

# CLINICAL EDUCATION: WHAT DO WE TEACH?

## AALS WORKSHOP FOR NEW CLINICAL TEACHERS JUNE 29, 2008

Katherine Shelton Broderick, University of the District of Columbia  
Phyllis Goldfarb, The George Washington University  
Alexander Scherr, University of Georgia

This document contains: (1) a brief scenario that will be used as the context for our conversation about the teaching that can occur in a clinical setting through case supervision; (2) a list of skills and values that might be advanced through clinical teaching; and (3) a list of resources on skills and values that may be helpful for new clinicians.

### I. SCENARIO

Sherry is a clinical law student whom you are supervising. At Sherry's request, you will be meeting with her tomorrow about her clinic work. In preparation for that meeting, you have asked her to send you a progress report on her work in a pending case and her proposed agenda for your supervision session. You have just received this e-mail.

Deleted: Y

Deleted: Sherry

Deleted: tomorrow, at her request.

Dear Professor,

You remember that I asked you for some help with a case, and you asked me to send you a progress report on it before we meet tomorrow. Since we last talked, I have visited the client three times. I like her very much, I think we're developing a good rapport, and she's given me lots of information that might be helpful in her case. In between client meetings, I've been brainstorming about the legal issues that are raised by the facts of this case. I've spent many hours in the library researching these issues, and I have a long list of them to discuss with you tomorrow.

Deleted: Y

Deleted: have

Deleted: the Harris case

Deleted: our supervision meeting

Deleted: met last week

My anxiety is building as the deadline looms closer, and I'm still sorting out the facts and figuring out the issues. I had hoped to make more progress than I did this week, but I think the other work I did is developing facts and issues that may be important. I know I ran into a problem earlier in the semester when I could not finish drafting a submission, because I got too close to the deadline before completing it, but I learned from that experience and I think that I still have time to finish this task before the due date. I do have three other classes this semester,

Deleted: the

Deleted: for our brief

Deleted: in organizing and outlining the brief

Deleted: you had to

Deleted: parts of my complaint

Deleted: brief

Formatted: Right: 18 pt

which has been challenging for me, but, as you know, this case is my first priority. I hope that my motivation to help the client will help me to write something good in a timely way.

Deleted: a good brief

In our supervision meeting tomorrow, I need to discuss with you the steps I should focus on next. I'll see you at 2pm. I'm really looking forward to talking about the case with you.

Until tomorrow,  
Sherry

### **Exercise 1: Preparing for the Supervision Session**

Take a few minutes and make a list of your goals for your supervision meeting with Sherry. You may wish to consult the list of skills and values below to stimulate your thinking about your goals. In service of these goals, think about what kinds of questions you will ask Sherry to gather information and to encourage reflection. Consider how you want the supervisory meeting to end. Also consider the feelings and concerns that this supervision scenario evokes in you as the supervisor.

### **Exercise 2: Conducting the Supervision Session**

Put your plan into action. We will be role-playing your supervision meeting with Sherry.

### **Exercise 3: Reflecting on the Supervision Session**

Did you accomplish your goals? What interventions did you use? Did they seem to be effective? What lessons were learned? If you were to conduct this session again, what might you do differently? What ideas do you have for your next supervision meeting with Sherry?

## **II. SKILLS AND VALUES<sup>1</sup>**

Clinicians often have multiple teaching goals. Typically, these include helping students develop the skills necessary to effectively represent clients and the values necessary to the formation of professional identity.

### **A. Skills:**

---

<sup>1</sup> The materials in Sections II and III are drawn from materials prepared in 2004 by Kim Diana Connolly, University of South Carolina; Alex Scherr, University of Georgia; and Paulette J. Williams, University of Tennessee.

Formatted: Right: 18 pt

Clinical teaching may be directed toward the development of the following professional skills:

- **Lawyering process:** the overarching methodology through which lawyers encounter, assess, advise, and implement solutions to client problems.
- **Legal problem-solving:** the analytical process of integrating the lawyer's grasp of the law with their understanding of the client's situation, towards finding solutions to client problems.
- **General lawyering behaviors:** behaviors common to all lawyers, including: interviewing, investigation, legal research and analysis, counseling, and negotiation.
- **Cross-Cultural Competence:** the ability to appreciate and respect the differences among clients, without resorting to stereotypes about race, sex, ethnicity and culture; the ability to understand the lawyer's own cultural identity. the ability to understand and work with the client's cultural preferences and cultural identity and the ability to adapt dominant cultural models for use by persons not from that dominant culture.
- **Role- or task-specific behaviors:** behaviors specific to particular kinds of lawyering or particular legal processes: litigation (including such tasks as taking depositions, drafting motions, oral argument, or managing evidence); transactional planning (including such tasks as deal-structuring or drafting); or legislative, administrative, or policy advocacy.
- **Client relationship:** in addition to interviewing and counseling, those behaviors through which lawyers create, sustain, and shape their work with clients including cross-cultural competency.
- **Law practice management:** the mechanics of delivering legal services over time to multiple clients, including file and caseload management, record-keeping, scheduling, time-keeping, and working with non-lawyer staff.
- **Time management / professional balance:** the personal disciplines of managing time on task, coordinating disparate work demands, and maintaining a balance between in-office and non-office time.
- **Collaboration:** the behaviors helpful to work in groups of lawyers, both in supervisory relationships and in peer groups.

## B. Values:

In clinical education, as in lawyering, values are implicated. These values may or may not be explicitly articulated. Many clinicians engage students in considering the values inherent in the choices that lawyers make. A list of such values can include:

- **Political and social justice:** lawyering towards political and social justice, especially on behalf of oppressed clients and/or client groups.
- **Difference and diversity:** working as a lawyer with clients (and others) whose lives and values differ significantly from the lawyer's.

Formatted: Right: 18 pt

- **Insight into privilege:** reflecting on the ways the lawyer’s own personal experience and background can affect the way in which the lawyer sees the world and may reinforce imbalances in power with the client and within society.
- **Client service:** devoting personal and professional loyalty to client goals and to solving client problems, whether for individuals, groups or legal issues.
- **Competence and quality of practice:** assessing ones own ability to handle a legal problem, mastering necessary skills and knowledge, assessing differences in practice quality, and improving one’s own effectiveness as a lawyer.
- **Ethical awareness, evaluation, and action:** noticing and assessing the ethical dimensions of particular lawyering situations, along with meeting ethical requirements and reaching for ethical aspirations.
- **Relational awareness:** engaging the interpersonal dimensions of legal practice (with clients, colleagues, opponents and institutional actors), coupled with assessing and employing different modes of engagement, from adversarial to collaborative.
- **Reflective practice:** engaging in thoughtful self-assessment in the midst of action, as a vehicle for professional self-development, personal engagement and renewal, and awareness of the broader dimensions of lawyering and law practice.
- **Professionalism:** assessing and enacting the lawyer’s status as a public actor with special power and responsibilities, whether externally (such as dress or personal manner) and internally (such as diligence, loyalty, or an overarching sense of calling).
- **Work and life balance:** a focus on lawyering as a commitment that co-exists with others, including those to family, service, and personal health.

### III. USEFUL RESOURCES FOR NEW CLINICIANS

#### A. Recent Reports

William M. Sullivan Et.Al., *Educating Lawyers: Preparation for the Profession of Law (2007)* (the Carnegie Report) (evaluating legal education and advocating curricular changes focused on skills and professional identity.)

Formatted: Font: Not Bold, Italic

Roy Stuckey & Others, *Best Practices in Legal Education (2007)* (evaluating legal education and advocating context-based educational reforms.)

Formatted: Font: Not Bold, Italic

#### B. Law Review Articles

Formatted: Right: 18 pt

Mark Neal Aaronson, *Thinking Like a Fox: Four Overlapping Domains of Good Lawyering*, 9 CLIN. L. REV. 1 (2002).

Jane Harris Aiken, *Striving to Teach "Justice, Fairness, and Morality,"* 4 CLIN. L. REV. 1 (1997).

Anthony Amsterdam, *Clinical Legal Education-A 21st Century Perspective*, 34 J. LEGAL EDUC. 612 (1984)

Margaret Barry, Jon Dubin, & Peter Joy, *Clinical Education For This Millennium: The Third Wave*, 7 CLIN L. REV. 1 (2000)

Douglas A. Blaze, *Déjà Vu All Over Again: Reflections on Fifty Years of Clinical Education*, 64 TENN. L. REV. 939 (1997).

Lester Brickman, *Contributions of Clinical Programs to Training for Professionalism*, 4 CONN. L. REV. 437 (1972).

Susan Bryant & Jean Koh Peters, *The Five Habits: Building Cross Cultural Competence in Lawyers*, 8 CLIN L. REV. 33 (2001).

[Susan Bryant & Elliott S. Milstein, Rounds: A "Signature Pedagogy" for Clinical Education?, 14 CLIN. L. REV. 195 \(2007\).](#)

Robert D. Dinerstein, *Clinical Texts and Contexts*, 39 UCLA L. REV. 697 (1992).

Russell Engler, *The MacCrate Report Turns 10: Assessing Its Impact and Identifying Gaps We Should Seek to Narrow*, 8 CLIN. L. REV. 109 (2001).

Mary Jo Eyster, *Clinical Teaching, Ethical Negotiation, and Moral Judgment*, 75 NEB. L. REV. 752 (1996).

Peter Toll Hoffman, *Clinical Scholarship and Skills Training*, 1 CLIN. L. REV. 93 (1994).

Michelle Jacobs, *People From The Footnotes: The Missing Element in Client-Centered Counseling*, 27 GOLDEN GATE U.L. REV. 345 (1997)

Peter A. Joy, *Clinical Scholarship: Improving the Practice of Law*, 2 CLIN. L. REV. 385 (1996).

Ann Juergens, *Teach Your Students Well: Valuing Clients in the Law School Clinic*, 2 CORNELL J.L. & PUB. POL'Y 239 (1993).

Formatted: Right: 18 pt

Janeen Kerper, *Creative Problem-Solving vs. The Case Method: A Marvelous Adventure in Which Winnie-the-Pooh Meets Mrs. Palsgraf*, 34 CAL. W. L. REV. 351 (1998).

Katherine R. Kruse, *Biting Off What They Can Chew: Strategies for Involving Students in Problem-Solving Beyond Individual Client Representation*, 8 CLIN. L. REV. 405 (2002).

Antoinette Sedillo Lopez, *Learning Through Service in a Clinical Setting: The Effect of Specialization on Social Justice and Skills Training*, 7 CLIN. L. REV. (2001).

Robert MacCrate, *Teaching Lawyering Skills*, 75 NEB. L. REV. 643 (1996).

Kenneth R. Margolis, *Responding to the Value Imperative: Learning to Create Value in the Attorney-Client Relationship*, 5 CLIN. L. REV. 117 (1998).

Binny Miller, *Teaching Case Theory*, 9 CLIN. L. REV. 293 (2002).

Eleanor W. Myers, *Teaching Good and Teaching Well: Integrating Values with Theory and Practice*, 47 J. LEGAL EDUC. 401 (1997).

Jacqueline Nolan-Haley & Maria R. Volpe, *Teaching Mediation As a Lawyering Role*, 39 J. LEGAL EDUC. 571 (1989).

Kimberly E. O'Leary, *When Context Matters: How to Choose an Appropriate Client Counseling Model*, 4 T.M. COOLEY J. PRAC. & CLINICAL L. 103 (2001).

Roy T. Stuckey, *Education for the Practice of Law: The Times They Are A-Changin'*, 75 NEB. L. REV. 648 (1996).

Paul R. Tremblay, *Coherence and Incoherence in Values-Talk*, 5 CLIN. L. REV. 325 (1998).

Paul R. Tremblay, *Interviewing And Counseling Across Cultures: Heuristics And Biases*, 9 CLIN. L. REV. 373 (2002).

Rodney J. Uphoff, James J. Clark & Edward C. Monahan, *Preparing the New Law Graduate to Practice Law: A View from the Trenches*, 65 U. CIN. L. REV. 381 (1997).

Stephen Wizner, *The Law School Clinic: Legal Education in the Interests of Justice*, 70 FORDHAM L. REV. 1929 (2002).

Formatted: Right: 18 pt

**C. Web Sites**

Deleted: B

American Bar Association Central and East European Law Initiative (CEELI)

<http://www.abanet.org/ceeli/home.html>

American Bar Association Section of Legal Education and Admission to the Bar

<http://www.abanet.org/legaled/home.html>

Association of American Law Schools (AALS) Section on Clinical Legal Education

<http://www.aals.org/sections/ce.html>

Clinical Education: An Annotated Bibliography, Revised Edition: The Czapanskiy Bibliography

<http://faculty.cua.edu/ogilvy/Index1.htm> also found at J.P. Ogilvy with Karen Czapanskiy, *Clinical Legal Education: An Annotated Bibliography*, 3rd ed., Special Issue No. 2 *Clin. L. Rev.* 1 (2005).

Clinical Law Review

<http://www.law.nyu.edu/clr/>

Clinical Legal Education Association (CLEA)

<http://cleaweb.org>

Clinical Legal Education – a directory clinical legal educators

<http://cgi2.www.law.umich.edu/GCLE/index.asp>

Global Alliance for Justice Education (GAJE)

<http://www.gaje.org/>

A Humanizing Dimension for Legal Education

[http://www.law.fsu.edu/academic\\_programs/humanizing\\_lawschool.php](http://www.law.fsu.edu/academic_programs/humanizing_lawschool.php)

**D. Listservs**

Deleted: C

**GAJE** – email [majordomo@list.vanderbilt.edu](mailto:majordomo@list.vanderbilt.edu) with the following command in the body of your email message: subscribe gaje

**Humanizing Legal Education** – to subscribe, send an empty email to: [legaled-subscribe@mail.law.fsu.edu](mailto:legaled-subscribe@mail.law.fsu.edu)

**LAWCLINIC** – A clinician's Listserv, to subscribe email [lawclinic@lawlib.wuacc.edu](mailto:lawclinic@lawlib.wuacc.edu) with the following request in the body of the message: subscribe lawclinic [your first name] [your last name]

**LAWPROF** – to subscribe, email [listproc@chicagokent.kentlaw.edu](mailto:listproc@chicagokent.kentlaw.edu) with the following request in the body of the message: subscribe LAWPROF

Formatted: Right: 18 pt

**LXTERN** – to subscribe, email [listserv@lists.cua.edu](mailto:listserv@lists.cua.edu) with the following request in the body of the message: subscribe lextern

**LEGALETHICS** – to subscribe, email [listserv@lawlib.wuacc.edu](mailto:listserv@lawlib.wuacc.edu) with the following request in the body of the message: subscribe legalethics-l [your first name] [your last name] lawprofessor

**NEW LAW PROFS** – to subscribe, email [listserv@listserv.uh.edu](mailto:listserv@listserv.uh.edu) with the following request in the body of the message: subscribe newlawprofessors

**PROF-ISM** – a professionalism listserv, to subscribe email [listserv@vm.sc.edu](mailto:listserv@vm.sc.edu) with the following request in the body of the message: SUB PROF-ISM [your first name] [your last name]

Formatted: Right: 18 pt