

Legal incubators help new lawyers, increase access to legal services

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Many people have never heard of a legal incubator, let alone know what one is. But that will change in the near future, as the legal incubator movement experiences exponential growth.

Incubators are well-known in the business and technology fields: Universities or private investors provide seed capital, facilities and other support to help recent graduates or fledgling entrepreneurs launch their business, with the hope that one will become the next Google or Facebook and repay the investment a thousand-fold.

Legal incubators, which help law school graduates launch their own practices, have garnered less attention and are far less likely to launch multibillion dollar enterprises. Yet they have the potential to disrupt the legal profession in profound ways that can benefit both the participants and the clients they would serve.

Most legal incubators seek to help solo practitioners make their services more affordable and accessible, thereby expanding the pool of consumers of legal services while at the same time addressing challenges in the employment market facing recent law school graduates.

THE NEED FOR LEGAL INCUBATORS

Particularly since the 2008 recession, when the law job market softened, many law schools have touted a focus on producing “practice-ready” graduates.

But even among law schools acting in good faith and exerting best efforts, students generally remain unprepared to represent clients the day they become licensed.

The reasons, unsurprisingly, are time and money. Former President Barack Obama, among others, argued for shortening law school from three years to two to reduce student debt. The difficulty with that proposal is that it is challenging for most law schools to accomplish their various goals in the three years they currently have.

They have an obligation to train students to think and write like lawyers, provide them the substantive knowledge to pass the

bar exam and, in our increasingly atomized legal world, expose them to specialized areas of law.

Courses, externships, clinics and other initiatives designed to prepare students for practice compete with coursework for the limited time and attention of students.

Practice-oriented opportunities in law school also tend to be costly. Live-client clinical training is extremely valuable but relatively expensive due to the need for low student-faculty ratios to ensure adequate supervision. Pressure on law schools to contain tuition costs makes it difficult for institutions to offer more clinics.

Schools could boost their clinical offerings and keep expenses flat by scaling back on seminars and other specialty offerings, but many would face pushback from tenured faculty who place a premium on research and academic prestige.

Some have advocated for returning to the apprenticeship model of the 19th century, where would-be lawyers toil under the tutelage of a practitioner to learn the trade, rather than spend several years on formal schooling.

But that shift is not likely to happen anytime soon, given the regulatory infrastructure governing legal education and bar admission, and the difficulty of finding lawyers who would be willing to take the time to supervise the tens of thousands of students who would otherwise enroll in law school each year.

In light of all this, the reality is that most law students graduate from law school without having had a single live client representation experience, let alone the business and professional training needed to open a practice.

Law school graduates need additional training after they graduate to prepare them to represent clients. If they don't get that experience through work as an associate at an existing firm, they need to get it somewhere else.

Enter the legal incubator.

THE RISE OF LEGAL INCUBATORS

Fred Rooney established the first legal incubator at the City University of New York School of Law in 2007. Now, the American

Bar Association's online directory lists more than 60 incubators in 30 states, with ones planned in at least five more states.

The growth of incubators has been exponential, with most opening in just the last few years. There are even incubator programs in foreign countries, including Canada, the Dominican Republic, India, Pakistan and Spain.

Incubators have a variety of models. They may be created by law schools, state bars, local bar associations, nonprofit organizations or a combination of the above. For example, the Legal Aid Society of Orange County in California has collaborated with local law schools to train dozens of new practitioners over the last few years.

Incubators are relatively easy to create because startup costs are low. In some instances, a law school faculty member or administrator can oversee an incubator on a part-time basis, using available space on campus.

Because of the focus on pro bono and "low bono" services, vendors and other third parties may be willing to provide their goods and services for free or at a significant discount.

The ethos of the incubator community is usually collaborative, meaning organizers are willing to share syllabi, content and tips with other incubators to help them hit the ground running.

HOW PARTICIPANTS BENEFIT

New lawyers often need help with the legal and business sides of running a practice, including keeping costs low and getting clients. Incubators can help in all these areas.

Case review, mentoring and training

Going solo can be lonely. An undeniable advantage of joining a firm is the opportunity to turn to seasoned attorneys who can give advice on everything from individual judges' preferences ("local local rules") to holistic case strategy.

Incubators address this deficit by connecting new solo practitioners with experienced attorneys, retired judges or commissioners who can give advice and help them avoid ethical and practical pitfalls.

Incubators often provide training in substantive areas of law, particularly those that new attorneys are likely to see demand for, such as family law, small estate planning, unlawful detainer, immigration, minor criminal matters or debtor/creditor law.

The programs may also offer training or resource manuals on general procedures for conducting court appearances,

hearings, depositions and other bread-and-butter skills that are second nature to older attorneys but may provoke anxiety in new ones.

Some incubators admit participants on an annual cycle who then remain for 18 to 24 months or longer. This means that the "veterans" can provide a measure of training and mentoring to the newest participants.

One area warranting caution: In most legal incubators, although participants share space and help each other out, they are not typically part of one big firm. This means they have to be careful about sharing details that would violate client confidences with not only senior mentors but with each other.

Law practice management skills

Many law students, when faced with financial concepts or tasks, cringe and protest that they went to law school because they don't like numbers.

But the harsh reality facing solo practitioners is that they are business people whether they like it or not; their business just happens to be providing legal services.

Legal incubators can help with foundational steps that may be overwhelming to new lawyers who lack prior business experience, like selecting an entity type and filing necessary incorporation documents, pursuing a small-business loan to help grow the practice, and drafting effective and ethically sound retainer agreements.

They may also provide guidance or resources on how to market a practice online as well as through traditional media.

Lowering costs

One of the biggest challenges of opening a practice is covering overhead, particularly in the early stages before the solo practitioner has built up a robust client base.

Many incubators strive to teach new lawyers how to reduce costs. Some offer participants steeply discounted shared office space. They can limit other costs by providing access to resources such as reduced-price malpractice insurance and discounted or even free software for office management, document management and legal research.

At a minimum, incubators can educate participants about the benefits of virtual practice, which may minimize or even eliminate the need to pay for physical office space.

Client referrals and assistance

Costs are only half of the equation. New lawyers need access to clients to generate revenue. One comment from participants about incubator programs is that, without

help getting clients, the benefits of learning lawyering and business skills are limited.

Many incubators require business plans with the application, which induces applicants to think about who their target markets will be and how to reach them.

Some incubators go further and directly connect lawyers with clients. For example, the Lawyer Entrepreneur Assistance Program that the Legal Aid Society of Orange County operates in partnership with law schools provides incubator participants with access to LASOC's lawyer referral service, so modest-means clients who do not qualify for free legal services can connect with lawyers willing to represent them at discounted rates.

Program participants can also refer cases to each other, just as they serve as mentors to one another. Incubators can help new lawyers expand their geographic or pricing reach by teaching them about limited-scope representation and other alternative structures.

These innovative approaches will become increasingly prevalent as lawyers become more familiar with them and client demand increases.

THE SOCIETAL BENEFITS OF LEGAL INCUBATORS

When new lawyers have the training and support needed to offer reasonable rates to the middle market, it is a benefit not just to them but to American society, segments of which have been suffering from lack of access to justice for decades.

The legal profession has long done a poor job of serving the legal needs of society. Tens of millions of Americans earn too much to qualify for free legal services, but cannot afford to pay the prevailing lawyer rate, or they live in remote areas where there are not enough lawyers, or both.

Incubator programs help align attorney economic structures with societal need. A recent law school graduate whose only option is to compete with experienced attorneys for the clients who can afford to pay \$200 or more an hour will be at a significant disadvantage.

By cutting overhead, offering reduced rates and tapping into a market of people who would otherwise likely forgo legal services altogether, that recent graduate will be expanding the pie rather than fighting for a bigger slice of it.

Market segmentation is common in most healthy industries. Someone who wants to dine out can choose a \$5 fast-food burger, a \$15 casual-dining pasta plate or a \$50 steak. A taxpayer can use TurboTax or similar software to prepare a return, go to H&R Block or spend hundreds of

dollars an hour for bespoke accounting services. But where is the H&R Block for legal services?

An argument could be made that there should not be low-cost options on some professional services if quality is at risk. After all, no one wants to get the fast-food breakfast burrito version of medical treatment.

With legal incubators, though, there is no need to compromise on quality because cost-effective practices allow affordable legal services.

THE FUTURE OF LEGAL INCUBATORS

Of course, incubators can't do it all: Affordable legal services depend at least in part on affordable legal education. Graduates with six-figure law school debt may have a hard time charging reasonable rates for their services, no matter how low the overhead is.

Incubators can't do much now to put direct pressure on law schools to lower tuition. But their success can serve as a model for how law schools can teach skills effectively.

One day, they may even pose a competitive threat to law schools as a better model for training lawyers.

The next phase of development in the incubator movement will likely involve technology. Concord Law School, the nation's first online law school, recently joined LASOC's LEAP program, becoming the first online school to participate in a legal incubator.

The collaboration will use technology to provide participants around the country access to training and mentoring sessions previously available only in person for Orange County attorneys.

It will also use telephonic or video conferencing to connect lawyers with clients in different locales, so that living in a remote location is no longer an obstacle to getting legal representation or access to paying clients.

Technology holds the promise to bring transformative change to the legal profession, just as it has done in countless other industries, like transportation (think Uber or Lyft) and consumer goods (Amazon).

CONCLUSION

Legal incubators constitute one of the most exciting developments in law in decades.

They will continue to proliferate and expand, because they address a need not otherwise met by either the legal academy or the legal profession: New lawyers need to get their feet wet

as practitioners, and countless potential clients need lawyers to take on their matters at reasonable rates.

Programs that help train new lawyers to reduce overhead and competently represent people are a critical win-win for lawyers and their clients, and so for society as a whole.

(Editor's note: Purdue University bought Kaplan University in April, and Concord Law School is working to expand opportunities for students to sit for the bar exam around the country. California is the only state that currently allows students of online law school programs to take the bar exam.)

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