



Implementing Best Practices & Educating Lawyers: Teaching Skills and Professionalism Across the Curriculum

Workshop
5B

Creating a General Practice Skills Course: Using
Lawyers to Teach the Skills and Values Essential to
the Professional Practice of Law

Stephen Gerst – Phoenix School of Law

Stephen A. Gerst is presently an associate professor of law at Phoenix School of Law located in Phoenix, Arizona. In addition to his teaching responsibilities he is the director of the General Practice Skills Program.

Prior to his joining the faculty of Phoenix School of Law Professor Gerst was a judge on the Superior Court of Arizona and Dean of Arizona's Judicial College. He retired from the bench in 2005 after serving over twenty-one years.

Dave Cole – Phoenix School of Law

Dave Cole is an Assistant Professor at the Phoenix School of Law, where he teaches Evidence, Torts, and Criminal Law. From 1989 to 2007, he served as Judge of the Superior Court of Arizona, Maricopa County. He is a former certified specialist in criminal law and is licensed to practice law in all Arizona courts, the United States Supreme Court, the United States Court of Appeals for the Ninth Circuit, and the United States District Court, District of Arizona.

Overview of General Practice Skills Course

The reason for creating a general practice skills course

One of the mission pillars of PhoenixLaw is “practice readiness.” The General Practice Skills course is intended to be one of the defining capstones of our law school in carrying out this mission pillar. It will be one of the most visible ways in which we differentiate our law school from other state schools in providing a “practice ready” education to our students. This course will provide a bridge from law school to professional practice.

Method of approach in creation of the course

- (1). In March 2005, PhoenixLaw surveyed the members of the bench and bar of the State of Arizona, asking them to rank the level of importance of 22 professional skills, 26 subjects of legal knowledge, and 20 categories of professional values. The lawyers and judges told us what they believed were the “essential” and “very important” skills, knowledge and values for a practicing lawyer in Arizona. We used the results of the survey in the development of our teaching modules for the GPS course.
- (2). We have examined courses and programs that exist in other law schools. We have gathered information on programs offered at the following schools: University of Wisconsin Law School, Chicago-Kent College of Law, Glasgow Graduate School of Law in Scotland, Case School of Law, University of Montana School of Law, and Loyola University New Orleans School of Law.
- (3). Professors Sophie Sparrow and Stephen Gerst, prior to the establishment of this committee, spoke extensively with Ralph Cagle, the Director of the University of Wisconsin Law School’s Lawyering Skills Program. He has provided us valuable information and materials on their program, which has been in existence since 1948.
- (4). We have reviewed various articles and writings including a document prepared by Eugene Clark, Dean of Charlotte School of Law, in which he includes a section on legal skills to make students practice ready.
- (5). We have consulted with members of our own faculty who have recently come from the practice environment and practicing lawyers in the community as we have developed the modules for the GPS course.
- (6). We have reviewed the skills, knowledge and values recommended in the MacCrate Report (1992).
- (7). We have reviewed the PhoenixLaw Policy Statement On Skills Teaching.

General philosophy of the GPS course

In the third year of law school,¹ every student at Phoenix Law will be required to enroll in the general practice course (GPS). The course will have several components or modules:

- (1). Each module will address an area of the law that a general practitioner should have expertise and confidence in handling;
- (2). Each module infuses specific skills to be taught and specific values that will be emphasized; and
- (3). Each of the modules are practice areas that address the legal needs of the general population in a community, including the underserved, and on which general practitioners are capable of making a living as a sole practitioner or member of a small to moderate sized law firm.
- (4). Each module will have a very strong emphasis on student participation, hands-on exercises, role-playing, simulation of lawyering activities typical and important to such practice areas, and similar activities that will help students develop practice-ready skills.
- (5). The capstone exercise is envisioned as a multi-stage simulation. The exercise will be designed to provide opportunities for students to engage in problem solving, put skills into practice, and face potential ethical dilemmas and difficult situations.

Even if a graduate is employed by a law firm or government agency that does not practice in the areas of the general practice course, it is important that graduates of PhoenixLaw have the confidence of knowing that he or she could handle cases in these basic areas of law if the need or desire arose in their future. In addition, the skills and values taught in the GPS course are relevant and will carry over to any type of law practice.

General Description of the GPS course

- (1). The course will begin in the fall semester of 2007.
- (2). It is a one-semester course for six credit hours.
- (3). The course will be offered each semester so that third year students have the option of enrolling in the course in either semester. (The scheduling of the course each semester will allow for alternate time schedules that will accommodate both day and evening students.)
- (4). The course will be mandatory for all PhoenixLaw students.

¹ The third year of law school will be determined by number of credit hours both for full time and part-time students.

- (5). Primarily members of the State Bar of Arizona will teach the course under the supervision and direction of the Director of the GPS course program, a full time PhoenixLaw faculty member.

Development of curriculum, materials, course books, and training guides

- (1) Development of the course curriculum and materials for each teaching module will be under the direction of the Director of the GPS program, in consultation with members of the practicing bar, and approved by the GPS Course Curriculum Committee.
- (2) In addition to materials used in the teaching of the course modules, the students will also be provided with supplemental materials which will include textual background material relevant to each course module, pleadings and forms, articles, and information regarding other resources that will assist the student in bridging the gap from an academic environment to the practice of law in the subject areas.
- (3) The program director will consult with faculty of PhoenixLaw to assure that the materials are of appropriate quality and quantity. The Program Assistant will be responsible for the collecting and binding and providing of materials to the students. The director will also be responsible for preparing training guides and evaluation documents for the course.

Allocation of Values to Modules and Skills taught

Values, which have been identified as “important” or “essential,” as reflected on the bench and bar survey, will be selected by the faculty members for each module during the course design process. Each faculty member will choose two values to emphasize in the module. This is the same way faculty of PhoenixLaw has committed to teach values in their assigned courses.

Faculty

Faculty will be selected by the Director of the GPS course program, and approved by the Dean as adjunct faculty. Two members of the State Bar of Arizona will team teach each module and be responsible for attending orientation and training, providing feedback and grading on student assignments, teaching the modules in accordance with the curriculum, and providing assessment for improvements to the course.

Program Director

The course will have a Director of the GPS course program who shall be a member of the full-time faculty of PhoenixLaw. During 2007-2008, the director position should comprise all of that faculty member's responsibilities at PhoenixLaw. Thereafter the faculty member's responsibility will be allocated as one-half time to the GPS course and one-half time to teaching in the general curriculum. The course director shall have the following responsibilities:

- (1). Recruitment of faculty for the course
- (2). Development of curriculum, course materials and supplementary materials
- (3). Orientation and training of faculty
- (4). Assuring faculty prepare appropriate teaching plans
- (5). Assuring that written materials are provided and properly presented to students in a useful, organized, and uniform way
- (6). Evaluation of faculty
- (7). Dealing with student issues
- (8). Public relations and connections to the community

Scheduling

- (1). Class schedules will run for three hours two times a week. For the Fall Semester 2007 the class will meet on Tuesday and Thursday from 1:00 to 4:00. For the Spring Semester classes will meet on Tuesday and Thursday from 6:00 to 9:00.
- (2). In addition, a block of time will be scheduled for students to work collaboratively on assignments.
- (3). Since all students are required to enroll and complete the course in their third year, the classes must be scheduled so that there is minimal conflict with other classes, programs and activities.
- (4). Classes must be scheduled so that the course offering is as convenient to evening students as it is to day students.
- (5). Classes must be balanced so that there is the same approximate number of students each semester, which means student choice may be limited as to when they take the course.

Grading

Student performance as to each module will be graded on the basis of receiving a grade of, “Proficient”, “Not Proficient” or “Highly Proficient.” If a student receives two or more, “Not Proficient” grades, the student will not pass the course. Student attendance and completion of all assigned work will be required. In addition, faculty will recognize top students in some appropriate fashion.

Assessment

The GPS Program Director will work with faculty to create performance based assessment instruments for each module. Assessment of the GPS course will include student evaluations, peer evaluations and feedback from graduates after they enter practice.

Syllabus (Spring Semester, 2009)

Title of Course: General Practice Skills

Course Time: Tuesday and Thursday from 6:05 PM to 9:05 PM.

Location: C Building, Classroom 200 and Courtroom

Program Director: Associate Professor Stephen A. Gerst

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Office Hours: Tuesday and Thursday from 10:30 AM to 12:00 PM and Monday and Wednesday from 10:30 AM to 12:00 PM. If you need to contact any of the adjunct professors please do it through Professor Gerst. He will provide you their contact information and availability. Other times by appointment made directly with Professor Gerst.

Description of Course: The GPS course consists of seven modules, each of which will be taught by practicing lawyers or judges who specialize in the practice areas of the modules. Students will be divided into law-firm groups consisting of 4 or 5 student lawyers in each group. The law-firm groups will remain the same throughout the semester. This allows students to simulate a small law-firm and learn the strengths and weaknesses of being in a partnership. Students are responsible for individual assignments which will provide the opportunity to learn the essential skills and values of the legal profession. The modules and the skills practiced, in the order they will be offered, are as follows:

(1). Establishing a Law Office and Law Office Management

Skills taught:

- (a) Working cooperatively as part of a team
- (b) Organization and management of legal work
- (c) Written communication
- (d) Oral communication
- (e) Recognizing and resolving ethical issues.

(2). Family Law Practice

Skills taught:

- (a) Listening,
- (b) Counseling,
- (c) Mediation,
- (d) Recognizing and resolving ethical dilemmas
- (e) Pretrial discovery and advocacy

- (3). **Business Entities**
Skills taught:
(a) Drafting legal documents
(b) Oral communication
(c) Negotiation
(d) Recognizing and resolving ethical issues

- (4). **Wills and Estates**
Skills taught:
(a) Drafting legal documents
(b) Listening
(c) Interviewing and questioning
(d) Counseling
(e) Recognizing and resolving ethical issues

- (5). **Creditors/Debtors (Contracts/Bankruptcy)**
Skills taught:
(a) Written communication,
(b) Drafting legal documents,
(c) Factual investigation
(d) Recognizing and resolving ethical issues

- (6). **Criminal Law Practice**
Skills taught:
(a) Recognizing and resolving ethical issues,
(b) Negotiation,
(c) Pretrial discovery and advocacy
(d) Trial advocacy

- (7). **Personal Injury Law**
Skills taught:
(a) Working cooperatively as part of a team
(b) Factual investigation
(c) Interviewing and questioning
(d) Pretrial discovery
(e) Negotiation
(f) Trial Advocacy
(g) Recognizing and resolving ethical issues

Summary of the teaching plans of each module offered:

1. Law Office Management and Organization

In this module the students will practice the following skills:

- Developing a law-firm business plan
- Completing a client intake form, conflicts check, fee agreement and a declination letter

- Completing a 3-way reconciliation
- Resolving professional and ethical issues in the context of a law firm meeting
- Familiarizing with legal software programs for case management, billings, calendaring and conflicts checks.

2. Family Law

In this module the students will practice the following skills:

- Interviewing of a client in a marriage dissolution action
- Preparing a Petition for Dissolution, Petition for Temporary Orders, and Petition for Order of Protection.
- Participating in Court Hearings for temporary orders and for the order of protection
- Negotiating a Settlement Agreement on all issues in the case
- Presenting a negotiated settlement to a court
- Preparing a final decree, parenting plan and child support order.
- Using online resources.

3. Small Business Entities

In this module the students will practice the following skills:

- Interviewing a client who wants to form a small business
- Preparing Articles of Organization of an LLC and Operating Agreement
- Filing the Articles of Organization and obtaining a tax identification number
- Preparing minutes of LLC meeting including resolutions passed
- Negotiating provisions in an acquisition agreement
- Drafting indemnification, non-competition and intellectual property clauses in the acquisition agreement.

4. Wills and Estates

In this module the students will practice the following skills

- Interviewing a client for the purpose of obtaining the necessary information to prepare a will or estate plan
- Drafting a will for their client
- Preparing a Durable Power of Attorney and Medical Directives
- Preparing and processing the documentation necessary to completing an informal probate of an estate

5. Creditor/Debtor

In this module the students will practice the following skills

- Preparing a demand letter on behalf of a client in a debt collection matter
- Preparing a civil complaint, judgment and affidavit of default for judgment in a liquidated debt case
- Observing a role play of a default hearing on an unliquidated debt
- Preparing and processing a writ of garnishment
- Preparing bankruptcy petition and schedules
- Preparing motion for lifting of Stay Order and for finding a debt non-dischargeable.

6. Criminal Law

In this module the students will practice the following skills

- Preparing a motion to suppress evidence of an unlawful search and seizure
- Advocating in Court on the motion to suppress evidence
- Reviewing a plea agreement with a client
- Representing a client at a sentencing proceeding

7. Personal Injury

In this module the students will practice the following skills

- Conducting a witness interview
- Preparing a Disclosure Statement
- Preparing a client for deposition
- Participating in a deposition of a client and the other party
- Preparing a settlement conference memorandum
- Participating in a settlement conference with the judge

Reading Materials and Homework: Readings and materials will be provided to students in advance of each module or during the course of the module. There is no textbook for this course. Students will be expected to spend up to six hours outside of class each week working alone, or within your law firm groups, practicing and preparing for class as directed by the teaching faculty. Students will participate in classroom skills practice as well as individual and group activities throughout the course.

Faculty: The faculty members for this course are listed as follows:

- 1) Law Office Management: **Lynda Shely and Maria Bahr**
- 2) Family Law Practice: **Judge Norman Davis and Michael J. Cohen**
- 3) Small Business Entities: **Shelley Detwiller DiGiacomo and Jonathan F. Ariano**

- 4) Wills and Probate: **Judge Gary Donahoe and Bridget O'Brien Swartz.**
- 5) Creditor/Debtor: **Diane L. Drain and James F. Kahn**
- 6) Criminal Law: **Loyd C. Tate and David Lockhart**
- 7) Personal Injury: **Jorge Franco and K. Thomas Slack**

Grades and Attendance: The Course is a Pass/Fail required course for all third year students. A passing grade will require satisfactory completion and participation in all course homework, classroom assignments, **and** compliance with the attendance policy of Phoenix School of Law.

Attendance Policy:

1. Each student is obligated to attend and participate in every class. PhoenixLaw requires that every student attend at least 85% of all class meetings for each class in which the student is enrolled. Any student whose absences exceed 15% of the total number of class meetings will be dismissed from the course with an "F" grade. Within the bounds of this policy, each professor is free to maintain class-specific attendance policies and may include an attendance component in student evaluation. The professor will inform the Registrar when a student has violated the attendance policy. The Registrar will inform the student, the professor, and the Associate Dean for Academic Affairs in writing that the student has been dismissed from the course, and the professor will no longer allow the student to attend classes. For the purposes of this policy, neither PhoenixLaw nor the ABA distinguishes between excused or unexcused absences. However, if extraordinary circumstances have caused a student's absences to exceed the limit, the student may appeal the dismissal in writing to the Associate Dean and continue to attend classes pending the Associate Dean's decision, which shall conclude the matter.

Courses meeting twice per week have a maximum allowable absence of 4 classes.

2. If a student has not attended any classes for 30 calendar days, and has not been officially approved for a Leave of Absence or Withdrawal, he or she will be deemed to have withdrawn from PhoenixLaw.

Evaluation: The overall course will be monitored by the Program Director. The adjunct instructors will evaluate the students and the students will evaluate each other's performance at appropriate times. The students will evaluate the adjunct instructors and the overall course at appropriate times.