education calls a milestone model to define the stages of development of the subcompetencies of that virtue. The milestones on a specific competency provide a “shared mental model” of professional development from student to competent practitioner and beyond to mastery. A milestone model both defines a logical learning trajectory of professional development and highlights and makes transparent significant points in student development using a narrative that describes demonstrated student behavior at each stage. Milestones can be used for formative and summative assessment and program assessment. If a faculty and staff adopt a milestone model on a virtue, they are building consensus on what competent performance looks like, and thus will foster a high degree of interrater reliability. Appendix A has an example of a milestone model.

VI. Conclusion

The authors have made a very important contribution to the growing social movement in legal education to foster the formation of each student’s professional identity. The movement is building on the 1992 MacCrate Report, which led to substantial increases in experiential curriculum in legal education but ushered in only modest steps emphasizing the four fundamental lawyering values: (1) competence; (2) striving to promote justice; (3) striving to improve the profession; and (4) professional self-development. This book provides a major step forward to help each student internalize the profession’s values.

25. Id.
Appendix A

Table 2 below provides a milestone model on a student’s ownership over his or her own continuous professional development. This is an important part of the virtue of competency. Holloran Center has developed milestone models on ownership of continuous professional development, cultural competency, teamwork, integrity, and honoring commitments. The center has national teams working on milestone models for leadership, professional communication, pro bono, and listening.

**Table 2**

Holloran Center Milestone Model on Assessment of Student’s Ownership of Continuous Professional Development (Self-Directedness)

<table>
<thead>
<tr>
<th>Subcompetencies of Ownership/ Self-Directedness</th>
<th>Novice Learner (Level 1)</th>
<th>Intermediate Learner (Level 2)</th>
<th>Competent Learner (Level 3)</th>
<th>Exceptional Learner (Level 4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Self-Assesses and Identifies Strengths and Areas for Growth</td>
<td>RARELY demonstrates understanding of full range of lawyering competencies and diagnoses learning needs</td>
<td>SOMETIMES demonstrates understanding of full range of lawyering competencies and diagnoses learning needs</td>
<td>OFTEN demonstrates understanding of full range of lawyering competencies and diagnoses learning needs</td>
<td>CONSISTENTLY demonstrates understanding of full range of lawyering competencies and diagnoses learning needs</td>
</tr>
</tbody>
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28. *See University of St. Thomas School of Law Holloran Center, Holloran Competency Milestones, https://www.stthomas.edu/hollorancenter/hollorancompetencymilestones/ (last visited April 17, 2020).*

29. The Holloran Center working group that created this milestone model comprised Kendall Kerew (chair), Susan Fine, Rupa Bandari, Ben Madison, and Neil Hamilton.
### 2. Articulates Goals and Follows a Plan

**Implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant, and time-bound**

<table>
<thead>
<tr>
<th>Rarely</th>
<th>Sometimes</th>
<th>Often</th>
<th>Consistently</th>
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<tr>
<td>creates and implements a written professional development plan reflecting goals that are specific, measurable, achievable, relevant, and time-bound</td>
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</table>

### 3. Acquires and Learns from Experience

**Seeks experiences to develop competencies and meet articulated goals, and seeks and incorporates feedback received during the experiences**

<table>
<thead>
<tr>
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<th>Sometimes</th>
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### 4. Reflects and Applies Lessons Learned

**Uses reflective practice to reflect on performance, contemplate lessons learned, identify how to apply lessons learned to improve in the future, and applies those lessons**

<table>
<thead>
<tr>
<th>Rarely</th>
<th>Sometimes</th>
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30. Goals that exhibit these factors are referred to as SMART Goals: Specific—clear goals including what, why, and how; Measurable—including a clear method for evaluation of progress; Achievable—including obstacles and realistic solutions; Relevant—including connection to core values; and Time-bound—including a clear timeline of steps.

31. Reflective practice requires learners to focus on their own performance (what?); to consider multiple perspectives, including their own, and contemplate lessons learned (so what?); and to identify how to apply lessons learned to improve in the future (now what?).