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A COLLABORATIVE CENTER IN MEDICINE AND LAW: LESSONS FROM A DISRUPTIVE INNOVATION

Marshall B. Kapp*

I. INTRODUCTION

When I arrived at Florida State University in 2010 to launch a new academic enterprise, I inherited a name for that undertaking that encapsulated the vision of the planning committee—the Center for Innovative Collaboration in Medicine and Law (the "Medicine-Law Center"). This name has engendered many comments. Observers have expressed a mixture of curiosity and admiration regarding the Center's stated mission.[1] A number of people have suggested that the Medicine-Law Center's title may be redundant since, given the sorry history of pervasive tension generally found between medical and legal professionals in the United States,[2] *any* sort of

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1. *Introductory Page for Center for Innovative Collaboration in Medicine and Law*, FLA. STATE UNIV. COLL. OF MED., http://med.fsu.edu/?page=innovativeCollaboration.home (last visited May 15, 2012) (The Medicine-Law Center's mission is "to identify and facilitate (through education, the conduct and dissemination of scholarship, and performance of service activities) opportunities for members of the medical and legal professions, working together and with others, to foster improvements in the quality of life enjoyed by individuals and to promote public health in Florida, the United States, and globally. The Center explores educational, research and advocacy avenues for collaboration and cooperation between the medical and legal professions on behalf of the well-being of consumers who are both physicians' patients and attorneys' clients.").

2. Regarding that history of pervasive interprofessional tension, see, e.g., MARSHALL B. KAPP, OUR HANDS ARE TIED: LEGAL TENSIONS AND MEDICAL ETHICS (1998); Allen Kachalia et al., *Physician Responses to the Malpractice Crisis: From Defense to Offense*, 33 J. L. MED. & ETHICS 416 (2005); Robert A. Burt, *Doctors vs. Lawyers: The Perils of Perfectionism*, 53 ST. LOUIS U. L.J. 1177 (2009).

collaboration the Medicine-Law Center might facilitate between medicine and law would *have* to be "innovative."

With a few notable exceptions,[3] those who have quipped about the Medicine-Law Center's official name are correct that successful medical-legal collaborations have not been abundant. In a quest to change that situation, the Medicine-Law Center has since its inception tried to operationalize its mission by slowly developing, on a trial-and-error basis, a portfolio of activities with real world connotations that is intended to capitalize on potential areas of shared interests and values between physicians and attorneys. The next section briefly describes a sample of the Medicine-Law Center's early activities helping to give tangible form to its planners' vision. The ensuing section discusses key lessons learned and challenges to be overcome by academic centers in their quest to exert a positive impact on actual people.

II. DEVELOPING A PORTFOLIO

Moving from ideas to action in the progression of an academic center requires development of a portfolio of tangible activities that are both consistent with the center's mission and financially feasible to implement. The development of such a portfolio for the Medicine-Law Center over the first couple of years of its life has been guided by several basic principles.

A. Basic Principles

First, in keeping with the Medicine-Law Center's title and mission, any teaching, scholarly, or service activities undertaken obviously must be interprofessional in nature.

> "Interdisciplinary" or "interprofessional" collaborations involve members of different professions who work together on a problem "with intention, mutual respect, and commitment." The process "facilitates the achievement of goals that cannot be reached when individual professionals act on their own." Collabora-

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3. The most notable exception is the Medical-Legal Partnership (MLP) movement, embodied in more than ninety collaborative programs. The MLP idea in both theory and practice has been well-chronicled elsewhere. ELIZABETH TOBIN TYLER ET. AL., POVERTY, HEALTH AND LAW: READINGS AND CASES FOR MEDICAL-LEGAL PARTNERSHIP (2011), *reviewed in* Marshall B. Kapp, *Medical Problems, Legal Responses*, 40 J.L. MED. & ETHICS (2012). Florida State University's MLP program, which brings together students and faculty from the College of Law and College of Medicine in the context of a neighborhood health clinic, is described at *Public Interest Law Center*, FLA. STATE COLL. OF LAW, http://law.fsu.edu/academic_programs/jd_program/cac/index.html (last visited May 17, 2012).

> tion consists of the following elements: a common purpose, separate professional contributions, and a process of cooperative joint thinking and communication. Ultimately, "[a]n interprofessional approach does not blur the distinctiveness of each profession, but it does break through the extreme role specialization that fails to appreciate the kind of balance and integration that a holistic orientation requires."[4]

Thus, an interprofessional focus goes beyond merely multidisciplinary exercises (although they may be very important in their own right), which consist of gathering members of different professions around the same table and having them each represent their respective, differing perspectives during the discussion.

Second, while different particular projects are likely to concentrate on a single leg, or at most a combination of two legs,[5] of the tripartite academic stool of teaching, scholarship, and service, the Medicine-Law Center's portfolio as a whole strives for a balance of all of these kinds of activity. The realm of service is interpreted broadly, to include the university, society (including particular patients/clients), and the respective relevant professions as potential beneficiaries.

Third, specific projects fall into one or the other of two categories of project ownership. Some projects are owned by the Medicine-Law Center itself, in the sense of the Center functioning as the main player in originating the idea of, obtaining funding for, and conducting, managing, and disseminating results of the project, while involving affiliated faculty[6] and others as collaborators. By contrast, there are projects that are initiated and owned by other faculty (individually or in groups) or professional or community organizations for which Medicine-Law Center involvement in some form is invited. Growing this latter portion of the portfolio depends upon the Medicine-Law Center methodically enhancing its profile within the university and community as a valuable repository of expertise and a useful resource to be tapped for synergistic collaboration.

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4. Linda Morton et al., *Teaching Interdisciplinary Collaboration: Theory, Practice, and Assessment*, 13 QUINNIPIAC HEALTH L.J. 175, 176–77 (2010) (citing Gary L. Harbaugh, *Assumptions of Interprofessional Collaboration: Interrelatedness and Wholeness*, *in* R. MICHAEL CASTO & MARIA C. JULIA, INTERPROFESSIONAL CARE AND COLLABORATIVE PRACTICE 20 (1994)).

5. Service learning initiatives fall into this category. *See* Susan R. Jones & Shirley J. Jones, *Innovative Approaches to Public Service Through Institutionalized Action Research: Reflections from Law and Social Work*, 33 U. ARK. LITTLE ROCK L. REV. 377, 387–91 (2011).

6. The Center for Innovative Collaboration in Medicine & Law has put into place a structure of Faculty Associates and Affiliates. *See Faculty and Affiliates*, FLA. STATE UNIV. COLL. OF MED., http://med.fsu.edu/index.cfm?page=innovativeCollaboration.faculty Affiliates (last visited May 15, 2012).

B. Examples of Projects

A small sample of projects undertaken or contemplated by the Medicine-Law Center is briefly described. These projects illustrate the Medicine-Law Center's mission in action.

1. POLST

Every state has enacted laws intended to help critically ill medical patients maintain a degree of personal autonomy or self-determination regarding decisions about the initiation, continuation, withholding, or withdrawal of various medical interventions, even at a time when the patient lacks sufficient cognitive or emotional capacity to rationally make and communicate his or her own choices. However, experience with advance directives over the last couple of decades has led to the identification of significant problems.[7] The most salient of these include: the reluctance of many people to use the available legal tools in a timely fashion; the paucity of practical guidance, or confusing guidance, provided by advance directive forms for patients filling them out and medical professionals trying to apply them in clinical scenarios; patients' goals and preferences often changing over time; the frequent ignorance of the health care agent regarding the real care preferences of the patient; and the fact that, even when providers know that an advance directive exists (and such knowledge cannot always be assumed), the advance directive frequently does not alter the patient's course of treatment[8] or may even exacerbate the clinical situation.[9]

Growing frustration with the inherent limitations of existing instruments for promoting the prospective autonomy of critically ill patients who become decisionally incapacitated has led many attorneys,[10] health care providers, and commentators to advocate as the next step in the evolution of health care advance planning law the use of POLST (Physician Orders for Life-Sustaining Treatment)[11] forms. Unlike a traditional advance directive executed by a patient while still decisionally capable, POLST entails a medical order written by a physician (with the concurrence of the patient or sur-

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7. *See* Dorothy D. Nachman, *Living Wills: Is It Time to Pull the Plug?* 18 J. ELDER L. 289, 299–301 (2011).

8. *See* Charles P. Sabatino, *The Evolution of Health Care Advance Planning Law and Policy*, 88 MILBANK Q. 211, 221–24 (2010); Keith E. Sonderling, *POLST: A Cure for the Common Advance Directive—It's Just What the Doctor Ordered*, 33 NOVA L. REV. 451, 470–76 (2009).

9. Lesley S. Castillo et. al., *Lost in Translation: The Unintended Consequences of Advance Directive Law on Clinical Care*, 154 ANNALS INTERN. MED. 121 (2011).

10. *See*, *e.g.*, Kathryn Tucker, *Elder Law: Counseling Clients Who Are Terminally Ill*, 37 WM. MITCHELL L. REV. 117, 124–25 (2010).

11. Some states vary the terminology slightly, e.g., MOLST (Medical Order for Life Sustaining Treatment), POST (Physician Order for Scope of Treatment), MOST (Medical Order for Scope of Treatment), or COLST (Clinical Order for Life-Sustaining Treatment).

rogate) instructing other health care providers, such as emergency medical squads, about the treatment of the critically ill patient under specific factual situations. Approximately fourteen states have formally implemented the POLST Paradigm.[12] Many more states are in the process of developing their own versions of POLST.[13]

There is an array of legal impediments to successful adoption and fulfillment of the POLST paradigm.[14] In Florida, an informal working group of interested attorneys, health care and human services providers, professional associations, and academics has come together under the coordinating umbrella of the Medicine-Law Center to identify and explore possible strategies for pushing forward acceptance and implementation of the POLST Paradigm in this jurisdiction. This is an excellent mission-driven project for the Medicine-Law Center because, generally, the medical and legal professions concur in principle that patients in end-of-life situations ought to have their treatment preferences honored and that the law should facilitate, rather than impede, policy and practice designed to effectuate the ethical obligation to promote patient autonomy in this context. Getting the POLST Paradigm implemented in policy and practice in Florida will require the active collaboration of the medical and legal professions (along with other interest groups with special experience and expertise), and the expected result of that collaboration will enhance public (including patients'/clients' and their families') well-being.

One component of the Medicine-Law Center's POLST Paradigm initiative was the sponsorship of a summer 2011 research project done collaboratively by a medical student and a law student. Under Medicine-Law Center supervision, these Florida State University students worked together to research and review relevant medical, legal, ethical, and policy literature on POLST and to jointly conduct conversations with a convenience sample of family members who had recently personally lived through end-of-life scenarios with loved ones, as well as conversations with several practicing physicians, other health care professionals, and attorneys. Besides greatly benefitting the two involved students educationally, this project produced a poster presentation that educated attendees of both the Florida Medical Association's 2011 Annual Meeting[15] and the Florida Medical Directors 2011

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12. *Physician Orders for Life-Sustaining Treatment Paradigm*, POLST, http://www.ohsu.edu/polst (last visited May 15, 2012).

13. CHARLES P. SABATINO & NAOMI KARP, IMPROVING ADVANCE ILLNESS CARE: THE EVOLUTION OF STATE POLST PROGRAMS, No. 2011-01 (2011), *available at* http://assets.aarp.org/rgcenter/ppi/cons-prot/POLST-Report-04-11.pdf.

14. Susan E. Hickman et. al., *The POLST (Physician Orders for Life-Sustaining Treatment) Paradigm to Improve End-of-Life Care: Potential State Legal Barriers to Implementation*, 36 J.L. MED. & ETHICS 119, 119 (2008).

15. Brittany Lamb & Sarah Catherine Spillers, Is the POLST Model Desirable for Florida?, Poster presented at the Annual Meeting of the Florida Medical Association, Orlando, Fla. (July 28, 2011).

Annual Meeting,[16] in addition to a published paper that will support the Center's POLST advocacy efforts.[17]

2. The Humanizing Risk Management Education Project

Another Center project has revolved around the fact that medical students hear a lot about the law, but unfortunately very little of what they hear is told to them by knowledgeable attorneys. Instead, throughout the course of their medical education, future physicians are exposed to comments from their physician faculty mentors about the legal risks they are likely to encounter in their professional lives. These comments may engender legal apprehensions among medical students and may be accompanied by advice from faculty that tends to encourage future clinical behavior inconsistent with the best humanistic care of patients. The frequently destructive relationship between physicians' negative perceptions of their legal climate, on one hand, and the humanistic character of the patient care that ought to be provided by physicians, on the other, has long been acknowledged.[18]

The fifteen-month (October 1, 2010 through December 31, 2011) Humanizing Risk Management Education Project sought to develop, demonstrate, and evaluate one strategy for improving the education of medical students regarding the relationship between legal risk management and humanistic patient care.[19] "The centerpiece of this strategy . . . consists of a series of educational interventions with the . . . College of Medicine's . . . clinical faculty members who are the primary source of medical student perceptions about the legal environment within which those students will later practice as physicians."[20]

The educational intervention in this project utilized the mechanism of College of Medicine Faculty Development program[21] to plan and conduct a

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16. Brittany Lamb & Sarah Catherine Spillers, Is the POLST Model Desirable for Florida?, Poster presented at the Annual Meeting of the Florida Medical Directors Association, Lake Buena Vista, Fla. (Oct. 21, 2011).

17. Sarah Catherine Spillers & Brittany Lamb, *Is the POLST Desirable for Florida?*, 8 FLA. PUB. HEALTH REV. 80 (2011).

18. *See*, *e.g.*, Brenda E. Sirovich, Steven Woloshin, & Lisa M. Schwartz, *Too Little? Too Much? Primary Care Physicians' Views on US Health Care*, 171 ARCH. INTERN. MED. 1582, 1583 (2011) ("Almost half (42%) of US primary care physicians believed that patients within their own practice were receiving too much medical care . . . . More than one-quarter (28%) said they themselves were practicing more aggressively (i.e., ordering more tests and referrals) than they would ideally like to be." Regarding the major factors causing them to practice medicine too aggressively, 76% of surveyed physicians identified malpractice concerns in the top three.).

19. This project was supported by a grant from the ARNOLD P. GOLD FOUND., http://humanism-in-medicine.org (last visited May 17, 2012).

20. Much of this project's description is taken from Marshall B. Kapp et al., *Teaching Medical Students How to Reconcile Law and Ethics in Practice: A Faculty Development Model*, 21 ANNALS HEALTH L. 271, 272–73 (2012).

21. OFFICE OF FACULTY DEV., FLA. STATE UNIV. COLL. OF MED., www.med.fsu.edu/

two-hour faculty development educational session at each of the six College of Medicine Regional Campuses.[22] These educational sessions were devoted initially to reviewing Years 3 and 4 students' exposure to information from Clerkship faculty regarding physicians' legal risks and their management. The sessions then explored and emphasized strategies for Clerkship faculty to use in providing students with accurate information in this arena in a manner that encourages future physician behavior consistent with patient-centered,[23] humanistic medicine. It was hypothesized that, as a result, Clerkship faculty would be better able to teach students to practice humanistic risk management.

Following a brief introduction (largely didactic but eliciting some audience comments) by the author describing the project's background, hypotheses, and anticipated outcomes, the bulk of each workshop was devoted to a facilitated group discussion of hypothetical cases prepared for this project. The cases were designed specifically to highlight potential tensions between physicians' legal risk management concerns, on the one hand, and the practice of good ethical clinical medicine, on the other. During the last several minutes of each workshop, participants were asked to collectively reflect upon the case discussions that had just unfolded. They were asked to do so with an eye toward formulating specific strategies or guidelines they could implement in teaching medical students about ways to effectively reconcile the perceived potential tensions between their apprehensions about potential litigation and legal liability (and the consequent imperative to practice defensively), on the one hand, and the ethical (as well as legal) imperative to provide ethically and clinically sound patient care, on the other. Among the most consistent of the strategies and guidelines enunciated, and endorsed by consensus, through this process were the following:

- I will try to describe explicitly my thought processes involving legal and ethical considerations when students are present.
- I will teach the student that ethics, common sense, and focusing on proper care of the patient are the best guides for managing legal risks.
- I will be mindful of the signals I send to the student and will be more open and candid in discussions about taking the best ethical care of my patients.
- I will spend time elaborating to the student the need to communicate with patients and to document what we are doing and why we are doing it.

FacultyDevelopment (last visited May 15, 2012).

22. FLA. STATE UNIV. COLL. OF MED., www.med.fsu.edu/Regional.

23. Educating and developing future physicians who will "practice patient-centered health care" is a key component of the Mission Statement of the Florida State University College of Medicine, FLA. STATE UNIV. COLL. OF MED., COLLEGE OF MEDICINE OVERVIEW, http://med.fsu.edu/index.cfm?page=comAboutUs.overview (last visited May 15, 2012).

- I will explain explicitly to the student the legal and ethical implications of patient care recommendations and the resulting acceptance or refusal of that care by the patient.
- I will challenge the student to evaluate situations that might entail ethical and legal issues or ramifications.

This project was a pilot attempt. In future, expanded projects building on the insights gained through this pilot, follow-up activities will attempt to evaluate the effectiveness of the faculty development workshops in improving the quality of teaching delivered by participating faculty physicians and the quality of learning reaped by medical students. More particularly, the project managers will try to assess whether, as a consequence (at least in part) of this type of educational intervention, clerkship faculty are more likely to signal to their students affirmative messages about the ability of physicians to successfully reconcile ethical obligations, precepts of good evidence-based clinical care, and their own legal risk-management interests. In other words, we will ask whether faculty can convey to students an ethos of positive rather than negative defensive medicine.

This project implicates opportunities for the sort of interprofessional collaboration that is relevant to both the teaching and research legs of the academic stool. A substantial public service component also comes into play because the ultimate objective of these faculty development workshops is to enhance the quality of medical care received ten and twenty years from now by the future patients of the students who are presently being acculturated into the medical profession by the faculty mentors who participated in these workshops.

3. Summer Student Projects

One 2011 summer student project comprising collaboration between a medical student and a law student was described above in the context of the larger POLST Paradigm effort.[24] In the summer of 2010, the Medicine-Law Center leveraged funds available through the College of Medicine's Department of Geriatrics to sponsor a different medical student-law student research team. A noteworthy aspect of this project is that the topic did not originate with the abstract intellectual ruminations of faculty or students, but rather arose from a real world problem perceived by health care providers, as expressed to the Medicine-Law Center Director by a trade association official representing the troubled providers. Specifically, a number of Florida long-term care personnel had been expressing concern regarding the impracticality and administrative burden imposed on them by state requirements pertaining to the formal declaration of death for residents of

24. *See* Lamb & Spillers, *supra* notes 15–17, and accompanying text.

long-term care facilities. The medical student-law student research team surveyed available literature and applicable statutory and regulatory provisions, as well as interviewed a number of practicing long-term care physicians, nurses, and administrators. The interprofessional student team concluded with useful suggestions for conforming clinical practice and state policy in long-term care, and also for improving clinical practice in the sphere of death certification more generally.[25] In its future sponsorship and supervision of student research projects, the Center will continue to both follow the model of forced interprofessional collaboration and look to practitioners and policy makers in the field for topic ideas that address actual, unresolved problems that are receiving inadequate attention from academic investigators.

4. Florida Health Policy Center

One final project description will illustrate how the Medicine-Law Center intends to pursue its mission to improve the public's quality of life. Over the course of 2010 and early 2011, the Medicine-Law Center (in collaboration with the College of Medicine's Division of Health Affairs)[26] prepared various iterations of a proposal to develop a three-year business plan for creation and implementation of a Florida Health Policy Center ("FHPC") at Florida State University. The goal of the FHPC would be to advance the health of Floridians by providing policymakers with information and analytical skills necessary to make knowledgeable decisions about health policy issues.

The FHPC proposed to: create and deliver a multi-part educational curriculum on the basics of health care financing and delivery, drawing on the combined expertise of physicians, other health care professionals, and attorneys; provide interprofessional technical assistance and consultation in response to specific requests; conduct periodic briefings, roundtables, and continuing education programs in which both medical and legal perspectives were represented; and (through private contracts or grants) conduct or collaborate across professions in research projects and produce reports on specific health policy topics. The targeted audiences for these activities would include Florida legislators, legislative staff, candidates for legislative offices, County Commissioners, Cabinet officials and senior personnel in Florida executive branch agencies dealing with health issues, private organizations who participate in the public policy making process (for example, foundations and professional associations), the general public, and the me-

25. Leah Williams, Hayley Dewey, & Marshall B. Kapp, *Long-term Complication: Florida's Death Certification Process and Long-Term Care*, 23 INT.'L J. RISK & SAFETY MED. 139 (2011).

26. *See* FLA. STATE UNIV. COLL. OF MED., DIV. OF HEALTH AFFAIRS, http://med.fsu.edu/index.cfm?page=healthAffairs.home (last visited May 15, 2012).

dia.

Through these activities, the FHPC would serve as an ongoing, independently funded, interprofessional nonpartisan source of education, information, and analysis regarding health policy issues in Florida. The Medicine-Law Center would *not* take on the role of actively advocating for or against particular legislative or regulatory proposals or approaches; instead, through its interprofessional resources, it would provide objective, unbiased informational support to equip its target audiences to make decisions based on timely and sound familiarity with, and understanding of, all relevant considerations.

The rationale for creating a FHPC is that Florida faces significant health care challenges, most immediately a critical budget shortfall, rising health care costs (including escalating Medicaid expenditures), and the requirement of state compliance with the federal Patient Protection and Affordable Care Act ("PPACA").[27] It is imperative that public policy decisions made and implemented in anticipation of, and response to, these challenges be based on timely, comprehensive, accurate information and analysis. This need is underscored by Florida's legal term limit restrictions for legislators, which have the unintended consequence of endangering legislators' accumulated institutional knowledge about key health programs and policy issues.

Florida public policy makers currently do not have access to a reliable, objective source of information and analysis to assist them in making difficult choices regarding health programs and policies,[28] and they certainly lack access to sources that take advantage of the cross-pollinated perspectives of different pertinent professions. There are many organizations that participate usefully in public policy discussions regarding health issues in Florida, but each of them has some particular personal stake in the outcome of the policy making process that, in reality and/or appearance, colors its objectivity and therefore the value of its information and advice to policy makers. The absence of a reliable, objective, interprofessional source of information and analysis to assist Florida policy makers in making difficult choices regarding health programs and policies thus leaves an important void that the FHPC could fill.

The proposal to create a FHPC is presently dormant, as there is unresolved disagreement about mundane but significant administrative and governance details among the several private foundations that had originally contemplated coming together in a consortium to jointly fund this project.

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27. Pub. L. No. 111-148, 124 Stat. 119 (2010), amended by Health Care and Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010).

28. This is a national situation. Commentators have noted that "state legislators, particularly part-time legislators, have few resources for in-depth study of health issues." James Colgrove et al., *HPV Vaccination Mandates—Lawmaking Amid Political and Scientific Controversy*, 363 NEW ENG. J. MED. 785, 791 (2010).

Nonetheless, even if the FHPC never materializes exactly in its currently contemplated form, preparation of the proposal constituted an excellent opportunity for serious thinking and planning about interprofessional collaboration as a strategy for educating the state's health policy makers in a manner that would benefit the public while creating multiple potential spin-offs for scholarship and teaching of both law and medical students

III. LESSONS LEARNED/CHALLENGES REMAINING

The Florida State University Medicine-Law Center is a young enterprise, so it might be presumptuous for the author to suggest too authoritatively useful lessons to be drawn from the enterprise's limited experience.[29] However, if mistakes are a good teacher, then I have learned a great deal over the past two years in working to build from the ground floor this new academic entity with its uncommon, indeed uncharted, mission. This especially includes lessons about recognizing challenges to be confronted in this particular kind of institution-building endeavor.

First, garnering general philosophical agreement about the virtues of medical-legal collaboration among academic colleagues (selling attitudes and platitudes that cost nothing to endorse) is easy, but actually convincing faculty (particularly law faculty)[30] to peak out of their busy, over-committed, disciplinary comfort zones or silos is exceedingly difficult. Moving faculty from vague interest and no obligation support of the curious notion of interprofessional collaboration to a point of tangibly, affirmatively engaging in collaboration is a challenge. This journey is definitely facilitated by the development of individual, concrete projects about which one is able to ask particular faculty colleagues to collaborate in defined ways, such that those colleagues can better calculate relative opportunity costs threatened and rewards offered in taking on a new, collaborative project. In the Medicine-Law Center's earliest days, significant time was unavoidably devoted to general introductions, "schmoozing," and amorphous suggestions that "we all must get together and be friends because we all believe in interprofessional collaboration." However, it was not until the Medicine-Law

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29. Law professors often travel in presumptuous company. *See*, *e.g.*, Joseph A. Dickenson, *Understanding the Socratic Method in Law School Teaching After the Carnegie Foundation's EDUCATING LAWYERS*, 31 W. NEW ENG. L. REV. 97 n.14 (2009) (quoting Professor Brian Leiter); PIERRE SCHLAG, THE ENCHANTMENT OF REASON 91 (1998).

30. *See*, *e.g.*, Margaret E. Montoya & Francisco Valdes, *Latinas/os and the Politics of Knowledge Production: Latcrit Scholarship and Academic Activism as Social Justice Action*, 83 IND. L.J. 1197, 1217 n.56 (2008) (quoting Angela Harris' comment "on the hurt and craziness that we are all exposed to, and sometimes contaminated by, in the seductive imperial fog of the competitive, high status, atomized silos called law schools"). *But see* Toni M. Massaro, *Dean's Welcome*, 50 ARIZ. L. REV. 1, 8 (2008) ("Law professors today are less guild-like, less operating within an intellectual silo transparent only to lawyers than in decades past.").

Center began to generate some tangible projects of the sort discussed in the previous section that faculty colleagues could really be given an opportunity to "put up or shut up" in terms of their personal commitment to promoting activities consistent with the Center's mission.

Second, in dealing with the outside world, we must convert the common accusation that university faculty are shielded by an "ivory tower"[31] into a positive asset. As discussed above in the context of the Florida Health Policy Center that has yet to come to fruition, policy makers and the public need objective, unbiased information and advice from a source that—unlike other advisors who are trying to influence policy making in a specific direction—does not have a financial or ideological "dog in the fight."[32] An entity like the Medicine-Law Center located in an academic institution is ideally situated to add value (that is, to fill a need by doing what others cannot credibly do) to problem solving by purposefully taking on an honest broker, convener, or mediator type of role.

This recommendation is likely to be controversial. I have consciously and expressly eschewed pursuing a political activism or advocacy role for the academic Center I have been involved in developing. In fact, many faculty members promote political activism and advocacy as a central role for academic centers to play,[33] especially in the health care policy arena. This position may be correct regarding law school clinics that are created precisely for that purpose.[34] Outside of the legal clinic arena, though, maintaining both the appearance and reality of financial and political disinterestedness or Ivory Towerism enhances the credibility of an academic Center and the palatability of its work product with the broadest range of possible audience members, and thus in the long run enhances the influence the Center may be able to exert over policy formulation and evaluation.

Third, flexibility and nimbleness within the broad confines of one's declared mission are key virtues. As Louis Pasteur noted, "Fortune favors

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31. Bruce A. Green, *The Market for Bad Legal Scholarship: William H. Simon's Experiment in Professional Regulation*, 60 STAN. L. REV. 1605, 1625 (2008) ("One's academic affiliation, without more, may actually be a liability because many assume that academics live in 'ivory towers,' removed from real-world practice.").

32. *See generally* Stan Bernstein et al., *The Empowerment of Bankruptcy Courts in Addressing Financial Expert Testimony*, 80 AM. BANKR. L.J. 377, 432 (2006) ("An expert who has a 'financial dog in the fight' cannot be objective; his opinion will be swayed by his financial stake and, thus, be inherently unreliable.").

33. *See*, *e.g.*, Margaret Chon, *Remembering and Repairing: The Error Before Us, In Our Presence*, 8 SEATTLE J. SOC. JUST. 643, 644 (2010) (describing an academic center's "pillars" as "advocacy, education, and research").

34. Margaret M. Jackson & Daniel M. Schiffzin, *Preaching to the Trier: Why Judicial Understanding of Law School Clinics is Essential to Continued Progress in Legal Education*, 17 CLINICAL L. REV. 515, 523 (2011); Matthew R. Krell, *The Ivory Tower Under Siege: A Constitutional Basis for Academic Freedom*, 21 GEO. MASON U. C.R. L.J. 259, 282–83 (2011). Medical-Legal Partnerships are likely to fall into this category. *See* Tyler et. al., *supra* note 3.

the prepared mind."[35] The ability to act expediently, expeditiously, and opportunistically when funding and collaboration opportunities arise, while at the same time maintaining consistency with one's organizational mission, is laudatory and in a competitive environment absolutely necessary. The Medicine-Law Center is trying to have several "shovel ready" projects in a constant state of readiness in case good "fortune" chooses to favor it; at the same time, the Center stays alert to new projects undertaken by others at the university that might be appropriate for glomping[36] onto by the Center.

Fourth, real world relevance requires listening sincerely to the real world experiences, complaints, frustrations, and suggestions of real world people who represent the various constituencies with which we might want to partner and whom we might choose to serve. In fashioning its portfolio of projects, the Medicine-Law Center is trying to carefully concentrate on matters of urgency to attorneys and physicians who actually deliver professional services to client/patient populations, rather than selecting agenda issues based solely on their inherent interestingness to the potentially involved faculty members. At the same time, though, an academic center is not a private consultancy shop.[37] While particular projects ought to be informed by the input of parties who can bring a real world perspective to the table, it is imperative that a center maintain strict control of the content, high academic standards, integrity, and product dissemination modes of its portfolio.

Fifth, new academic entities (especially those that are innovative and therefore disruptive of the status quo) need to be established in their formative period through the cultivation of personal, one-on-one relationships. The goal at Florida State University is to establish a permanent institutional presence representing the intersection of medicine and law that will be afforded credibility and respect regardless of which individuals happen to be employed in any specific job by the Medicine-Law Center at any particular moment in time. Nonetheless, the people from whom such credibility and respect must be earned will, at least at first, afford it only to other particular people whom they trust, and not to the Center *qua* Center. Consequently, substantial time and other resources must be devoted at the launching of an institutional medicine-law entity to meeting individually with potential collaborators on the faculty and in the larger community, and selling them on a

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35. WIKIQUOTE, LOUIS PASTEUR, http://en.wikiquote.org/wiki/louis_pasteur (last visited May 15, 2012).

36. WIKTIONARY, GLOMP, http://en.wiktionary.org/wiki/glomp (last visited May 15, 2012). (To "glomp" is "to embrace enthusiastically; to pounce on and hug, often *from a running start*.") (emphasis added). The Center is attempting to achieve a steady running—or at the least jogging—start in a number of areas of possible collaboration with others.

37. Of course, a private, proprietary consultancy arm could be set up as a separate entity, subject to applicable university rules. *Cf.* Stephen N. Dunham, *Government Regulation of Higher Education: The Elephant in the Middle of the Room*, 36 J.C. & U.L. 749, 764 (2010) (referring to the faculty "day a week" consulting policy common in universities).

retail, rather than wholesale, basis about the value of the Center concept and particular projects being contemplated as additions to the Center's activities portfolio.

Finally (although this list by no means purports to be comprehensive), one would be sorely remiss to fail to mention the fundamental role of money in the "making it real" equation. A new academic center in any sphere, and certainly one hinging on innovative interprofessional collaboration, needs to have a financial endowment to ensure not just generic survival in the modern resource deprived university environment, but growth and prosperity in filling an important gap on a long term basis. The leadership of such a new center probably will have to devote enormous time and effort in working closely with development personnel in building that endowment. Once obtained, though, an adequate, permanent financial underpinning should enable a center to construct a teaching, scholarship, and service portfolio true to its distinctive mission rather than being forced to continually engage in chasing any temporarily available pots of grant dollars, whether or not the projects thus undertaken are really central to the center's announced mission. Money equals freedom in many different respects, and an endowment is essential for a center to set its own course.

IV. CONCLUSION

There is an important role for traditional academic health law centers such as those that already exist at many fine law schools.[38] However, that is not the role adopted by the relatively new Center for Innovative Collaboration in Medicine & Law at Florida State University. Operationalizing within an academic center an active, ongoing, synergistic interaction between the medical and legal professions is a challenge, but one whose ultimate objectives—for both the public and members of the respective professions—are well worth the necessary investment of time, treasure, and energy.

38. *See* U.S. NEWS AND WORLD REPORT, HEALTHCARE LAW—BEST LAW SCHOOLS (2012), *available at* http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/clinical-healthcare-law-rankings.