Problem Solving in a Multidisciplinary Environment: Must Ethics get in the Way of Holistic Service

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PROBLEM-SOLVING IN A MULTIDISCIPLINARY ENVIRONMENT?
MUST ETHICS GET IN THE WAY OF HOLISTIC SERVICES?

J. Michael Norwood and Alan Paterson*

The article analyzes the strengths and weaknesses of delivering legal services as a part of a multidisciplinary practice (MDP). The analysis considers multidisciplinary practices from the perspectives of clients served, lawyers, the legal profession, and the general public, but emphasizes the quality of the relationships amongst the legal and nonlegal professionals involved in the MDP. While sounding a cautionary note about the need to preserve core ethical and professional values when implementing a MDP, the article seeks a balance among the common, and sometimes competing interests, of the public, the legal profession, and society whereby it describes an effective working model for multidisciplinary practice that accommodates the goal of enhanced services to clients while retaining the protections that clients and the public find within the existing principles of professional responsibility and the norms of best practice.

The paper develops its core theme of seeking a path for both retaining the traditional notions of legal ethics and professional values, while also accommodating the advantages of MDPs, through three parts. The first part puts forth a working definition of a multidisciplinary practice and posits four models for managing multidisciplinary practices. Part two, introduces the interplay of the core values of the legal profession with the models for managing MDPs that are developed in part one. The legal profession’s shared notions of loyalty to clients, confidentiality, privilege, professional independence of judgment, conflicts of interest, unauthorized practice, managing legal fees and trust accounts, truthfulness and fairness in marketing, and enforcement of professional discipline, are all at risk of profound alteration by the challenge of MDPs. The last part describes a working model for managing a MDP that provides the ad-

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Moving the data from the database to the spreadsheet.

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**Vantages of such practice without eroding the fundamental values of the profession.**

**Introduction**

As Dr. Liu entered her notes on the hospital chart concerning her treatment of baby Christie, she was confident that Christie's condition would significantly improve before she left the hospital. Although born near full term, her weight, height, and head circumference were significantly below average. When she was born, Christie showed clear signs of drug addiction. Her muscles were stiff, and her attentiveness to her new world was significantly diminished in comparison to normal babies. She spent much of her day in a deep sleep. Her fully awake time was limited and she moved quickly from that state back toward deep sleep. Given her condition, the hospital protocol was to order a toxicology test for drug exposure, and Christie tested positive for heroin. Her mother voluntarily reported using both cocaine and heroin during her pregnancy. Dr. Liu treated Christie for withdrawal symptoms using diminishing doses of methadone. Although this course of treatment was somewhat controversial in the medical community, she felt this was the most humane way to ease Christie’s suffering. Having been hospitalized for two weeks now, Christie seemed to have turned a corner; she was gaining weight, and was almost free of methadone. She should be ready to go home in another week.

Nevertheless, Dr. Liu was deeply troubled about Christie’s future. What would her home life be like? Would she get her immunizations, and needed medical care. Would she be checked for developmental delays as she had recommended? Would appropriate interventions for any delays that were diagnosed be done? Who would be responsible for Christie’s daily care? Her mother had only visited a couple of times, stayed only briefly, and had not bonded with the child. Christie’s grandmother had visited often and told Dr. Liu that she would care for Christie until her mother was more able. This eased Dr. Liu’s mind about not reporting Christie as a possibly abused and neglected child to the state Children Youth and Families Department (CYFD). Anyway, she knew that CYFD would do nothing for Christie. They would simply trust that she would be “safe” in her grandmother’s care even though the grandmother had no legal custody.

But, hadn’t Christie’s grandmother raised her mother? Would she do better with Christie? Did she need help with parenting skills, money for child care, housing? Without legal custody, would she get access to needed services? Does she have a criminal record of her
own that might interfere with raising Christie? Who and where is Christie's father? Dr. Liu knew her limitations. Her treatment of Christie would end in a week’s time, but Christie would need more help than she could give in that brief time to have a chance to thrive and grow. She could use a qualified social worker to help with her home life and access to needed benefits. She needs an expert in child development and access to special education programs. She might also need a lawyer to help with the expected legal entanglements that might disrupt the stability and safety needed in her home environment. Most importantly, she did not need anymore abuse or neglect in her life.

Dr. Liu also knew that there are many Christies, and that they all deserve a chance at success. To fully respond to the needs of children like Christie, a community wide commitment is required. The efforts of many agencies and individuals need to be coordinated on behalf of children like Christie. Community planners, politicians, educators, prosecutors, and others all need to coordinate their work toward harmonizing service delivery systems, and improving public policies on behalf of these children.

Dr. Liu knew her own limits, but, she was unwilling to let Christie and other babies like her leave the hospital, facing a future left to the whims of chance that she just might be lucky enough to encounter qualified and committed professionals who would intervene on her behalf at just the right moments. That approach was destined to fail; too many children simply repeated the pattern of addiction, violence, educational drop out, incarceration, poor health, and early death. Instead, Dr. Liu envisioned a different future for Christie. One in which before leaving the hospital, the caregivers of babies like Christie would voluntarily enroll in a program which would connect them to a coordinated team of professionals, coming from many disciplines, who would work together to help Christie achieve a successful outcome as a healthy and safe child. The team would include physicians, educational development specialists, psychologists, social workers, lawyers, community planners, mediators, and others. Dr. Liu knew that the effort needed, not only to assemble such a team, but to harmonize their work toward common objectives, would be enormous, but she was sure the results would be worth it.¹

¹ This story is loosely based on the experience in the early 1990’s of Andrew Hsi, M.D. M.P.H., an Associate Professor in the Pediatrics Department of the University of New Mexico (UNM) School of Medicine. For more than a decade, Dr. Hsi has been developing a multidisciplinary problem-solving approach to serving the needs of children at risk of abuse or neglect. The experience and workings of the multidisciplinary team assembled by Dr. Hsi are described in more detail in part 3 of this paper.
During the past decade, professionals from many disciplines have echoed Dr. Liu's insight of strengthening their ability to serve their constituencies by using a coordinated multidisciplinary teamwork approach to address a set of complex and interrelated problems. This insight has given rise to a worldwide movement to establish multidisciplinary practices (MDP), and many of these MDPs desire to include lawyers on their problem-solving teams.

Although the multidisciplinary team approach to problem-solving shows great promise for application in a wide variety of human problems, including those faced by children at risk of abuse and neglect, it is clients needing assistance with business transactions that have garnered the lion's share of the interest surrounding MDPs within the legal profession. The "Big Four" accounting firms traditionally composed of CPA's, now employ lawyers, and other professionals in order to provide one stop service to clients engaged in complex multi-national business transactions. These accountancy firms argue that their new "professional service firms" offer a more efficient, cost effective, and qualitatively superior means of assisting their clients than the long established conventional practice of assembling ad hoc teams of professionals.

Increasingly, these "personal service firms" have been seeking to compete directly for corporate legal work with the larger law firms (not just in the United States but globally). In response, the President of the American Bar Association (ABA) in 1998 appointed a commission to study and report on the question of whether its Model Rules of Professional Conduct should be modified in order to allow lawyers to enter into fee sharing arrangements with nonlawyer professionals.


3 In recent years there has been significant size differential between the top 4 or 5 accounting firms in the world and other accounting firms. These firms have come to dominate not simply their own profession but its regulation as well as spawning immensely profitable personal service and management consulting firms through cross-selling from their auditing work. The collapse of Arthur Andersen following the Enron accounting scandal has left a Big Four of Ernst and Young, KPMG, Price Waterhouse Cooper and Deloitte and Touche.

4 The benefits to the clients seeking the assistance of multidisciplinary practices, in part, for resolving their legal problems is based on the simple idea that "legal problems in a complex society often require(d) the knowledge and skills of diverse professionals. Multi-professional offices, staffed by a variety of different experts . . . facilitate(d) the dispute resolution process. Someone with a problem could come to the office and get help from the professional or team of professionals best suited to deal with the problem. Like a supermarket, the multi-professional office could provide one-stop shopping." Gary Munneke, A Multidisciplinary Practice in Your Future?, in MULTIDISCIPLINARY PRACTICE 1-2 (Gary Munneke & Ann MacNaughton ed., 2001).
that they could offer similar MDP services to clients.\footnote{In August 1998, then ABA President Philip S. Anderson appointed the ABA Commission on Multidisciplinary Practice to “determine what changes, if any, should be made to the ABA Model Rules of Professional Conduct with respect to the delivery of legal services by professional services firms.” Commission on Multidisciplinary Practice, Report and Recommendation, at http://www.abanet.org/cpr/mdpreport.html (last visited August 8, 2002).}

To date, despite the recommendation of its Commission on Multidisciplinary Practice that the Model Rules be modified to accommodate multidisciplinary practices\footnote{See id.}, the ABA House of Delegates, the governing body of the ABA, has remained steadfast in support of leaving the Model Rules on this issue unchanged.\footnote{A comprehensive history of the debate leading up to this action by the ABA House of Delegates, including a rich collection of materials on multidisciplinary practice is found at http://www.abanet.org/cpr/multicom.html (last visited August 8, 2002).} Notwithstanding the ABA’s reluctance to alter the Model Rules, the multidisciplinary practice movement remains strong, and lawyers continue to explore means through which they can engage in Multidisciplinary Practices without violating their ethical duties.\footnote{See generally John Gibeaut, Cash Boughs, 50 A.B.A.J. (2001) and Munneke, supra note 4.}

The purpose of this paper is to explore the mechanisms for providing holistic services\footnote{Holistic service is an approach taken by some lawyers to working with clients that includes awareness that they may have a variety of legal needs in addition to the one for which services are being sought, as well as, awareness that the client may have additional unmet non legal needs. Protocols are developed to expose these needs as well as to resolve them, sometimes in collaboration with nonlawyer professionals.} including legal services as a part of a multidisciplinary practice team of professionals while remaining consistent with the professional values articulated in the ABA Model Rules of Professional Conduct. Our consideration revolves around the notion that the key ingredient for understanding the workings of MDP is to probe deeply into four (4) relationships inherent in every MDP: 1) the relationships among professionals, 2) the relationships between clients and lawyers, 3) the relationships between clients and the other professionals, and 4) the professional teams relationship with broader communities. The most important of these are the relationships among all the legal and nonlegal professionals. If these relationships are managed poorly, service to clients will suffer and ethical rules may be violated. If they are managed well, the client will benefit from access to a creative and holistic problem-solving approach that can only be designed and implemented by a team of multidisciplinary professionals. In addition the clients, when working with the lawyer member(s) of the team, will retain the safeguards available to them in the existing principles of professional responsibility and the norms of best
practice.

The paper develops its core theme of seeking a path for the legal profession to provide clients with the advantages of professionally responsible multidisciplinary practices, through three parts. The first part puts forth a working definition of multidisciplinary practice and introduces four general models of MDP. These four models are principally differentiated by the economic or formalistic relationships of command and control among the MDP professionals. Part two, introduces the interplay of the core values of the legal profession with these four models. It exposes the criticality of retaining these values regardless of the model in which the lawyer works, and supports the current prohibition against the nonlawyer/lawyer fee sharing or partnership model. The last part, builds on the concept that probing deeply into the complexities of the relationships within multidisciplinary practices is the way forward to advancing our understanding of the mechanisms of professionally responsible MDP problem-solving. This part describes the experience of the University of New Mexico (UNM) School of Law Child Advocacy Clinic with working in a MDP environment to address the sort of problems faced by children like Christie. It attempts to move the dialogue surrounding MDP beyond the Model Rule regulations concerning formalistic or economic models and toward a deeper understanding of how an effective MDP can solve problems without sacrificing lawyers’ professional values. However, we acknowledge that the New Mexico model of MDP may not work for all areas of practice including the business transactional practice that has caused all the sparks within the current MDP debate.

I. MEANING AND MODES OF MULTIDISCIPLINARY PRACTICE

The ABA Commission on Multidisciplinary Practice for the purposes of its Final Report defined a MDP as “a partnership, professional corporation, or other association or entity that includes lawyers and nonlawyers and has as one, but not all, of its purposes the delivery of legal services to a client(s) other than the multidisciplinary practice itself or that holds itself out to the public as providing nonlegal, as well as legal, services.” This definition is comprehensive enough to include many models of multidisciplinary practice. It encompasses alliances and entities that are permitted by the ABA Model Rules, as well as those which are banned by the Model Rules because they are comprised of strong business ties between lawyers and nonlawyers such as partnerships, corporations or fee sharing arrangements. The

ABA House of Delegates in adopting its recommendation on MDP clearly staked out its position regarding the limits of permissible business arrangements for MDPs, stating that the “sharing of legal fees with nonlawyers and the ownership and control of the practice of law by nonlawyers are inconsistent with the core values of the legal profession.”11 The recommendation further affirmed that, “the law governing lawyers, that prohibits lawyers from sharing legal fees with nonlawyers and from directly or indirectly transferring to nonlawyers ownership or control over entities practicing law, should not be revised.”12

However, the recommendation adopted by the House of Delegates also recognized that MDPs that don’t share fees between nonlawyers and lawyers are not necessarily barred by the Model Rules of Professional Conduct (MRPC). Thus the recommendation also calls for a review of the Model Rules of Professional Conduct by the ABA Standing Committee on Ethics for the purpose of recommending “to the House of Delegates such amendments to the MRPC as are necessary to assure that there are safeguards in the MRPC relating to strategic alliances and other contractual relationships with nonlegal professional service providers consistent with the statement of principles in this Recommendation.”13 These principles refer to the public interest in preserving core values of the legal profession, including loyalty to client, independence of legal judgment, keeping client confidences, avoiding conflicts of interest, advancing the quality of justice, promoting access to justice, and barring the practice of law by nonlawyers.14

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12 See id.
13 See id. There has actually been little follow-up by the ABA Standing Committee on Ethics to the House of Delegates Recommendation for further revision of the Model Rules relating to safeguarding the public from the risks posed by MDP. In February of 2002, the ABA House of Delegates adopted the revisions to the Model Code proposed by the ABA Ethics 2000 Committee with three amendments (unrelated to MDPs) to their proposal. The only change from the previous Model Rules to the 2002 Model Rules relating to Rule 5.4 regarding the professional independence of a lawyer is to add an exception to the prohibition on sharing legal fees with a nonlawyer to the effect that “a lawyer may share court-awarded legal fees with a nonprofit organization that employed, retained or recommended employment of the lawyer in the matter.” Rule 5.5 relating to unauthorized practice of law remained unchanged. The ABA continues to track changes in the rules of professional responsibility adopted by each state in regards to MDPs as well as states that have taken a position on the issues. The ABA’s summary of state activity relating to MDP is found at http://www.abanet.org/cpr/multicom.html (last visited August 8, 2002)
14 The House of Delegates Recommendation articulates eight principles:
   “1. It is in the public interest to preserve the core values of the legal profession, among which are:
      a. the lawyer’s duty of undivided loyalty to the client;
The Report accompanying the recommendation that was adopted as amended by the House of Delegates recognizes that MDP, "side-by-side arrangements generally are permitted under current rules, and various ‘strategic alliances’ and other ad hoc and systematic arrangements have been announced between law firms and other professional firms." The report also states that there is a “need for safeguards regarding the provision of legal services by law firms in arrangements with separate nonlegal professional services firms (‘side-by-side’ arrangements)."

The House of Delegates accomplished two important things with its “compromise” recommendation on MDP. First, it reinforced the importance of fundamental professional values. Second, it acknowledged that MDPs are an increasingly important entity that can serve clients needs without compromising these values, provided that safeguards for clients are in place.

The ABA’s extensive two-year review of MDP placed their adherence to ethical standards at the very core of their viability as problem-solving entities. Any MDP involving the delivery of legal services must be vigilant in protecting its clients in this regard. Following the path set out by the ABA recommendation, the first step in assessing

b. the lawyer’s duty competently to exercise independent legal judgment for the benefit of the client;

c. the lawyer’s duty to hold client confidences inviolate;

d. the lawyer’s duty to avoid conflicts of interest with the client; and

e. the lawyer’s duty to help maintain a single profession of law with responsibilities as a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice.

f. The lawyer’s duty to promote access to justice.

2. All lawyers are members of one profession subject in each jurisdiction to the law governing lawyers.

3. The law governing lawyers was developed to protect the public interest and to preserve the core values of the legal profession, that are essential to the proper functioning of the American justice system.

4. State bar associations and other entities charged with attorney discipline should reaffirm their commitment to enforcing vigorously their respective law governing lawyers.

5. Each jurisdiction should reevaluate and refine to the extent necessary the definition of the “practice of law.”

6. Jurisdictions should retain and enforce laws that generally bar the practice of law by entities other than law firms.

7. The sharing of legal fees with nonlawyers and the ownership and control of the practice of law by nonlawyers are inconsistent with the core values of the legal profession.

8. The law governing lawyers, that prohibits lawyers from sharing legal fees with nonlawyers and from directly or indirectly transferring to nonlawyers ownership or control over entities practicing law, should not be revised.” Id. at http://www.abanet.org/cpr/mdprecom10f.htm.

15 See id.

the ethical viability of lawyer involved MDP is to examine the economic or formalistic management and control relationships among the MDP professionals.

There are generally four models for the management and control of MDP that are derived from the experience of multidisciplinary practices in a variety of jurisdictions and from the published literature. The first model is one in which the lawyer or lawyers in a partnership acts as the leaders of a multidisciplinary team, the members of the team being employees of the partnership, report to the partners, and are managed by the partnership. This model enjoys limited use in the United States for practical reasons. Some examples of this model are found in Law School Clinics and Public Defender Offices that occasionally employ social workers or clinical psychologists to help manage the constellation of needs for clients, families, and children, beyond legal services, in matters such as child custody, substance abuse, mental disabilities, health care, and access to benefits.

The second model is a variant on the first, being spin-off or ancillary businesses owned by the lawyer or law firm which can do work related to the practice of law and even channel profits back into the law firm. Amongst the earliest of these was Arnold & Porter’s ancillary businesses which it formed to handle its lobbying and real estate development work. Since then, despite the misgivings of the ABA in the 1990s, subsidiaries and affiliate corporations or partnerships

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17 There are many formulations of MDP models in the literature. We have tried to distill four distinguishable models. Some analysts have made finer distinctions, positing more than four models, and some analysts are more detailed in their descriptions of the variety of models. The authors settled on the four models described in hopes that they are generally representative of the possibilities. For some other formulations of MDP models see Bryant Garth & Carole Silver, The MDP Challenge in the Context of Globalization, 52 CASE W. RES. L. REV. 903 (2002) in which the authors describe three existing MDP models, “Captive Law Firms,” “Stealth MDPs,” and “Referral Relationships,” id. at 910-16; see also, Preserving the Core Values of the American Legal Profession - The Place of Multidisciplinary Practice in the Law Governing Lawyers: Report of the New York State Bar Association Special Committee on the Law Governing Firm Structure and Operation, at http://www.law.cornell.edu/ethics/mdp.htm (last visited August 8, 2002) in which the five models described in Chapter 4 include, “Ad hoc cooperation between lawyers and nonlawyer professionals; nonlegal businesses of law firms and dual practitioners; ancillary businesses conducted as law firm subsidiaries; ancillary businesses in which autonomous nonlawyers have a financial interest (ventures with investment advisors – ventures with accounts); and law firms in which nonlawyers have a financial interest;” and Mary Daly, Choosing Wise Men Wisely: The Risks and Rewards of Purchasing Legal Services from Lawyers in a MDP, 13 GEO L. J. 217 (2000) in which five models are described including, “the cooperative model;” “the command and control model;” “the ancillary business model;” “the contract model;” and “the fully integrated model,” id. at 224-26.

18 See STEVEN GILLERS, REGULATION OF LAWYERS 843 (5th ed. 1998).

19 The debate between supporters of ancillary businesses and their critics reached its height in August 1991 when the ABA’s Standing Committee on Ethics and Professional Responsibility and the ABA’s Litigation Section put forward competing proposals to the
have become an everyday feature of large law firms. Lobbying, environmental planning, international trade, intellectual property, financial services, e-commerce, media relations and labor relations are but the most common of the ancillary services to be “hived-off” in this way. Separating the firm’s legal work from its ancillary work allows the constraints on fee-sharing with nonlawyers contained in M.R. 5.4 to be circumvented, thus enabling outside investment and nonlawyer expertise to be brought in to assist in the ancillary business whilst also sharing in its management and profits.

The third model is the full partnership or agreement between professionals of disparate disciplines – the MDP. This fully integrated MDP is the model that has been the subject of the global debate between regulators, bar associations and the Big Four accounting firms. The model exists in a few jurisdictions and has been endorsed in several more, but there are major difficulties with the regulation of MDPs.

The last model is a closely coordinated collaborative made up of independent professionals. These collaborative relationships can take many forms. Some are loosely formed teams of professionals assembled on an ad hoc basis who work in a cooperative relationship for the benefit of a client. Some involve more formal relationships or alliances between lawyers and nonlawyers, law firms and accounting firms involving such matters as referrals, cross referrals, consulting services, and allocation of resources. The more formal relationships

ABA House of Delegates on the issue. By a narrow margin the Delegates preferred the Litigation Section’s complete ban on such businesses (if they operated outside the law firm) to the more liberal approach of the Standing Committee. However, the ban was short lived. No State ever adopted the version of ABA Model Rule 5.7 which the Delegates had accepted that August. It was repealed by the Delegates one year later, and in 1994 a new version of 5.7 was adopted, setting out the ethical constraints on lawyers working with ancillary businesses. See Gillers, supra note 18, at 846 and Geoffrey Hazard, Susan Koniak & Roger Cramton, The Law and Ethics of Lawyering 1044 (3rd ed. 1999).

20 The essence of the second model of MDP is that by creating a separate legal entity from the law firm which is nonetheless controlled by the law firm, whether as a linked partnership or company or a subsidiary company whose shares are owned and controlled by the law firm, the profits of the separate entity (which are law-related, as opposed to legal, fees) can be shared with non-legally qualified investors without the law firm being held to be in breach of M.R. 5.4 “a law firm. .shall not share legal fees with a nonlawyer”.

21 Outside of the United States, the Big Five accounting firms were remarkably successful throughout the Nineties in establishing global networks of affiliated or “captive” law firms – including the largest law firms in France, Spain, Switzerland and Scotland, amongst other countries. The legal connection between these firms and the Big Five were never transparent, because of the ban on MDPs in most jurisdictions. The most successful of these global chains was Andersen Legal which was carved up amongst the Big Four in 2002, in the post-Enron collapse of Andersen.
sometimes are contractual in nature.²² To the extent that these more formal relationships implicate fee-sharing, control of lawyers by nonlawyers resulting in loss of professional independence, or the promotion of the unauthorized practice of law, they are viewed as problematic by the promoters of maintaining traditional professional values. Otherwise, to the extent that these relationships provide a market for clients who desire to access the services of a MDP, the traditionalists embrace them.²³

This collaborative model is the one used by the UNM Child Advocacy Clinic. It is aimed at children at risk of abuse or neglect, drawing on a team of professionals including lawyers, pediatricians, social workers, psychiatrists, child development specialists, and community planners. It has evolved over the past seven years. It and other similar models was described in a recent article published in the Clinical Law Review.²⁴ This model will form the basis for an analysis of how a MDP can be organized and operated in a manner that is effective and consistent with existing core professional values.

Why has multidisciplinary practice become more popular in the past quarter of a century? In part, because there is an increasing recognition that clients’ problems are rarely purely legal in nature and that a more “holistic” approach to problem-solving for clients may pay dividends rather than isolating the “legal” problem from the rest. Such an approach requires the use of a multidisciplinary team with expertise drawn from a range of professions and specialties. In part, also, because the Big Five, now Big Four accounting firms have seen

²² See e.g., Daly, supra note 17, at 226 (describing some of the forms these contracts might take); and Garth & Silver, supra note 17, at 916 (reporting on an alliance between a Chicago law firm and a former Secretary of Defense’s consultancy group).

²³ We believe that model four MDP includes forms of MDPs, which serve the public interest, preserve professional independence, and fundamental ethical values of the lawyers. However, model four also includes MDPs which pose a threat to the public interest because their strategic alliances are so financially interdependent the lawyers ability to conform to the requirements of professional responsibility is undermined by, at the very least, an appearance of impropriety. The ethical challenges presented by different implementations of model four MDP may well be derived from the nature of their enterprise. Not-for-profit MDPs (such as the UNM Child Advocacy Clinic described in this paper) that serve the public interest, may be more likely to be ethically compliant than for-profit business arrangements, especially those known as “captive law firms”. Captive law firms are “organizations that have formally affiliated with a non-law professional services firm, such as one of the Big Five accounting firms. . . .[T]he captive law firms . . . promote the nonlegal services offered by the Big Five network [and] generate work through referrals from the Big Five as well as separately in the way law firms typically operate. . . . The law firm benefits from the initial referral and the hope that a lasting client relationship can be developed out of that referral. It is possible that the captive law firm also could have some economic dependency on the Big Five firm or even a subordinate relationship to it in a management hierarchy.” Garth & Silver, supra note 17, at 910-11.

²⁴ Trubek & Farnham, supra note 2.
MDP not only as the obvious way for them to develop their personal service and management consultancy firms but as the "Trojan horse" by which to take a major stake in the global market for corporate legal services. The four models set out above show different ways in which such multidisciplinary teams can be put together. All enable nonlawyer experts to share problem-solving with lawyers. However, only the last three enable nonlawyers to put money into an MDP and only the second and third allow nonlawyer partners to share in the governance of the business as well as the profits. Model Two — ancillary businesses, also allow "law-related" expertise to be shared with other law-firms in a manner which would be impossible for a law firm because e.g. of the confidentiality and conflict of interest rules. From the perspective of the critics, these very advantages are the disadvantages which make them distrust multidisciplinary practice. The possible conflicts of interest, the threat to client confidentiality and professional privilege, the domination of lawyers by lay owners or managers of the business, confusion as to whether clients of the business are also clients of the law firm, and the use of ancillary businesses as a cloak for practices which bring benefits to the law firms as well as the businesses through breaching the ethical rules which bind law firms (e.g. in relation to marketing and the attraction of business) are concerns that critics of MDP see as realistic problems.

25 Multidisciplinarity is the essence of such firms — indeed the provision of integrated professional services could be said to be their raison d'être.

26 Hence their drive to establish global networks of captive law firms. See supra note 21.

27 One of the drawbacks of partnerships as business vehicles for law firms is that funds for the expansion or development of the business have to come from the professional partners, unless they have very understanding bank managers. Supporters of MDPs claim that entrepreneurs or venture capitalists would invest in large law firms if they could become equity partners in the firm.

28 It is not that difficult to give a nonlawyer in a law firm partnership a salary which equates to an appropriate share of the equity in a partnership, however although able to attend partnership meetings such individuals cannot be given the voting rights of a partner without a MDP structure.

29 See e.g., between the client's desire to get the best specialist services available and the MDP firm's interest in the client using their specialists, even if they are not the best available.

30 The risk stems from the fact that no other professionals have legal professional privilege and because the scope of the confidentiality obligation may well vary between different professions.

31 One of the live debates following the Enron and WorldCom scandals is the extent to which the questionable ethical practices involved vindicate the critics of MDP or whether, as MDP proponents assert, the accounting and auditing deficiencies identified in these cases were unconnected with the "flaws" in MDP perceived by the critics. See Claire Smith, After Andersen, LEGAL BUS., June 2002, at 53.
II. THE INTERSECTION OF MULTIDISCIPLINARY PRACTICE AND PROFESSIONAL VALUES

As stated above, each of the four ways of managing a multidisciplinary practice may clash with clients' expectations relative to values of the legal profession. To be ethically viable, if it's possible at all, within its mission and management structure, each MDP model must forge a means for adhering to these values.

A. Model One

Despite the foregoing, Model One, lawyer as the leader of a multidisciplinary team, does not appear to offer any particularly intractable ethical problems, since the firm remains under the control and direction of lawyers and since the behavior of the nonlawyers in the firm would be expected to conform to the ethical rules of the profession. Such individuals, like any unlicensed employees in a law firm, will be covered by legal professional privilege and by the firm's indemnity insurance policy. Only if the nonlawyers gain a dominant de facto position in the business will this threaten the ethical protections emanating from the legal profession. The ABA has sought to prevent this development through the use of M.R. 5.4, the rule which bars partnerships between lawyers and nonlawyers aimed at delivering legal services, and fee-sharing between lawyers and nonlawyers.

B. Model Two

Model two, ancillary businesses, has caused division in the profession for a quarter of a century. Opponents have objected to the circumvention of M.R. 5.4 through the device of separating the firm's legal work from its ancillary, non-legal work, arguing that it threatens lawyer professionalism and independence; endangers quality and confidentiality; and leads to conflicts of interest. The critics forced the amendment of M.R. 5.7 in 1991 to allow lawyers to offer non-law services only if they were "incidental to the legal services" which they provided and only if they were provided by employees of the firm, thus conflating models one and two. However, the ABA reform lasted barely a year and no state chose to implement it. Today, M.R.

32 Model Rules of Professional Conduct 5.3 places the responsibility on managing and supervising lawyers to ensure that a nonlawyer assistant's conduct is "compatible with the professional obligations of the lawyer. But see Jacqueline St. Joan, Building Bridges, Building Walls: Collaboration Between Lawyers and Social Workers in a Domestic Violence Clinic and Issues of Client Confidentiality, 7 CLIN. L. REV. 403, 430-37 (2001). Here she analyses the complexities differing reporting obligations for child abuse and neglect in Colorado which led her team to reject the law firm employee model as being ineffective in fully protecting the client confidences where social workers would be employed by lawyers in a domestic violence clinic.
5.7 requires lawyers providing law-related services, typically through the vehicle of an ancillary business controlled by the law firm, to abide by the Rules of Professional Conduct. And if the provision of law related service is "not distinct from the lawyers' provision of legal services to the clients" or if the lawyer fails to make it clear that the services provided are not covered by the normal protections of the client-lawyer relationship there is a risk of violating these professional rules. Clearly, the provision of law-related services by lawyers who are also providing legal services to clients has the potential to mislead those clients who may not appreciate that the normal ethical rules governing lawyer/client relations will not apply, hence the need for M.R. 5.7. Despite it, the critics have not gone away.

C. Model Three

Model three, the fee sharing/full partnership, has been the focus for the most sustained battles over the core values of the profession. Full blown partnerships between lawyers and nonlawyers in order to offer legal services remain banned in most countries. Nevertheless, a number of jurisdictions either allow them or are in the process of allowing their establishment (Germany, The Netherlands, Ontario, New South Wales and England.). In each case the pragmatic motivation has been a fear that market and governmental forces would eventually force MDPs on the legal profession, and that therefore, the lawyers should alter their regulations to allow their creation now, while they are in a strong position to control the shape and content of the regulations. The reformers therefore, make all MDPs providing legal services subject to the practice rules of the legal profession. The likelihood, of course, is that this will be unacceptable to the Big Four because they will view the legal profession's ethical rules as too constricting for them to conduct the range of auditing and professional services business they have been use to doing in the past. More likely, once the legal profession has conceded that MDPs, in some form are acceptable, the competition authorities and regulators will force

33 They are banned either by legislation or by a practice rule of the professions.
35 In Europe, the United Kingdom (UK), Australia and Canada not to mention the World Trade Organization, there has been a strong trend in recent years for restrictive practices within all the professions to come under scrutiny from the perspective of free competition.
36 The Securities and Exchange Commission (S.E.C.) already has rules which govern certain aspects of MDP and the post-Enron fallout may increase these. The Competition
greater concessions.

But why are the critics so opposed to MDPs? What threats to professionalism and core values are they thought to involve? Five main concerns are typically flagged:

1) Since they involve, by definition, partnerships with nonlawyers, they are seen as undermining the collegial nature of the legal profession and its core values in particular, competence, independence, confidentiality, loyalty (in the conflict of interests context) and access to justice. To the extent that the law and legal systems are fundamental pillars of society, and the rule of law is central to liberal democracies, the possibility of MDPs being controlled by nonlawyer partners, committed to different professional values, is a matter for societal concern.\footnote{The Advocate General in his opinion in \textit{Wouters, supra} note 36, indicated that while the Dutch ban on MDPs between lawyers and accountants is an appreciable restraint on competition, it is one which might be justified in the interests of guaranteeing such core values of the legal profession as independence, confidentiality and conflicts of interest. This argument was subsequently upheld by the Court in its decision in the case. While an MDP controlled by accountants is very likely to be committed to providing the most cost-effective corporate legal services it is unlikely to have a particular commitment to the rule of law or the independence of the profession.}

2) Since the MDP will involve a variety of professions with differing codes of ethics, some with less taxing standards than those of the legal profession in key areas e.g. conflict of interest, privilege, independence, or duties to the court, it is likely that nonlawyer controlled MDPs which provide legal services will do so with less protection to clients, without the clients being aware of this. Such a risk would be further exacerbated where those controlling the MDPs were non-professionals;

3) There seems a fundamental antinomy between accounting firms which provide auditing services (which are under a duty of public disclosure) and law firms offering litigation services (which, because of the privilege are under a duty of non-disclosure). It is difficult to see how the same firm could offer both these services without jeopardizing one or the other's duty.

4) MDPs are designed to enhance choice for clients through diversity amongst providers. However, they may also create conflicts
of interest whilst restricting client choice in that lawyer partners will be more likely to refer clients to their accountant, surveyor, architect partner, rather than the best independent adviser to do the job.

5) MDPs as a concept create major regulatory challenges which most competition authorities have failed to grapple with effectively.

This fifth problem raises complex issues concerning the sometimes conflicting ethical obligations of different professions. Frequently, it is assumed that the solution is for each profession in a MDP to regulate its own members. However, as Andrew Boon and Jennifer Levin have argued,\textsuperscript{38} it is difficult to see how MDPs could function with different professional staff being subject to different regulatory regimes and ethical standards. What if some of the professionals were largely unregulated? Transparency, telling the clients the different standards to which each member of staff dealing with their business will be held, is impractical. It would be a recipe for confusion amongst clients and “buck-passing” by staff and their professional bodies or insurers whenever a complaint arose. The very notion that only some of the personnel in a MDP would be covered by legal professional privilege or the client security/fidelity fund serves to show how unrealistic such a proposition is.

The public interest clearly requires a single set of standards and a single regulatory framework for all staff in a MDP. The easiest way to achieve this is to adopt the ethical precepts of one profession. But which one? Given that lawyers offer a greater degree of client confidentiality because of a stricter regime over conflicts of interest and the operation of lawyer/client privilege, they would argue that their code should prevail in any MDP where there are lawyers.\textsuperscript{39} This is hardly likely to appeal to the self-confident, aggressively entrepreneurial “Big Four” accounting firms.\textsuperscript{40}

A more logical route would be to develop a composite code for professionals in a MDP, but even if a consensus on core values for MDPs could be achieved, which seems unlikely,\textsuperscript{41} the danger here

\textsuperscript{38} Andrew Boon & Jennifer Levin, The Ethics and Conduct of Lawyers 85 (1999).

\textsuperscript{39} This was the route that appealed to ABA Commission on MDPs who wished all professionals in an MDP to be governed by the lawyers’ ethical rules.

\textsuperscript{40} However, the post-Enron fallout has temporarily put the Big Four on the defensive as far as MDPs are concerned.

\textsuperscript{41} The continued resistance of the accounting profession (and President Bush and the Chair of the S.E.C.) to a complete ban on auditing firms providing consulting services to the firms that they audit, despite the Enron and WorldCom scandals, aptly demonstrates how difficult it would be for lawyers and accountants – not to mention other professions – to reach agreement on areas such as the appropriate rules on conflicts of interest for
would be "Esperanto ethics" - a solution which fails because staff perceive themselves as lawyers, accountants, surveyors etc rather than members of a new profession – the multidisciplinary worker. Indeed, if the professionals did not react in this way, MDPs would threaten the autonomy and corporate identity of the existing professions. Moreover, who would draft such a code; a collaboration between the leading professions? A new regulatory agency representing each profession? Would that body also police MDPs? Would it have to develop its own client security fund and indemnity insurance policy cover, or would the legal profession allow its protective funds to extend to the nonlawyer partners in MDPs. Perhaps it is not surprising that reform in this area is proving so problematic.

D. Model Four

Model four, a voluntary collaborative of independent professionals, can also raise fundamental ethical issues, although they may present in more subtle or nuanced forms. Such problems are more likely to arise where the lawyer is committed to the individual client, as their independent champion. The role of the zealous advocate is certainly difficult to reconcile with being part of a team whose members may have different professional values and concepts of the interests of the client. Here, the notion of an ethic of care may have much to offer since it enjoins lawyers to care for those other than their immediate clients, and undermines the adversarial ethic along the lines supported by David Luban, William Simon and Robert Gordon, to name but three. However, David Luban, would probably recognize the limitations of an ethic of care in child abuse cases, and even the others would see that the decision as to who the lawyer should care for in these cases is necessarily problematic.

In one or two Australian Community Law Centres that contain

42 Esperanto is an international language developed to overcome the problems of international communication without the disadvantages of cultural imperialism which flow from attempts to support English, French, Spanish or Mandarin as the international language of choice. It has foundered on the fact that it is a manufactured language with no native Esperanto speakers, culture or literature.

43 The latter option seems to require a greater degree of altruism by the legal profession to its rivals than seems reasonable to the dispassionate observer.


46 David Luban would most likely argue that an ethic of care does not extend to an abuser accused of the crime of child abuse because the accuser has the power of the state behind the prosecution, resulting in an imbalance of power.
student law clinics, the multidisciplinary problems have been exacer-
bated by co-locating the Law Centre with another organization, e.g., a
Community Centre which deals with wider health and social
problems. Such arrangements have thrown up problems where the
social workers in the community centre have a statutory duty, e.g. to
report suspected cases of child abuse, and the law centre workers (in-
cluding clinical law students) are required by legal professional privi-
lege, to keep their suspicions to themselves.\footnote{St. Joan, \textit{supra} note 32.}
In practice, the two organizations retain their own files on clients and do not see clients
jointly. Rather they make formal referrals of clients to the adjoining
organization and every client who is referred is asked if they are will-
ing to agree to the two sets of advisers talking to each other about the
client's problem. While there is a good working relationship between
the two organizations, the legal advisers are careful to get the client to
sign a release before they ask to see the client's medical records.
Strictly speaking, this is an advanced referral situation rather than true
multidisciplinary teamwork, however, it shows the advantages of
working with other professionals on different aspects of the clients' problems without reducing the ethical protections afforded to such cli-
ents. However, this arms-length approach involves far less genuine
teamwork than that involved in the UNM Child Advocacy Clinic.

III. PROBING THE COMPLEXITIES OF PROBLEM-SOLVING IN MDP

The foregoing discussion of the ethical problems that lurk within
the four models of MDP rules out, as a per se violation of the Model
Rules of Professional Conduct, only one of the four models, the fee
sharing/full partnership/fully integrated model. The reality is that
MDPs do exist today; are likely here to stay, and are likely to continue
to grow.\footnote{Commission on Multidisciplinary Practice, Report and Recommendation, \textit{supra} note 5.}
It is important that more study of MDP be undertaken,
with a focus on the reality of these law practice environments.

Regardless of the ABA decision limiting the forms of MDPS, a
key rationale favoring the growth of MDPS as one of the service
choices that are available to clients, remains unchanged. Simply
stated: "Multidisciplinary practice is consistent with the legal profes-
sion's core value of public service. By creating new and innovative
legal service delivery systems, it may be possible to make legal and
law-related services more readily available to people who need
them."\footnote{Munneke, \textit{supra} note 4, at 4.} Not-for-profit organizations are pioneering many creative new approaches (including multidisciplinary practices) for serving low
and moderate-income communities. These public interest organizations were largely absent from the ABA debate on MDP, but are an important source of information on how they can work for the public good, while also adhering to core professional values. These professional alliances are particularly well suited for the challenge of demonstrating the capacities and limitations of MDPs’ ability to navigate the frontier of providing holistic service without compromising the fundamental client protections afforded by the Rules of Professional Responsibility. Indeed, for these organizations, it may be even more important than for the professional service firms made up of accountants, investment advisors, and lawyers, to ensure principles of confidentiality, independence of professional judgment, competence, and conflicts of interest. Whereas the professional service firms deal with sophisticated clients who make informed choices to purchase legal and other professional services, the low-income clients represented by the not-for-profits have little choice in who will represent them.

Study of creative collaborations of lawyers with nonlawyer professionals, especially those that serve the public interest, can expose workable strategies for safeguarding core professional values within a MDP as well as describing skills and techniques for enhancing services to their clients. The purpose of this final part of the paper is to provide such study. The object of this inquiry is the UNM School of Law’s Child Advocacy Clinic’s experiment with MDP. By including this part of the paper, we hope to demonstrate that MDPs can provide integrated holistic services, including legal services, while protecting clients’ interests in their lawyers’ adherence to professionally responsible conduct. We also hope to promote further experimentation with professionally responsible MDPs, especially those that provide a public service.

Our approach to analyzing the UNM Child Advocacy Clinic’s MDP is based on the proposition that managing the complex set of relationships within the MDP is key to its successful operation. To discover whether a MDP both conforms to norms of the professional

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51 Brustin, *supra* note 50, at 819.

52 Louise G. Trubek and Jennifer J. Farnham recently contributed an excellent systematic study of MDP in their monograph, Louise G. Trubek & Jennifer J. Farnham, *How to Create and Sustain a Successful Social Justice Collaborative*, Center for Public Relations, Inc. (2000). The UNM project is one of several that formed the basis for their research.
values of its participating professionals, and promotes the best practices of those same professionals, we look to the efficacy of the relationships within the MDP. These relationships are the four main relationships inherent in any MDP which we mentioned earlier: those formed among the participating professionals, those formed between lawyers and clients, those formed between the other MDP professionals and their clients, and those formed between the MDP and broader communities. As noted earlier, the first of these relationships, that formed among the participating professionals is the key set of relationships. And our analysis of this key set of relationships must be examined over time. Relationships can and will change with time and shift in circumstances. So any examination must explore the range of circumstances that occur over the life of the MDP.

The system of professional values articulated in the ABA Model Rules is largely about establishing norms for lawyers' conduct within professional relationships. It circumscribes how they must or should conduct themselves with clients, with tribunals, with opposing parties, with opposing counsel, with unrepresented persons, with subordinates, with nonlawyer assistants, and with the public. The purpose of a holistic practice is to marshal the combined resources of a network of professionals for the benefit of clients, as well as to further the public interest. The work they do is done by and through the relationships they establish with each other, with their clients, and with communities.

The UNM Child Advocacy Clinic is the legal service provider within a model four MDP, a voluntary collaborative of independent professionals. In addition to the Child Advocacy Clinic (comprised of law professors, law students, and support personnel), the group of professionals providing nonlegal services includes pediatricians, social workers, child development specialists, psychiatrists, case managers, nurses, program administrators, community planners, program evaluators, and educational technology experts. The population served by the MDP is comprised of children at risk of abuse or neglect, their caregivers, and the broader community impacted by these children. At any given time over 300 families are actively receiving professional services from the MDP. The relationships formed among and between the service providers and their clients vary widely in purpose, depth, and duration, depending on the circumstance that brings them together. Given the number of players in this MDP, there are hundreds of relationships among them, and scores of encounters between

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53 The reason that the Child Advocacy Clinic operates under this model and not another is historical. It evolved over time from a loose affiliation into a more tightly coordinated strategic alliance.
them every working day. Necessarily many of the noteworthy lessons that can be derived from examining these relationships and encounters are beyond the scope of this paper.

The focus of this paper is on the four special circumstances that occur over the life of an MDP and that supply the context for the professional relationships through which a public interest MDP operates. These circumstances are interrelated, and they provide the both the catalyst for the formation of a MDP and the glue that holds it together. Two lead to the formation of the relationships within the MDP, and two propel these relationships to move beyond a loosely formed ad hoc collaborative of professionals toward a more tightly organized alliance. First, autonomous professionals are attracted to join a multidisciplinary collaborative by a clear and compelling purpose, a purpose that is multifaceted and complex in ways that can benefit from assembling a team of professionals. Second, the professionals within the MDP are predisposed to engage in holistic and collaborative problem-solving on behalf of their clients, and they are willing to pursue strategies that enhance their skills at doing so. Third, the group of professionals works out an organizational structure that formalizes their relationships and addresses the complexities of responding to ongoing client needs in a manner that both maximizes efficiency of effort and minimizes ethical pitfalls. Finally, the team members commit to each other to sustain and to enhance the MDP over time.

A. Compelling Purpose of the MDP

The introduction to this paper describes a child named Christie who is in need of medical care, and, because of the circumstances surrounding her birth, she may also benefit from developmental monitoring and intervention, case management, caregivers with enhanced parenting skills, home visits by a social worker, legal assistance to assure custodial stability and safety, and policy level advocacy. She represents one of many children who may be at risk of abuse or neglect due to substance abuse by her biological parents or exposure to other dangerous conditions in her environment. She can clearly benefit from the coordinated efforts of a team of professionals. In the absence of coordinated services on her behalf, she is likely to be seen only sporadically and serendipitously by autonomous professionals who can only hope that she is successfully accessing the full array of services that she needs. These autonomous professionals most likely will not even be aware that other professionals are in the picture until
her needs reach crisis proportions.\textsuperscript{54} Unfortunately, there are many children born in circumstances similar to Christie. While forming an ad hoc team of professionals to provide coordinated services for Christie alone is a compelling purpose, forming a MDP made up of the professionals who regularly encounter children such as Christie is both more compelling and more likely to perform a meaningful public service.

In response to the needs of such at risk children in the greater Albuquerque metropolitan area, the University of New Mexico Health Sciences Center operates a cluster of four interrelated programs. Milagro is a program that assists substance-abusing mothers during pregnancy, as well as after the birth of their child. Los Pasos\textsuperscript{55} is a program that assists children (along with their caregivers) that have prenatal exposure to drugs or alcohol from birth to age 3. SELECTT (Starting Early to Link Enhanced Comprehensive Treatment Teams)\textsuperscript{56} assists children up to age 5 who are at risk of abuse or neglect due to exposure to substance abusing parents or other environmental conditions. GRO (Grandparents and Relatives Outreach Project) provides services to grandparents or other relatives who are raising children up to age 5 who are living with them due to the parents' inability or unwillingness to care for them. All of the clients who access the services provided by these programs do so voluntarily.

The UNM Child Advocacy Clinic has sustained a strategic relationship with this group of UNM Health Sciences Center programs for over eight years. The Child Advocacy Clinic provides direct legal services to the programs' clients, conducts educational sessions for the programs' professional staff, client groups, and community meetings, engages in law reform activities, and participates in developing policies and procedures with the programs' administrators and staff.

This cluster of programs forms a collaborative under the umbrella name, FOCUS (Family Options: Caring, Understanding Solutions). As previously noted, the full team of professionals involved in FOCUS includes obstetricians, pediatricians, psychiatrists, substance abuse counselors, mental health counselors, child development spe-

\textsuperscript{54} The story of a child born under similar circumstances who is not seen by a MDP is presented on a web site created as one of the educational projects of the MDP that the UNM Child Advocacy Clinic is a part. The story is published at http://www.star.nm.org/unite/cases/one.htm (last visited on August 14, 2002).

\textsuperscript{55} Los Pasos is supported by grants from the Abandoned Infants Assistance Program, Administration for Children and Families, U.S. Department of Health and Human Services, the New Mexico Department of Health, Lon Term Services Division, and the UNM Health Sciences Center through a funding allocation by the NM Legislature.

\textsuperscript{56} SELECTT is one of 12 national "Starting Early, Starting Smart" sites funded by the Substance Abuse, Mental Health Services Administration (SAMHSA) and the Casey Family Program.
Problem-solving in a Multidisciplinary Environment?

The overarching purpose of FOCUS is to “provide an integrated service network that improves life conditions for young children and families by: strengthening family capacity to foster protective behaviors for their children; providing unique service strategies; collaborating with the community on behalf of the families; maximizing access to quality services.”

The purpose for this collaborative is both compelling and complex in nature so as to benefit from the coordinated work of a MDP. The pediatrician is aware that the problems faced by a child such as Christie are more than medical, and that they are not limited to the child, but involve the child’s family and the child’s community. The lawyer is aware that the child’s requirements for quality of life won’t be complete when the judge signs the guardianship order, the protective order, and the order of support. The child development specialist is aware that the child’s developmental progress will not be the product of her intervention alone, but depends on the stability, warmth, and stimulation provided by skilled, healthy, and secure caregivers. It is this awareness that draws these professionals together in order to improve their own chance of succeeding at improving Christie’s quality of life. They believe that by relating their own work to the work of other professionals, they can begin to act on the nagging awareness that their work, standing alone, will have limited impact on the complexity of needs faced by the clients and patients that they serve.

B. Acting on Professionals’ Desire to Use MDP to Solve Client Problems

1. Acting on the Compelling Purpose and Beginning the Collaborative Relationship

Assuming it is true that members of a MDP relate to each other, in part, to advance a mutually understood “higher purpose,” one that transcends that of providing competent professional services within their own area of expertise, this mission does not require lawyers to behave in ways that may violate fundamental professional values.

UNM Professors who have provided supervision to the student lawyers enrolled in the Child Advocacy Clinic, in addition to J. Michael Norwood, one of the co-authors of this paper, include April Land and Robert Schwartz. They are to be commended for their work in developing and sustaining the collaborative over the years.

FOCUS brochure on file with Professor J. Michael Norwood at the UNM School of Law.

The idea that lawyers’ work can, indeed should, transcend the narrow pursuit of client’s lawful objectives is one of the subjects of the emerging field of community lawyering. For excellent articles explaining the nature of community lawyering see Andrea Fall 2002.
is true that the lawyers’ allegiance to the mission of the MDP, and the lawyers’ respect for the other members of the MDP team, may well influence some choices he or she makes in practice regarding the professional relationships with clients. These choices include which clients to represent and which clients to decline to represent\(^6\), whether to limit the scope of representation to matters that do not conflict with the mission of the MDP\(^1\), whether to limit the means of pursuing the clients’ objectives to those that are consistent with the philosophy of the MDP\(^2\), and whether to counsel clients to conduct themselves in a

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\(^6\) The decision to represent a client is one of the most important decisions a lawyer makes. The nature of a lawyer’s practice is often defined through this decision. Nothing in the Model rules requires a lawyer to accept a client. 2002 Model Rule of Professional Conduct Rule 6.1 states, “Every lawyer has a professional responsibility to provide legal services to those unable to pay.” It goes on to provide that a lawyer “should” annually provide 50 hours of legal services to this end without fee. It does not require service to specific clients. In the context of the work of the UNM Child Advocacy Clinic this issue presents itself in terms of a consideration of whether the objectives of the adult caregiver of a child seeking legal services from the clinic are consistent with the best interests of the child. This is an important threshold question in every matter. For example, a twenty year old mother recently released from the New Mexico Youth Detention and Development Center seeking legal services to have her boyfriend of six months adopt her child is likely to be declined representation.

\(^1\) 2002 Model Rule of Professional Conduct Rule 1.2c provides, “A lawyer may limit the scope of representation if the limitation is reasonable under the circumstances and the client gives informed consent.” The ABA comment relating to this section explains, “...the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client’s objectives. Such limitations may exclude actions ...that the lawyer regards as repugnant or imprudent.” An example of this type of limitation in the context of the UNM Child Advocacy Clinic might be limiting the scope of representation to legal custodial solutions that do not require full termination of parental rights when the best interests of the child are better served by providing some structured ongoing contact with the child’s biological parent(s).

\(^2\) In matters involving children, it is often in their best interest to lessen the adversarial nature of the situation. See Donald Duquette, Developing a Child Advocacy Law Clinic: A Law School Clinical Legal Education Opportunity, 31 U. Mich. J. Law Reform 1, 7 (1997). The Child Advocacy Clinic, despite the moniker in its name, follows the philosophy that lawyers should be “solution, rather than problem, makers.” This approach to lawyering is consistent with the community lawyering movement, see Seielstad, supra note 59. It is also the subject of several articles by Carrie Menkel-Meadow, see e.g. Carrie Menkel-Meadow, New Roles: Problem-solving the Law as Problem Solver and Third-Party Neutral; Creativity and Non-Partisanship in Lawyering, 72 Temp. L. Rev. 785 (1999), and Carrie Menkel-Meadow, The Trouble with the Adversary System in a Post-Modern, Multi-Cultural World, 1 J. Inst. Stud. Leg. Eth. 49 (1996). 2002 Model Rule of Professional Conduct Rule 1.2(a) and 1.4(a)(2) require the lawyer to “reasonably consult with the client about the means by which the client’s objectives are to be accomplished.” Preferably, when feasible, this consultation takes place prior to taking action.
manner that advances the MDP mission. Nevertheless, all of these choices are within the bounds of the ABA Model Rules, although they may require disclosure, and in some instances, informed consent from the client.

The decision to represent and the precise delineation of the scope of representation are critical to the Child Advocacy Clinic. The client is informed of, and agrees to, these decisions in writing. Students are given instruction on general factors to consider in making these decisions, including, the resources of the clinic and the client, the competency of the student lawyer, and the needs of the client and the involved child that can be met by pursuing the client objective. These decisions also require the approval of a committee consisting of the clinical faculty currently teaching a clinical course, including courses other than the Child Advocacy Clinic. Decisions regarding the means of pursuing the client objectives and counseling advice are included within the parameters of faculty supervision, and are also occasionally discussed with the entire clinic faculty.

Because these decisions also impact the work of the nonlawyer professionals at the FOCUS MDP, and can potentially result in misunderstanding between these professionals and the legal professionals, the referring nonlegal staff member is, with the permission of the client, informed of whether the case has been accepted or declined. To safeguard client confidentiality, they are not informed of the reason for declining to represent or, if a decision is made to represent the client, what is the scope of the representation. In addition, so that the nonlawyer FOCUS staff who refer cases to the Child Advocacy Clinic can better understand how and why these decisions are made by the lawyers, they are given general instruction on the parameters involved in the lawyers’ decision making process. Through this communication, they are more likely to select clients for referral who will

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63 2002 Model Rule of Professional Conduct Rule 2.1 provides that the lawyer, "...shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client’s situation." In the context of the UNM Child Advocacy Clinic, this provision gives the lawyer an opportunity to support the work of the other facets of the MDP, encouraging clients to take part in such things as parenting skills classes, group support meetings, well baby checks and immunizations, child development services, and substance abuse counseling.

64 Clients that access the UNM Child Advocacy Clinic by referral from the cluster of FOCUS programs are informed of its relationship with FOCUS, and they have been informed of the FOCUS mission statement, and the array of services available to them as FOCUS clients. They are given a pamphlet that includes this information. They are informed that the Clinic’s legal work is conducted with the aim of assisting the children who are under the care of FOCUS clients to maximize their potential for quality of life.

65 Clients usually have an ongoing trusted relationship with a referring staff member and freely discuss matters of this kind with that person anyway.
actually benefit from the limited legal services that the Child Advocacy Clinic is able to provide, as well as appreciate that a decision not to represent does not mean that the Child Advocacy Clinic is acting in opposition to the shared mission of the MDP.

2. Enhancing Collaborative Skills: Continuing the Collaborative Relationship

Lawyer and nonlawyer professionals choose to participate in MDPs because they believe that their clients will receive enhanced services from the combined efforts of a coordinated group of professionals. They believe that the combined efforts of the group can be superior to, and more cost effective than, the activities of autonomous independent professionals, when they are dealing with a set of clients' needs that are interrelated and complex. Yet, no matter how predisposed they may be to participate actively in multidisciplinary problem-solving, they are rarely trained in the skills needed to work effectively in interdisciplinary relationships.66 Based on the experience of the Child Advocacy Clinic, true MDP teamwork does not occur through good intentions alone. Effective teams are composed of trusted relationships, and these relationships must be built.67 The FOCUS MDP uses two strategies for building and maintaining these relationships. First, the professionals on the team learn how to learn from each other by spending enough time with each other to understand and appreciate the diversity of professional cultures and problem-solving approaches that are assembled on the team. Second, in the same manner, the professionals learn the roles, boundaries, and limits of each team member as they relate to the purpose the MDP.

Professionals are trained in skills, values, and problem-solving ap-

66 For two excellent articles describing the increasing importance of interdisciplinary work in legal problem-solving, some of the barriers to overcome, and some approaches for overcoming them see Janet Weinstein, Coming of Age: Recognizing the Importance of Interdisciplinary Education in Law Practice, 74 WASH. L. REV. 319 (1999) and Suellen Scarnecchia, An Interdisciplinary Seminar in Child Abuse and Neglect with a Focus on Child Protection Practice, 31 U. MICH. J. L. REF. 33 (1997).

67 For the perspective on the team building and problem-solving practices of the FOCUS MDP from the point of view of two of the key nonlawyer team members see, Bebeann Bouchard & Andrew His, Interdisciplinary Best Practice: Lessons Learned at Los Pasos, The National Abandoned Infants Assistance Resource Center, 16-19 (Special Issue, 2001), also on file with J. Michael Norwood. In this article, Andrew His, a pediatrician and principal investigator of the four FOCUS projects, and Bebeann Bouchard, the program administrator for two of the projects, explain six steps of interdisciplinary best practice: “Step 1: Identify the Team; Step 2: Support Team Building and Reinforce It Regularly; Step 3: Understand the Role of Individual Team Members; Step 4: Integrate the Learning and Experience of Other Disciplines; Step 5: Incorporate the Perspectives of Other Disciplines when Making Interdisciplinary Team Decisions; Step 6: Trust the Interdisciplinary Teamwork Process in Response to Crises in Families.”
Problem-solving approaches that are often unique to their own profession. It is often repeated that medical school, law school, or other professional schooling “alters one’s world view.” Upon completing the socialization process that is a part of their training, professionals emerge as members of a “professional culture.” Grossly generalized, medical doctors engage in reductionism as a key problem-solving method, ruling out the most common causes of an ailment before investigating those less common. They tend to specialize in delivering health care, leaving the responsibility of the overall well being of a patient to others. Social workers view their clients as connected to family and community. They solve client problems, in part, by restructuring their psycho/social profiles. Encouraging clients in nurturing relationships is very important to the social workers’ work. A lawyer is trained in protecting individual legal rights. Clearly identifying who is the client is critical, as is deference to the clients’ articulation of lawful objectives. Problem-solving for lawyers is often done in the context of dispute resolution whereby the lawyer seeks to maximize the client’s advantage and minimize any disadvantage.

These are just a few of the professional cultures or mindsets that may exist within a MDP team. These cultures don’t necessarily mesh, and clashes can and do occur. To minimize the damage such clashes may have, not only on the team moral, but on missed opportunities for finding creative solutions, it is important that the MDP have a strategy for building understanding and trust with the team members. When trust and understanding is established, differences in professional problem-solving can be turned from a liability into a strength.

Some of the professionals involved in the UNM FOCUS program developed and implemented a formal curriculum for building understanding and trust among team members. The curriculum included seven two-hour sessions. Each session revolved around case simulations. Six different professionals each presented on an aspect of the


69 These brief descriptions of disparate problem-solving approaches among doctors, social workers, and lawyers, likely oversimplify the approaches in order to emphasis differences. Doubtless the dominant framework for problem-solving within each profession is subject to ongoing debate within each discipline.

70 The development of this curriculum was assisted by funding from a grant from the Maternal and Child Health Bureau of the U.S. Department of Health and Human Services, funded under contract through Western Oregon University, Teaching Research Division. The grant project was entitled, UNITE: Universities Networked in Interdisciplinary Training and Education.

71 One of the case simulations is published at http://www.star.nm.org/unite/cases/one.htm (last visited September 6, 2002).
simulated problems from their own perspectives. Their presentations included substantive content and their own problem-solving approach. The presentations concluded with a collaborative problem-solving simulation in which all of the professionals played a role. The simulations were followed by critique and discussion. There were also between session "clinical experiences" that were conducted on a common website. This curriculum developed over the course of three years (being offered in three successive spring semesters), during which time the presenters refined their sessions and assignments as they learned from each other.

The curriculum proved to be a valuable strategy for building team trust and understanding. This team-building element of the FOCUS MDP successfully reinforced fundamental professional values of the lawyers on the team, because they are explicitly presented in the context of actual case simulations in a way that can be understood and appreciated by the other team members. It also had the positive effect of enhancing team problem-solving skills by using case simulations without risking harm to an actual client. The curriculum is now being revived in an attempt to export it to another setting in northern New Mexico that is interested in using interdisciplinary problem-solving techniques.

A corollary to the strategy of building understanding and trust amongst the team members is to clearly delineate the role of each member of the MDP team. Each professional needs to know what contribution to the problem-solving approach could be made by themselves as well as by the other professionals. Each professional should also be open to be called upon by the others to follow through on providing the services that fall within their area of competence and responsibility, and to be accountable for their professional performance.

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72 Included in the group were a pediatrician, a social worker, a community planner/mediator, a lawyer, a program manager, and a developmental specialist.

73 Richard Richardson, Professor of Architecture and Community Planning Department of UNM, led the critique and discussion. He is an expert at mediating complex community issues and teaching with simulations.

74 These "clinical experiences" generally consisted of posting a reflective comment on a shared, threaded discussion, making a connection between the material covered in a given session and the actual work of the professional.

75 The most recent version of the curriculum described in this paper, the one that is being revived for use in the Northern New Mexico, Las Clinical del Norte project is available at: http://www.star.nm.org/unite/index.htm (last visited September 6, 2002).

76 Because some of the FOCUS programs are financed by outside funding, evaluation and accountability by independent evaluators is built into the process. The use of outside evaluators not only provides feedback on performance, it also provides the occasion for the group to set performance goals and outcomes. One result of the evaluations was a report that positive changes in parent interactions were clinically observed.
Just as role definition is important, so is the delineation of boundaries and professional limits. For lawyers on a MDP, boundaries relating to the requirements of confidentiality and avoidance of conflicts of interest are critical for the whole team to recognize and honor. These boundaries can place limits on lawyers' full participation on the team in some instances, and the rest of the team must figure out means for accommodating these limits. Unless the team has gone through the process of team building leading to mutual understanding and trust, these limits on the legal services component of the MDP can lead to serious tensions.

One of the significant advantages of working MDP problem-solving is the ease of information sharing among the professionals. However, there are inevitably occasions where another professional may provide information to the lawyer, but due to confidentiality, the sharing of information is not reciprocated. Unless the importance to the client of having the lawyer bound by the unique requirements of the legal profession is widely understood and respected, information exchanges can be impacted.

The team must also respect the limits on the lawyers' ability to represent only one party in a situation that may involve a dispute between more than one of the clients being served by the MDP. In the FOCUS program, it is not unusual that extended families are involved in providing for the care of the children being served. Sometimes disputes arise between caregivers. If one of the disputants is referred for legal services, at any point in the client's engagement with the program, only that person can be represented by the lawyer, and care must be taken to not involve the lawyer in the MDP's problem-solving regarding any other disputant.77

C. MDP Programmatic Structure

The previous two contexts for MDP, program "vision" and trust building, are key to the formation of a MDP, but the MDP needs an operational structure in order to function as a recognizable MDP.78 In essence, a clear programmatic structure for service delivery must be developed by the MDP in order to operate. This structure should reflect a holistic or integrated service approach for identifying and meeting the clients' needs.

The elements included within the structure of FOCUS include: 1)
schedules, meetings and ongoing communication; 2) cross training; 3) leadership; 4) allocation of responsibilities and commitments; 5) community outreach; and 6) sharing resources. They are managed both formally, through written memorandum and agreements, and informally through conversations, phone calls, and email.

1. Schedules, meetings and ongoing communication

Steering committee meetings are held at least once a month. The professionals involved in each of the four FOCUS groups and the law clinic attend the meetings to report on their work and to discuss topics related to service and system improvement. Representatives from community service agencies, city government, and various cultural groups are sometimes invited to attend these meetings to assist in finding new and creative solutions to client needs. These meetings are of great value in the areas of accountability, programmatic direction, and program identity. Because they provide a forum for sharing ideas they are also valuable for reinforcing trusted relationships.

Each of the four FOCUS programs also holds weekly clinical meetings. In addition to updates on administrative matters, service delivery plans for selected clients are presented and discussed. A

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79 The most recent Memorandum of Understanding between the FOCUS Programs and the UNM School of Law Clinical Law Program covers the period from January 2, 2002 through December 31, 2002. The Memorandum includes a "Purpose Statement" that provides: "The purpose of this agreement is to establish a referral procedure between the FOCUS programs at the University of New Mexico's Health Sciences Center and the Clinical Law Programs of the University of New Mexico for families enrolled in the FOCUS programs in need of legal support. The agreement also addresses training procedures and communication links between the two programs. It is the intent of this agreement to:

1. Define services which will be provided by both programs.
2. Facilitate communication between the two programs.
3. Identify training needs and the mechanisms to provide training.
4. Support culturally and linguistically appropriate practices." On file with J. Michael Norwood at the UNM School of Law.

80 The Memorandum of Understanding between the FOCUS Programs and the UNM School of Law Clinical Law Program covering the period from January 2, 2002 through December 31, 2002 makes reference to commitments to attend and participate in meetings in two ways: First the FOCUS administration commits to "notify the Law Program of scheduled meetings." Second the Clinical Law Program Administration commits to "participate at monthly Steering Committees."

81 A member of the MDP team produces these plans in a standard format that covers all of the set of needs the client may need to have addressed. The format includes a section on meeting the client's legal needs. The standardized form was developed by the team leadership and is periodically reviewed and modified as necessary.

82 Not all cases are discussed at the meetings. The case manager and/or the professionals select cases to be reviewed based on a perceived need to get the group to help design creative solutions. Between meetings, email is the preferred mechanism for interdisciplinary consultation.
representative from the law clinic frequently attends these meetings. All participants in these meetings sign a confidentiality agreement relating to any matters discussed. Beyond this agreement, the law clinic representative, by mutual understanding, is free to withhold any confidential information from the group that they are not authorized to share. During the meeting legal matters that are not the subject of a previous referral may arise. When they do, a suggested course of action for addressing the legal concern is made. Usually this is a suggestion for referral to the Child Advocacy Clinic for consultation, advice, or full service. These meetings also are an opportunity for educational exchanges among the professionals supporting team building and problem-solving.

2. Cross-training

The program administrators and key professionals continually develop a curriculum that provides cross training opportunities in the skills and knowledge of the disciplines involved in service delivery to enhance the quality of interdisciplinary practice. The Child Advocacy Clinic conducted a series of seven, ninety-minute sessions, during the spring of 2002. Topics included children’s rights; custody and child support; domestic violence and children; guardianship; adoption; abuse and neglect; termination of parental rights; and medical treatment decisions involving children. Every semester at least two of the nonlawyer professionals from FOCUS conduct law clinic classes.

3. Leadership

Each participating unit in the FOCUS cluster of services has its own leadership that could be an organizational chart with every employee, volunteer, or student knowing to whom they report. Each separate program in the FOCUS cluster has its own program administrator. Leadership is provided to the FOCUS MDP in a more informal way. The lead professionals in each of the service delivery components is expected to take “an active role in initiating and articu-

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83 The Memorandum of Understanding between the FOCUS Programs and the UNM School of Law Clinical Law Program covering the period from January 2, 2002 through December 31, 2002 references cross training as follows: “FOCUS will: . . . 4. Participate in training classes and other legal instructional opportunities. . . . C. FOCUS administration will: . . . Collaborate with Clinical Law professors in developing written materials and other dissemination activities. All materials will be reviewed for accuracy and cultural sensitivity prior to dissemination. . . . D. The Clinical Law Program Administration will: . . . 2. Provide or oversee legal training offered to staff and clients. 3. Collaborate with the FOCUS Programs in developing written materials and other dissemination activities. All materials will be reviewed for accuracy and cultural sensitivity prior to dissemination.” Memorandum on file with J. Michael Norwood at the UNM School of Law.
lating dialogues, defining purpose and direction, creatively handling challenges and opportunities [i.e., funding], and following through on promises made. \(^8\) Although this style of professional leadership can sometimes be stormy, \(^5\) overall, the team members also exert a calming influence when necessary, and are always fiercely steadfast in sporting progressive movement.

4. **Responsibilities and commitments**

The allocation of responsibilities and commitments among FOCUS professionals for providing services to clients has evolved over time. It is based on identifying and addressing the clients needs from the initial point of contact until services to the client are terminated.

Clients enter the FOCUS program during pregnancy, after delivery in the hospital, or by referral from a variety of not-for-profit or governmental agencies. The first contact may be with a physician, social worker, or case manager. All clients in the program partake in the services voluntarily, not as a condition imposed by a court or governmental agency. Once enrolled in the program, clients are assigned to a caseworker who, among other things, conducts a risk assessment relating the child’s life conditions. The risk assessment is based on a standard risk instrument that was developed and is periodically reviewed by the MDP team. Included in the risk assessment is a legal needs evaluation. \(^6\) This evaluation includes concerns relating to domestic violence, legal custody, child support, housing, immigration status, benefits and entitlements, and involvement in the criminal justice system, or other factors that may be detrimental to the child’s safety and well-being.

When legal needs are identified, a consultation with the program’s legal liaison/case manager results. This consultation may in turn lead to a referral to the UNM Child Advocacy Clinic \(^7\) and/or the

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\(^8\) Quoted from a handout developed by the executive director of SELECTT, Bebeann Bouchard entitled: Key components of Successful Collaborations: the SELECTT Experience. The handout is on file with J. Michael Norwood at the UNM School of Law.

\(^5\) Because the professionals are independent, busy, and diverse, they don't always see things the same way. They sometimes expect more from each other than they can reasonably expect, and sometimes prioritize the work of the group in different ways. These differences need to be continually confronted and worked through, and all members of the group help each other to do this.

\(^6\) The Child Advocacy Clinic conducts four training programs each semester for staff. These programs are videotaped so that those unable to attend can view them. Additionally a web site is being developed to help with this cross training effort.

\(^7\) The Memorandum of Understanding between the FOCUS Programs and the UNM School of Law Clinical Law Program covering the period from January 2, 2002 through December 31, 2002 makes reference to this system of referrals as follows:

“**FOCUS** will:

1. Identify clients eligible for Law Clinic services through clinical observation and
execution of a legal form provided by the legal liaison to the client.\textsuperscript{88} An example of such a form is a power of attorney that transfers temporary custody of a child from the natural parent to another qualified caregiver.\textsuperscript{89} This person is highly trained by the Clinic's legal staff to identify legal concerns and screen cases. The legal liaison also sometimes performs the service of following up with clients to assure that they are reminded of appointment times and have transportation to attend. The lawyer assigned to the Clinic supervises all of the legal work of this case manager.

Upon referral of a client to the Clinic, all of the ethical safeguards enjoyed by clients of the legal profession are implemented by the Clinic. Conflict checks are made and confidential communications are protected.\textsuperscript{90}

5. Community outreach

An important part of the mission of FOCUS is to have a presence in the community of people, groups, agencies, and organizations that share an interest in assisting at risk children. This provides an identity within the community for FOCUS, expands opportunities for progressive movement, and extends the network of service providers from whom the FOCUS client's may benefit. The FOCUS professional staff generates opportunities to participate in community activities and share these opportunities with each other. FOCUS professionals have given papers and talks at each other's professional meetings,

\begin{itemize}
\item service goals.
\item 2. Refer identified clients to the FOCUS liaison contact person, who, in turn, will make the referral to the appropriate person at the Law Clinic.
\item 3. Assist in locating clients, when necessary.
\end{itemize}

The \textit{Clinical Law Program} will:

1. Review and prioritize all referrals for legal services submitted by the FOCUS legal liaison.
2. Assign a Clinical Law student to the referred cases. The student will contact the FOCUS client, and make a determination concerning the case, based upon a telephone or in-person interview with the client.
3. Call the FOCUS liaison staff member to indicate whether or not the client will be followed by the Clinical Law Program."

Memorandum on file with J. Michael Norwood at the UNM School of Law.

\textsuperscript{88} Case screening at this juncture helps avoid conflicts of interest as well as limiting referrals to matters in which the legal services may prove beneficial.

\textsuperscript{89} Two of the nonlawyer staff at FOCUS became notaries so that they could assist the lawyers in executing legal documents such as these powers of attorney.

\textsuperscript{90} The Memorandum of Understanding between the FOCUS Programs and the UNM School of Law Clinical Law Program covering the period from January 2, 2002 through December 31, 2002 specifically references confidentiality and other requirements of professional responsibility as follows: "Confidentiality and Professional Responsibility. The Clinical Law and Focus Programs will follow requirements concerning confidentiality and other professional responsibilities specific to their professions." Memorandum on file with J. Michael Norwood at the UNM School of Law.
have jointly organized and presented at conferences and seminars that attract both local and national audiences.

By establishing a positive identity in the community, FOCUS professionals have a greater opportunity to influence public policy. For example, FOCUS professionals have organized meetings with officials from the New Mexico Children's Youth and Families Department and the Bernalillo County (Albuquerque) District Attorney for the purpose of influencing their policies regarding the abuse or neglect of children. Both were receptive to the efforts of the FOCUS professionals.

Policy and law reform are an important part of FOCUS. The UNM Child Advocacy Clinic, as a part of its work with FOCUS, participated, as a part of the New Mexico Supreme Court's Court Improvement Project, in a successful effort to reform New Mexico law as it relates to relative guardianships. The culmination of three years of meetings and advocacy on behalf of many clients impacted by the potential for reform was the enactment in June of 2001 of the New Mexico Kinship Guardianship Act.91

6. Sharing resources

The professionals working with FOCUS share common needs such as facilities, equipment, support personnel, and record keeping. Taking advantage of resource sharing opportunities helps keep the MDP cost effective. The four FOCUS projects operate out of a building located in downtown Albuquerque. When not meeting clients at home or in other professional settings, case managers, social workers and other staff meet clients at this location. Clients become accustomed and comfortable in visiting MDP team members at this site. Most initial legal client interviews are scheduled at this building.92 All of the professionals who access this site to serve their clients also share copy machines, computers, video recorders, telephones, and other infrastructure.

The MDP legal liaison works out of this site. When not performing legal support functions, this person works for the MDP in other capacities including development through grants and contributions.

When exploiting opportunities to share resources, care must be taken by the legal arm of the MDP not to violate norms of profes-

92 The Memorandum of Understanding between the FOCUS Programs and the UNM School of Law Clinical Law Program covering the period from January 2, 2002 through December 31, 2002 references sharing resources as follows: "Focus Administration will: . . . 2. Provide office space for legal consultation and training sessions." Memorandum is on file with J. Michael Norwood at the University of New Mexico School of Law.
sional conduct. To protect client confidentiality, for example, the legal record keeping function is separated for other MDP record keeping by maintaining legal records at the UNM Law Clinic and not at the shared downtown facility.

D. Commitment to the sustainability of the MDP

The final, but certainly not the least important circumstance of the MDP that informs the quality of the relationships among its diverse professionals is their demonstrated commitment to its long-term sustainability. When professional services are delivered for profit, monetary reward becomes one basis for this commitment. In the FOCUS, the participating professionals are not compensated for their work on a fee for service basis. The programs' financial structure is based on funding from grants and foundations, and from the voluntary participation of professionals who are compensated by independent institutions such as the UNM School of Law and the UNM Health Sciences Center.

Most of the professionals involved with FOCUS have been committed to the success of the program for many years. The source of their commitment is the rewards of successful outcomes for their patients and clients, the opportunity to work in an exciting and creative environment, and the personal rewards of professional growth and finding a synergy with the other professionals in the MDP.

The FOCUS program requires professional time that is not directly related to client service, time for interdisciplinary meetings, interdisciplinary education, team building, and programmatic planning. These commitments of time may run counter to translating the “not-for-profit” MDP into the private for profit sector. However, as evaluative information is developed regarding the benefits of MDP for holistic client problem-solving, more experimentation with MDP in and out of the private sector is likely.

CONCLUSION

MDP is more than a business model for maximizing profit by offering, “one stop shopping.” It is also an effective problem-solving tool for addressing complex problems. It is critical that as lawyers enter MDPs, they take necessary precautions to safeguard profes-

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93 The Memorandum of Understanding between the FOCUS Programs and the UNM School of Law Clinical Law Program covering the period from January 2, 2002 through December 31, 2002 references the importance of grant funding by requiring the Clinical Law Program Administration to “Submit reports of activities to FOCUS, as required by funding agencies.” Memorandum is on file with J. Michael Norwood at the UNM School of Law.
sional values. However, because of the benefits that clients derive from well functioning MDPs, it is prudent for the legal profession to encourage legitimate experimentation with this service delivery methodology. It is especially important that these experiments be studied for their techniques for safeguarding professional values and for providing enhanced service to clients.