

## PLAYING DOCTOR, PLAYING LAWYER: INTERDISCIPLINARY SIMULATIONS

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*Law students rarely have the opportunity to interact with other professionals—doctors, business people, social workers, actors or engineers, for example—during law school. While legal problems are ubiquitous in the lives of many professionals, there is little in most professional or graduate education programs to prepare students to work effectively with a lawyer or to engage across disciplinary lines when facing legal issues. Consequently, when professionals complete their educations and move into practice, they can encounter a type of “culture shock” when they must interact with other professionals around client-centered issues, in consultations, lawsuits, administrative hearings and other settings. This article discusses the authors’ introduction of two interdisciplinary innovations into their skills training courses: first, using the university’s Ph.D. program in Theatre as a resource for enriching the communication skills of their students and, second, collaborating with other graduate and professional programs in role-playing simulation exercises in which their students serve as lawyers for students from the other programs, each representing a professional in her own discipline. The article presents the authors’ view that the richness of the fact situations and the interactions with differently-trained professionals improves the acquisition of fundamental skills, and discusses their program, what works well and what they hope to improve.*

### INTRODUCTION

*Dr. Walters entered the interview room with his attorney, Sheila Kincaid. The Department of Profession Regulation (DPR) investigator, Jack Jones, was already present.*

*“Have a seat,” Jones said flatly. “This is an informal interview conducted by the Illinois Department of Professional Regulation into the allegations of misconduct by Dr. James Walters brought by a former patient, Jennifer Suss. Are you aware of the nature of the allegations, Dr. Walters?”*

*Dr. Walters cleared his throat, but before he could speak, Ms. Kin-*

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*caid spoke up, saying, "We are familiar with the allegations. What questions do you have for Dr. Walters?"*

*"Thank you counsel," Jones responded. "Dr. Walters do you remember treating Jennifer Suss and have you reviewed your charts on her?"*

*"Yes, I remember her and I have copies of her medical records with me", Dr. Walters responded.*

*"Describe the nature of your practice," Jones instructed in an authoritarian tone.*

*"I am a family practitioner with C-U Medical Clinic. I treat patients of all adult ages and backgrounds," Dr. Walters replied.*

*"How many African-American or minority patients does your practice include?" Jones asked.*

*"We are a fairly diverse community. I would say that I, that my practice has somewhere in the range of ten to fifteen per cent minority patients, primarily African-Americans, though with a number of Hispanic patients as well," Dr. Walters responded.*

*"To investigate this claim of racial animus, I will need the names of all patients in these minority groups you have treated in the past six months." Jones said. "How long will it take you to provide me with a list of names?"*

*"Just a minute," Ms. Kincaid interjected. "The information you are seeking is privileged. Without a release from each patient, my client will not be able to provide you with information about any patient other than the complainant. We have a copy of the release Ms. Suss executed for DPR, which is why the doctor will answer your questions about her treatment and medical records."*

*"Thank you counsel, let's move on to Ms. Suss's complaint about you," Jones offered in response.*

If only law students came naturally equipped with the talent and presence demonstrated by the fictional Sheila Kincaid in this excerpt from one of our interdisciplinary exercises. This confrontation between doctor, lawyer and investigator is part of a culminating exercise from our counseling and interviewing course.<sup>1</sup> The goal of the exercise is to create a safe, lifelike environment in which our law students gain experience in issue recognition, professionalism in representation

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<sup>1</sup> All names are fictional, as are the patient complaint, medical charts, and participants. The investigator is often portrayed by a local private investigator volunteering his time or by an actor. The doctor may be a practicing physician participating in the exercise for continuing medical education or a medical student taking an advanced clinical problems course.

and assertion of attorney-client privilege. The exercise provides teachable moments for our students that we believe have sticking power.

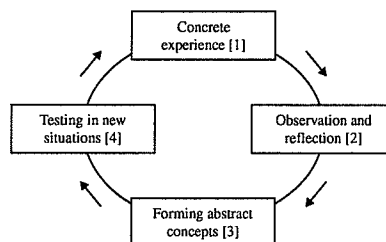
Law students rarely have the opportunity to interact with other professionals — doctors, business people, social workers, actors or engineers, for example — during law school. In fact, while legal problems are ubiquitous in the lives of many professionals, there is little in most professional or graduate education programs to prepare students to work effectively with a lawyer or to engage across disciplinary lines when facing legal issues.

We have introduced two interdisciplinary innovations into our skills training courses: first, using the university's Ph.D. program in Theatre as a resource for enriching the communication skills of our students and, second, collaborating with other graduate and professional programs in role-playing simulation exercises in which our students serve as lawyers for students from the other programs, each representing a professional in her own discipline. We believe that the richness of the fact situations and the interactions with differently-trained professionals improves the acquisition of fundamental skills.<sup>2</sup>

Adult learning theory tells us that well-designed simulation exercises advance deep learning through the integration of theory, practice and self-discovery.<sup>3</sup> The aura of reality introduced by having outsiders participate in legal skills role plays has had a counter-intuitive effect — it seems to help our students focus on the fundamentals in ways that simulations involving only law students do not. That is, we find that the introduction of complexity to the exercises by adding role-playing clients from other disciplines advances the acquisition of

<sup>2</sup> We teach courses in counseling and interviewing as well as negotiation and trial advocacy, incorporating interdisciplinary interactions in each. For most exercises, we use students from professional and graduate programs across our university. For some, we recruit volunteers from the community to play clients.

<sup>3</sup> DAVID A. KOLB, *EXPERIENTIAL LEARNING* (1984).



fundamental skills, rather than distracting from them.

We believe our simulation experiences provide a foundation for all types of practices and should precede clinical experiences.<sup>4</sup> In the learning sequences we have designed, law students first practice with each other and with standardized clients from the graduate program in our university's theatre department. After gaining a level of skill and confidence, they then move into more nuanced problems where they serve as attorneys working with community professionals and students from the MBA, medical, labor relations, and social work programs. Cross-disciplinary simulations are designed to advance the learning of students in each program: law students learn how to work with clients whose professional problem-solving approaches are different from their own, and the professional students learn to work effectively with lawyers in complex situations.

In our simulations, all clients complete standardized feedback instruments on the performance of their attorneys. In simulations with other professional students, the law students also have an opportunity to submit feedback on the other participants. After each simulated experience, our students are given varying structured reflection and analysis assignments, with the goal of building competence in a core set of skills.<sup>5</sup>

While many simulations exist for law-business or law-management collaborations, particularly in negotiation courses,<sup>6</sup> we have developed our own exercises or utilize those developed by others for interacting with students in other programs or lay people. We place law students in situations where they represent medical students and physicians in complaints filed against them with the Department of Professional Regulation or in peer review settings in hospitals or Health Maintenance Organizations (HMOs). Another scenario in-

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<sup>4</sup> See generally WILLIAM M. SULLIVAN, *WORK AND INTEGRITY: THE CRISIS AND PROMISE OF PROFESSIONALISM IN AMERICA* (2d ed. 2005). As two former, long-time (decades) practitioners who together have had many interns and new hires working for us over the years, we worry about sending neophytes into live client interactions without adequate prior practice. There is support for this in the literature addressing professional education. See *id.* at 246-247; DAVID A. BINDER, PAUL BERGMAN & SUSAN C. PRICE: *LAWYERS AS COUNSELORS* 3 (1991).

<sup>5</sup> Each simulation has a "learning point or points," focused on skills accretion in increments. We aim to layer the teaching, with each segment focusing on specific skills from different aspects and then introducing new competencies building on those taught (and, we hope, learned) in previous experiences.

<sup>6</sup> See, e.g., Creative Consensus, Inc., available at <http://www.creativeconsensusinc.com> (last visited June 15, 2005) (offering a number of experiential learning tools); Harvard Program on Negotiation, available at <http://www.pon.org> (last visited June 15, 2005) (offering a number of negotiation simulations in business settings); Northwestern University's School of Law, available at [http://www.kellogg.northwestern.edu/research/drrc/teaching\\_materials.htm](http://www.kellogg.northwestern.edu/research/drrc/teaching_materials.htm) (last visited June 15, 2005) (offering negotiation simulations).

volves law students interviewing graduating Masters of Social Work (MSW) students who serve as expert witnesses in child custody cases. We have used simulations developed by others that involve labor negotiations where law students work with labor relations students. Finally, we have also developed simulations that use lay-volunteers as clients, as the grandparents in a custody case or the parties in an employee dismissal case.<sup>7</sup>

In these simulations, we seek to recruit clients with relevant professional background and expertise. Just as being in a large research university provides us with an array of professional programs for course-based collaborations, it also provides a large and relatively accessible pool of retirees with deep human resources, management and business experience. Their experience brings a wonderful degree of realism to the scenario involving the dismissing manager and dismissed employee.

As we overcome the initial barriers of novelty and the complexity of working across departments and in recruiting volunteers, interest in participating in the simulations has risen.<sup>8</sup> We are also exploring expanding our collaborations to encompass other professional programs such as engineering, police training, psychology and veterinary medicine.

This paper describes these cross-disciplinary collaborations. We explore the simulation exercises and discuss what works well for both students and faculty members and what needs improvement.

We begin in Part I by exploring the difference in training approach to problem solving and language of the professions. In Part II, we focus on our pedagogical scheme for skills training. In Part III, we describe the foundation elements in simulation exercises – acting students as skills coaches. In Part IV, we track the training of non-lawyer professional students. We explore the use of community volunteers as lay witnesses and professional students as expert witnesses in simulation exercises in Part V. In Part VI, we return to the medical-legal simulation problem that introduced this article and the special contributions of medical students and practicing physicians. We conclude by discussing how complexity in skills training problems and exercises enhances professional development and improvement and suggests fu-

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<sup>7</sup> C. K. Gunsalus, Remarks at the ABA Dispute Resolution Conference: Client Negotiation Exercises (2004) (on file with authors).

<sup>8</sup> Volunteer community members have returned at every opportunity as clients in these role-plays; they speak positively enough about the experience that we get calls from those to whom they've described the experiences asking if they, too, might participate in future exercises. For some of the more established exercises, we have the happy problem of more volunteer clients wishing to participate than we have students to serve as their attorneys.

ture interdisciplinary efforts.

### I. DIFFERENT PROFESSIONS WORK DIFFERENTLY

Our aim in using simulation exercises in skills courses, beyond providing a foundation of professional skills, is to help law students see a transition path for themselves from novices to competent professionals. The literature in social psychology, organizational behavior, cognitive science and related fields tell us a great deal about how people work, and in particular, approaches that differentiate experts from novices.<sup>9</sup> The set of traits that distinguish experts from beginners centers on what information experts notice, how they organize their observations and how they retrieve and apply their knowledge in given situations.<sup>10</sup> These insights are useful in structuring our exercises to maximize the benefit to our students. While our courses are rooted in legal traditions and use legal texts, we have also incorporated aspects from other professional training programs in designing our exercises and skills progression.<sup>11</sup>

Simulation exercises encourage students to start connecting thought and action as well as to advance along the experience spectrum beyond novice. Simulations provide opportunities to combine classroom knowledge with “thinking like a lawyer” and common sense and to understand how the pieces come together — or will, with time.<sup>12</sup> Simulations provide students with a model for continued

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<sup>9</sup> See, e.g., COMMITTEE ON DEVELOPMENTS IN THE SCIENCE OF LEARNING; COMM'N ON BEHAVIORAL AND SOCIAL SCIENCES AND EDUC., NAT'L RESEARCH COUNCIL, HOW PEOPLE LEARN: BRAIN, MIND, EXPERIENCE, AND SCHOOL (John D. Bransford et al. eds 1999) (discussing current theories about human learning).

<sup>10</sup> *Id.* at 19.

<sup>11</sup> See, e.g., DAVID BALL, THEATER, TIPS, AND STRATEGIES FOR JURY TRIALS (3d ed. 2003); GERARD EGAN, EXERCISES IN HELPING SKILLS: A TRAINING MANUAL TO ACCOMPANY THE SKILLED HELPER (7th ed. 2001); DAVID R. EVANS ET AL., ESSENTIAL INTERVIEWING: A PROGRAMMED APPROACH TO EFFECTIVE COMMUNICATION (6th ed. 2003); ALLEN E. IVEY, MICROCOUNSELING (2d ed. 1978); ALLEN E. IVEY & MARY BRADFORD IVEY, INTENTIONAL INTERVIEWING AND COUNSELING: FACILITATING CLIENT DEVELOPMENT IN MULTICULTURAL SOCIETY (5th ed. 2002); SCOTT PLOUS, THE PSYCHOLOGY OF JUDGEMENT AND DECISION MAKING (1993); MICHAEL WHEELER, TEACHING NEGOTIATION: IDEAS AND INNOVATIONS (2000).

<sup>12</sup> The Lawyer as Problem Solver is a prevalent topic throughout clinical literature, from the McCrate Report through Carrie Menkel-Meadows' reflections and beyond, as the legal academy grapples with how to integrate professional judgment and problem-solving expertise with doctrinal knowledge while remaining “scholarly.” To that end, we are slowly incorporating knowledge and information from other disciplines, and to buttress the goals and techniques of clinical education. See, e.g., Gary L. Blasi, *What Lawyers Know: Lawyering Expertise, Cognitive Science, and the Functions of Theory*, 45 J. LEG. EDUC. 313 (1995). Our simulation-based courses, with structured simulations, each having defined learning points and purposeful complexity supporting those learning points, and followed by structured reflection exercises focused on the learning points, are designed to take advantage of these advances.

growth as professionals throughout their careers. William Sullivan, Senior Scholar at the Carnegie Foundation for the Advancement of Teaching and Learning and Director of the Preparation for the Professions Program, observed:

Professionals must be able to assess situations effectively, make judgments reliably, and act responsibly. Each field of professional education faces the challenge of teaching students to size up the kinds of changeable situations these students will encounter in their practice so as to be able to intervene in them for human betterment. Diagnosis, the resolution of legal cases, the design of machines and structures, complex problem solving of many kinds: these all require such abilities. Professional education must cultivate a life of the mind, but it must be a life of the mind for practice, rooted in the arts of professional reason.<sup>13</sup>

In addition to the transition from novice to professional, there is another dimension involved in our cross-disciplinary simulations: that of confronting and grappling with the differences in how experts from different disciplines perceive situations, organize their information and analyze transactions. Again, the literature from social psychology, cognitive science and organizational behavior can assist us by providing a larger context in which to place the experiences we are designing for and administering to our students. For example, we learn that professions have cultural differences as well as informational ones. This affects both the world view and the problem-solving approaches of different professions.<sup>14</sup> Work from these fields discussing how those with different types of information can work effectively together is also instructive.<sup>15</sup> We believe that adding the cross-disciplinary dimension to our simulation exercises deepens and enriches the learning experiences and also helps the students more effectively envision themselves as professionals.

The literature on the differences in professional education across disciplines is illuminating, including the work being done at the Carnegie Foundation for the Advancement of Education on "signature pedagogies of the professions."<sup>16</sup> Lee Shulman says that "[a] charac-

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<sup>13</sup> WILLIAM M. SULLIVAN & MATTEW S. ROSIN, *A NEW AGENDA FOR HIGHER EDUCATION: SHAPING THE LIFE OF A MIND FOR PRACTICE* (forthcoming 2008). See also SULLIVAN, *supra* note 4.

<sup>14</sup> See, e.g., JOHN VAN MAANEN & S.R. BARLEY, *OCCUPATIONAL COMMUNITIES: CULTURE AND CONTROL IN ORGANIZATIONS* (1984); G.A. Fine, *Justifying Work: Occupational Rhetorics as Resources in Restaurant Kitchens*, 41 ADMIN. SCI. Q. 90 (1996).

<sup>15</sup> See, e.g., Karen A. Jehn et al., *Why Differences Make a Difference: A Field Study of Diversity, Conflict and Performance in Workgroup*, 44 ADMIN. SCI. Q. 741 (1999); John Van Maanen & Edgar Schein, *Toward a Theory of Organizational Socialization*, 1 RES. ORG. BEHAV. 209 (1979).

<sup>16</sup> Lee S. Shulman, Remarks at Math Science Partnerships (MSP) Workshop: The Sig-

teristic of all professions is that they are fields in which people make decisions and act under conditions of unavoidable uncertainty. The very uncertainty that is essential to the pedagogy is also socializing future professionals to the conditions of practice.”<sup>17</sup>

The common components of the differences across disciplines include differences in vocabulary and analytical styles. There are also invariably power struggles involved, some more subtle than others, in the relationship that participants must address in order to make the most of their collaboration.

Both medical students and practicing physicians (we get a reasonable number of physicians participating for continuing medical education credits) bring issues of power and control to interactions with their “lawyers.” For example, one physician asked a law student to drive an hour to meet him at 7 a.m. at an ancillary office, only to tell the student that he was not prepared and then asked the student to return the next day at the same time. We did not require the student to do this.

Our program follows the well-established tradition of collaboration between MBA programs and law schools in negotiation courses.<sup>18</sup> We will not dwell on these interactions, except to emphasize how the best of these are eye-opening for both groups of students on demonstrating the role of agents in interactions (pros and cons) and in allowing the students to experience the strength of an interdisciplinary collaboration. Law students, in our experience, tend to be remarkably innumerate.<sup>19</sup> When the teams mesh in a simulation involving a mod-

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nature Pedagogies of the Professions of Law, Medicine, Engineering and the Clergy: Potential Lessons for the Education of Teachers (February 6-8, 2005) available at <http://hub.mspnet.org/index.cfm/11172> (last visited December 19, 2007)

<sup>17</sup> *Id.* at 13. Shulman also remarks that “Signature pedagogies of professions connect thought and action. Law schools fail miserably at this because the emphasis is so heavily on learning to ‘think like a lawyer’ that the students are rarely expected to *do* anything; clinical education in law schools is usually elective and for many students almost nonexistent.” *Id.* at 18. We view this as an endorsement, not only of clinical education, but also for simulation opportunities that can help prepare students for clinical experiences in and after law school. If clinical experiences continue to be as scarce as they are across law schools, simulation courses can help to fill the void.

<sup>18</sup> Roy J. Lewicki, *Teaching Negotiation and Dispute Resolution in Colleges of Business: The State of the Practice and Challenges for the Future*, in *TEACHING NEGOTIATION: IDEAS AND INNOVATIONS* 169, 169-85 (Michael Wheeler ed., 2000).

<sup>19</sup> We realize that we may be guilty of perpetuating a myth about the innumeracy of law students. We searched for a study to support what we have observed in our own students, albeit ultimately in vain. But we did discover some support for this proposition in three disparate sources. First, an election advocacy blogger noted that “Lawyering isn’t a science that seeks the truth, it’s a form of advocacy that seeks victory at any price, so when lawyers are given a pile of numbers they invariably sift through them in order to find the ones that bolster their case, at the expense of truth, objectivity and anything else that gets in the way, like the rest of the numbers.” The Great American Blog, at <http://bennett.com/blog/in->

erately complex financial dispute, a synergy can develop between the facility of the business students with the financial aspects of a transaction and the law students' understanding of the legal aspects and dispute resolution. Even when some teams do not work well internally, the class debriefing is illuminating as it becomes clear that others did achieve a synergy and that it was a positive (and sometimes even exhilarating) experience for them.

We have extended these hands-on learning experiences into work with other professional disciplines. Each brings an additional layer of comprehension about how our students can move into a career in which they add value to interactions through their body of professional knowledge. For our students, experiencing themselves as problem-solvers and assets in disputes, rather than simply as hired guns, is an affirming experience.

## II. LEARNING BY READING, SEEING, DOING AND REFLECTING: THE COMMON PEDAGOGY OF OUR COURSES

Consistent with adult learning theory, the fundamental components for successful simulation exercises are learning by reading, seeing, doing and reflecting. This educational approach permeates our skills training courses and has served as the foundation for our newest simulation course, Client Counseling, Fact Investigation and Interviewing (CFI), which is structured around cross-professional training. Using CFI as the introductory, upper-level skills course, second-year students acquire basic communication and interpersonal skills in a professional legal setting. They continue with intensive training in legal negotiation skills that includes elements of how the lawyer brings added value as an agent for others. A Trial Advocacy course, with participation in Trial Team competitions and/or our small clinical program, serves as the capstone experience.

Though we do not yet have the capacity, our goals include providing a mechanism that builds effectively upon, and coordinates with, our first year legal writing and advocacy program to provide a seam-

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dex.php/archives/2003/10/12/advocacy-research-on-elections/ (last visited Jun. 15, 2005). Second, a German study concluded that law students and newly appointed judges had impaired statistical insight and could not correctly utilize statistical information provided as natural frequencies, but did slightly better when the statistics were reported in probability terms. Ulrich Hoffrage et al., *Communicating Statistical Information*, 290 *SCI. MAG.* 2201, 2261-62 (2000). Finally, an English study concluded that "the assessment of probabilities causes real problems for lawyers, and that these problems persist even when they have received considerable amounts of formal mathematical education." Peter Hawkins & Anne Hawkins, *Lawyer Probability Misconceptions and the Implications for Legal Education*, 18 *LEGAL STUD.* 316, 333 (1998).

less, coherent skills curriculum across the three years of law school.<sup>20</sup> Ultimately, the skills courses, especially CFI, would be tied into substantive courses. While we have explored that approach, making an offering of a CFI section tied to Elder Law last year, logistical (primarily scheduling) obstacles kept that initiative from materializing.<sup>21</sup> We hope to try again, incorporating the lessons we have learned along the way.

Each of our skills courses has a reading component, using legal texts.<sup>22</sup> The texts give the students a starting place and can lessen the pressure of first time client-based interactions, negotiations and court room experiences. We assign various tasks to reinforce the importance and value of the texts,<sup>23</sup> and the students who have done the reading invariably perform at a higher level than those who have not.

Even when the reading has occurred, many of our students are overconfident going into the simulated events. They believe that a

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<sup>20</sup> We are using the Field of Dreams approach to this curricular coherence, by adopting a strategy of "if you build it, they will come" rather than by formal curricular reform proposals. We find that students, alumni and employers all support and value the results of a rigorous, theoretically-based skills curriculum. Our negotiation course is consistently oversubscribed, sometimes by a factor of two, and we have doubled our CFI capacity over time. Trial Advocacy regularly enrolls at high numbers. Finding a way to provide quality skills instruction in large courses is another of the challenges we face. We have experimented with several approaches and continue to do so.

<sup>21</sup> Professor Richard Kaplan of the University of Illinois College of Law was flexible and supportive of approaches to tie our courses together and we hope yet to collaborate with him at a time when the scheduling obstacles can be overcome. With his advice, and with generous advice from Betsy J. Abramson, Clinical Assistant Professor, University of Wisconsin Law School, we are well along our way to developing interdisciplinary skills simulation exercises in Elder Law. These exercises would collaborate with both social work and medical students.

<sup>22</sup> In developing CFI, we performed a comprehensive review of potential texts, and adopted the text ROBERT F. COCHRAN ET AL., *THE COUNSELOR-AT-LAW: A COLLABORATIVE APPROACH TO CLIENT INTERVIEWING AND COUNSELING* (1999), supplemented with three chapters from PAUL J. ZWIER & ANTHONY J. BOCCHINO, *FACT INVESTIGATION: A PRACTICAL GUIDE TO INTERVIEWING, COUNSELING, AND CASE THEORY DEVELOPMENT* (2000). For our intensive negotiations course, we use CHARLES B. CRAVER, *EFFECTIVE LEGAL NEGOTIATION AND SETTLEMENT* (5th ed. 2005) and ROBERT MNOOKIN ET AL., *BEYOND WINNING: NEGOTIATING TO CREATE VALUE IN DEALS AND DISPUTES* (2004). In Trial Advocacy, we use THOMAS A. MAUET, *TRIAL TECHNIQUES* (7th ed. 2007).

<sup>23</sup> We have a variety of in-class, short exercises incorporating pedagogical advice from a variety of disciplines to reinforce the importance of the readings in a realistic way. We include a set of exercises adapted from RICHARD LIGHT, *MAKING THE MOST OF COLLEGE: STUDENTS SPEAK THEIR MINDS* (2001), such as his One-Minute Papers, idea, assigned journal entries, reflection papers, and critiques of video tapes. Many of our simulation exercises are designed to incorporate elements from the readings. Subsequent in-class discussions demonstrate that those who have done the reading in advance of the exercise often performed better than those who had not. Law students are smart and the message sinks in relatively quickly for those who are performance oriented. See CRAVER, *supra* note 22; COCHRAN, *supra* note 22; MAUET, *supra* note 22; MNOOKIN, *supra* note 22; ZWIER & BOCCHINO, *supra* note 22.

client interview, a negotiation in an employment situation or a courtroom direct examination will come naturally. They have seen it on television, so how hard can it be? The fact that students uniformly perform miserably at the first assigned task introduces a productive anxiety that enhances the subsequent learning process.<sup>24</sup>

Reading is necessary, but not sufficient in simulation-based learning. Learning by seeing complements the reading component. In Trial Advocacy, there is more performance anxiety than the in-office exercises, so we try to introduce a comfort level by providing live demonstrations of the skill that is to be performed by the student. In our course, the students observe: basic direct examination, cross examination, the foundation for introduction of exhibits and introducing or attacking expert witnesses. The next week, in smaller sections of twelve or fourteen, the students perform the skill that follows from the reading and seeing. This is the doing component of the simulation exercise.

In CFI and negotiation courses, the seeing component is handled quite differently. Because the students assume they have the expected excellence to interview clients, witnesses or experts or to negotiate, we have them perform the tasks. In CFI, every exercise is videotaped; in Negotiations, one or two exercises are videotaped for use in reflection exercises. For every simulation exercise we have developed, and for many of those authored by others, we have made our own set of demonstration videotapes showing experienced lawyers performing the exercise. We show some of these in class for demonstration and comparison, and use others as the basis for student reflection assignments. In class, we typically show a series of video clips focusing on a particular aspect, such as an interview opening, discussing fees and confidentiality or eliciting (or not) embarrassing information. The students review their own videotapes and also review one complete version of the experienced lawyers' "real version" of the simulated events. The seeing and reflection components reinforce the critiques and feedback that we provide to the students.

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<sup>24</sup> We are indebted to our colleague Greg Northcraft, College of Business at Illinois, for pointing out how much allowing students to experience failure in a negotiation—having given them all the tools first in the readings—makes a difference in their subsequent application to the tasks. The fact that interviewing and negotiating are everyday events imbues students with an unwarranted confidence, not to mention their skepticism that any book or teacher has much to teach them in these arenas. These early "wake up" experiences assist enormously in creating a classroom full of students anxious to improve and apply themselves. We provide readings containing all of the cues and necessary information to succeed, but the majority of students fairly consistently does not carefully do the reading or prepare for the initial exercises. We also require students to videotape their first experiences, not for grading, but so they have a baseline against which they can measure their own progress across the semester. See generally, LIGHT, *supra* note 23.

For example, in Trial Advocacy students use extensive case files.<sup>25</sup> After a direct examination that has been replete with “echoing” (saying “okay” or repeating a witness’ answer after each question and answer), the instructor will tell the student that “echoing is distracting to the jury” as a teaching point. “That’s nice,” says the student, believing that it must be someone else who is being critiqued. Seeing the videotape of her own performance points out that the critique is properly directed and it then hits home.

In CFI, we consistently find that students, despite their confidence, do not have the background, skills or understanding to begin a professional interview. Their client, or the witness, is a stranger from whom they need information, but the formality of the setting is a barrier. Introductory segments from the same exercise, showing the approaches of four different, experienced lawyers are illuminating and introduce the concept that one’s professional style must be rooted in one’s own personality, but with some additional professional characteristics grafted or layered on top. Some of the lawyers demonstrate textbook “correct” approaches, some are folksy and put clients at ease and others struggle with their own comfort. Showing the segments in class following the students’ first interviewing exercise promotes discussion of what works and what does not. We integrate these “reading, seeing, doing and reflecting” components into all of the interdisciplinary professional exercises.

The exercises in these courses cover a broad spectrum. A student who takes the three-course progression will have, by the end of the series, worked with problems involving consultation with professionals from other fields, in family law, elder law, employment law, business transactions and disputes, personal injury cases, and garden-variety interpersonal conflict, as well as civil and criminal trials.

### III. THE FOUNDATION COLLABORATION: THEATRE STUDENTS AS SKILLS COACHES

Our foundation interdisciplinary collaboration is with the Theatre Department at the University of Illinois.<sup>26</sup> Our collaboration began with a contact to seek acting students to role-play clients in an annual internal client-counseling competition. From that point, our collaboration has grown over time such that our Theatre collaborators now

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<sup>25</sup> These are case files from the National Institute for Trial Advocacy (NITA), with some local modifications by permission.

<sup>26</sup> We have been fortunate that our former dean, Heidi M. Hurd, supported this collaboration from its earliest moments and enthusiastically endorsed our varied efforts. Her support made an enormous difference in our range of freedom and the ability to try new approaches.

serve as experts on communication, body language, use of space and props, overcoming stage fright, and the like. These interactions occur in our courses, with our external competition teams and in non-credit, open-enrollment workshops offered to the student body at large several times each semester. The open-enrollment workshops typically fill within twenty-four hours and are always over-enrolled, with waiting lists.

As our collaboration with the Theatre Department has evolved, we now have two graduate students under the supervision of a faculty member working with us at any given time.<sup>27</sup> We try to stagger the students' entry into the program, so that we maintain a body of expertise in the more senior of the two, and pass it along in a leapfrogging way. One of our goals for the next stage of our collaboration is to find ways to institutionalize this knowledge more formally and to write about the collaboration. While the theatre collaborators do not need a large baseline of legal knowledge, the leapfrogging system helps pass along vocabulary and rules and expectations both for client interviews and for courtroom demeanor. This increases the value of the coaching and feedback provided.

Initially, law students are generally skeptical that an actor can teach them anything about how to be a lawyer. This skepticism diminishes rapidly through two eye-opening exercises.

The first interaction students generally have with the Theatre students is in CFI, our interviewing and counseling class. We begin with an exercise in which the actors play standardized clients in a baseline, videotaped client interview that must be completed before classes begin. The exercise is an interview involving a client seeking legal advice in a situation with personally embarrassing details, none of which emerge in the interview unless the law students have both promised the client confidentiality and built a sense of rapport and trust, or the "lawyer" asks the appropriate direct questions.<sup>28</sup> The standardized clients always answer a direct question, but do not offer relevant information unless they have a sufficient degree of comfort.

We believe that we are achieving standardization in this exercise. The Theatre collaborators participate in the class discussion to debrief

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<sup>27</sup> Michelle Stephens and David Morgan are the two Ph.D. candidates who helped shape this program, and we are indebted especially to Michelle for her inspiration and hard work in catalyzing and "growing" this collaboration. Professor Robert M. Graves, Head of the Department of Theatre at the University of Illinois at Urbana-Champaign, has been consistently supportive of this collaboration and has also made contributions to its development.

<sup>28</sup> This exercise is adapted from the Cochran, DiPippa and Peters instructor's manual. ROBERT F. COCHRAN, JR., ET AL., *THE COUNSELOR-AT-LAW: A COLLABORATIVE APPROACH TO CLIENT INTERVIEWING AND COUNSELING, TEACHER'S MANUAL* (1999).

this exercise and to talk about how they felt as the client. This discussion often involves demonstrations of things the clients or lawyers did in the interview, and is augmented by our videotapes of local lawyers doing the same exercise, which we view, discuss, and critique in class.

One revealing moment we have on videotape is of a lawyer who physically recoils from the client as embarrassing personal information emerges, first by sitting back in her chair and then by pushing the chair away from the table. It is a wonderful teaching moment showing how much is revealed by our movements, and the theatre students often use this video clip as an opening for talking with our students about things the students did in their own interviews. As with all skills classes, we work to create a safe classroom environment in which mistakes as well as accomplishments can be openly discussed and used as opportunities for learning. This combination of a "real" lawyer's unconscious actions and the client's presence to tie that moment to the actions of our students opens minds rapidly.

The second illuminating exercise our students do early in the semester is a video review exercise with the Theatre collaborators. This has been one of our most successful experiments. Starting originally in our negotiation course and then expanding to the interviewing course, the assignment is to conduct one of the out-of-class exercises in professional dress and on videotape.

Our students write reflections about this exercise, as is required following all out-of-class negotiations in our course, and the exercise is debriefed in class. Each student is required to review the videotape individually and then to meet with one of the theatre collaborators to discuss the dynamics of the interaction. This meeting includes all four participants in the negotiation and focuses on body language, "tells," and usually includes a component in which the theatre collaborator views the videotape in fast-forward, picking out crucial moments simply by how participants are moving. Law students are generally overwhelmed by the quantity of information available and revealed. The exercise assists them in becoming aware of themselves and also begins to help in training their eyes for more nuanced observations of others with whom they interact.

In the Negotiations course, one video review exercise of a negotiation is the only videotaped and critiqued exercise of the semester, although students have frequently requested that we add another.<sup>29</sup> As we gained experience with this exercise, as well as with the expertise and value our theatre collaborators bring to it, we required our interviewing course students to videotape all out-of-class exercises

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<sup>29</sup> The primary impediment to more videotaped exercise reviews is finding time to review them. We have not yet found a good way to work more into the course.

across the semester so they can be reviewed and critiqued by the theatre collaborators.

We reinforce the videotape exercise across the semester with other short exercises suggested by the theatre collaborators involving observation of people in various situations. In one, students are asked to observe and describe two situations in which other participants were saying one thing verbally, while giving a contradictory message with their body language.

A particularly effective exercise developed by Michelle Stephens, a graduate student who helped to shape our collaboration with the Theatre Department, involves the presence of one of the theatre collaborators with a digital camera during an in-class negotiation. The collaborator roams the groups, taking pictures of students as they negotiate, load the pictures onto the law school network and project them as part of the in-class debrief. The two instructors, one a theatre collaborator, are able to predict with a high degree of accuracy which groups settle and which did not, based on the pictures. We do not know the results when the pictures are projected, and as we discuss them, we point out the features upon which our predictions are based. We generally tie this to a lecture on non-verbal communication and patterns, since we take multiple pictures of each group over the course of their negotiation, and it provides another illuminating moment for law students about the insights provided by other trained professionals.

Students of acting and directing who introduce theatrical concepts are a natural fit in the context of Trial Advocacy, and our Theatre collaboration has interfaced with our Trial Advocacy course very well. Trial Advocacy focuses on trial components by moving systematically and chronologically through the trial structure. In the Fall semester, students perform simulated exercises on a weekly basis in jury selection, opening statements, direct and cross examination, introduction of exhibits, expert testimony and closing arguments. The combination of these skills provides the students with the opportunity to run through an entire trial (civil or criminal) to develop a case theory and implement that theory in all of the trial components.

Some students can enhance their trial skills by participating in a mock jury trial in spring semester or by taking advantage of one of several opportunities for intercollegiate law school trial team competitions. Students typically perform as partners in the competitions and develop a case theory and perform the trial components in a competitive setting with "winners" and "losers" based on the decision of sitting judges and practicing lawyers. All of the techniques we describe here are used in the more intense setting of practice where the repeti-

tion advances that student's skills. Our theatre collaborators do demonstrations in the classroom component of Trial Advocacy several times a semester, offer individual mentoring sessions, and work intensively with the Trial Team students. Many Trial Advocacy students take advantage of the open-enrollment workshops offered by our Theatre Collaborators: the stage-fright and use of space and props workshops are especially popular with these students. We have also evolved to offering dedicated workshops on stage fright and body language to first-year students as they approach their moot court experiences. These are very well-received.

#### IV. THE NEXT STEP: INTERACTING WITH A DIFFERENTLY-TRAINED PROFESSIONAL STUDENT

After gaining some foundational skills from interacting with the theatre collaborators, we move on to interactions in which the expertise of the professional students from other disciplines is used in a substantive way. Thus, in negotiation, we introduce the idea of serving as an agent in a business dispute, with the MBA students serving as clients. In this interaction, the business students, who are also taking a negotiation class in the College of Business,<sup>30</sup> are prohibited from negotiating except when their lawyers are present: they may grant their lawyer-agents authority to negotiate without them, but the business students may not negotiate without their lawyers present. The differences in vocabulary, analytical approach and the elements that seem important to each professional on a team differ, and experiencing this is educational in itself. Another important lesson imparted is that, while the law students and business students are receiving training in their respective negotiation courses, the negotiation training differs for the MBA students and the law students. This is an eye-opening realization for law students, because the diversity of views and approaches is not intuitive.

An interesting variation on and enhancement to having MBA students as clients occurs in the semesters when the law students in our negotiation class serve as agents for students in a collective bargaining class offered by our Institute of Labor and Industrial Relations (ILIR).<sup>31</sup> Most of the ILIR students become human resource professionals in large corporations or governmental agencies, so, once again, their vocabulary, training, analytical approaches and ideas about the

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<sup>30</sup> Taught by Gregory Northcraft, Harry J. Gray Professor of Executive Leadership and Professor of Business Administration, College of Business and Institute of Labor and Industrial Relations, University of Illinois at Urbana-Champaign.

<sup>31</sup> Taught by Michael LeRoy, Professor, Institute of Labor & Industrial Relations and College of Law, University of Illinois at Urbana-Champaign.

problem tend to differ from those of the law students. In general, however, the ILIR students are more like law and MBA students than the students in the other professional programs with which we have built collaborations.

#### V. COMMUNITY VOLUNTEERS AS CLIENTS, PROFESSIONAL STUDENTS AS EXPERT WITNESSES

One of the scenarios we have developed is a grandparent-custody case that we have dubbed the *Sinclair* case. In our setting, the grandparents have lost their only daughter after the painful decision, made in collaboration with their son-in-law, to withdraw her life support following injuries sustained in a car accident. The death of his wife now requires the grieving widower to provide day-to-day parenting for his six-year old daughter and four-year old son, and he has had serious lapses. The children have been to a variety of day-care providers, the oldest is performing poorly in school and the children have been kept from seeing their grandparents, the Sinclairs, who live in the same town. Although the grandparents have offered to help, they have been rebuffed and feel estranged from their son-in-law. When the four-year old accidentally discharges a gun in the father's absence (he has run to the store for milk), the state child welfare agency assumes temporary custody of the children, placing them with the Sinclairs pending further investigation and potential juvenile court proceedings.

In this context, one of the Sinclairs<sup>32</sup> makes an appointment to see a CFI lawyer. Over the course of this multi-week exercise, our students do an initial intake interview with their clients, interview two expert witnesses (students in the child welfare specialization of the Master of Social Work Program at the School of Social Work), and then meet again with their clients to counsel them on the information gained from the experts and the range of legal options available.

The *Sinclair* problem presents a very sympathetic factual situation where a student unversed in the legal issues and the practicalities of the world will likely provide a willing ear and a promising outlook for obtaining a custodial result for the grandparents. Of course, grandparent rights are problematic, which comes back to haunt the CFI lawyers in the counseling phase of their representation of the Sinclairs.

This scenario is designed to demonstrate that the law is not the answer to all the problems clients present. Our students live through

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<sup>32</sup> The Sinclair client can be "Terry" or "Terri" and is a community volunteer. A number of our volunteers are involved in child welfare professionally (or were before their retirement), either as teachers or volunteers with our CASA child advocacy program.

the complexities of interpersonal interactions where the intuitive response is to over-promise legal outcomes to their clients at the outset and then have to retreat and revise expectations in later counseling sessions to help their clients re-conceptualize the situation and goals.

In Illinois, as in many jurisdictions, the likelihood of the grandparents attaining permanent custody is remote. The clients must be assisted in reframing the goal of legal representation from full custody to some form of family/relationship healing so that the grandparents can continue to have a role in the lives of the children. The law students who navigate this simulation most effectively manage to help the clients stay focused upon their central interest, which is the safety and welfare of the children.

The law students must also be open to the idea of using social workers or other helping professions as resources for family mediation or counseling to achieve their clients' objectives. The *Sinclair* problem helps the law students to internalize that the law is not always the answer, and that assistance by other professionals is sometimes a better strategy for the overall good of clients. This realization can be a major movement along the spectrum from novice to expert, and it takes much longer for some students to grasp than others.

The legal skills involved in effectively representing the grandparents include being able to apply the Illinois statute (which we provide and discuss in class), to ask appropriate probing questions, to evaluate the strength of witnesses, to exercise balanced professional judgment, and, most importantly, to be able to convey with compassion and appropriate boundaries information that their clients have no wish to hear.

This exercise showcases our collaboration with the School of Social Work.<sup>33</sup> Most MSW candidates working toward a specialization in child welfare are in field placements in child welfare agencies toward the end of their course of study. The participating students are given the background of the problem and discuss it in their own class meetings. Each is assigned to be an expert witness in support of either the grandparents' custody or the father's continued custody of the children, using the tools and expertise of their training. The social science vocabulary, concepts and research used by the social workers are foreign to our law students, and the methodology of interviewing an expert witness is likewise a challenge. Coupled with the legal research which suggests the biological father is the presumptive custodial parent absent a real "risk of harm" to the children (dad has

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<sup>33</sup> Our inaugural collaboration was with Professor Joseph P. Ryan of the School of Social Work at the University of Illinois Urbana-Champaign. It has continued with Clinical Professors Tonya Manselle and Brenda Coble Lindsey.

removed all his guns and the child welfare agency has recommended no juvenile court action finding no “risk of harm” in a tight-budget setting), the once-promising opportunity to “win” the case for Grandma or Grandpa Sinclair evaporates quickly.

But is all really a loss for the Sinclairs? The dynamic of the exercise provides an opportunity for the attorney-client relationship to grow when client counseling demonstrates that the Sinclairs may be able to use the risk of litigation to secure grandparent visitation and, thus, guaranteed involvement in their grandchildren’s lives. The evolving nature of the case provides excellent experience in all three of the CFI course components (interviewing, fact investigation, counseling) from the initial client interview with one of the Sinclairs, to the fact investigation with the expert social workers and, finally, to counseling the Sinclairs to accept the predicted outcome of the case.

A significant obstacle that must be overcome in this process – and a somewhat submerged aspect of the problem – is that the social work “professional ways of thinking” are foreign to many of our law students. At the same time, the role of expert witness is generally foreign to the social workers. Social workers are more accustomed to one form or another of client advocacy, usually either as a therapist to the client or as a case worker with advocacy and oversight responsibilities for the client. In the role of expert witness, which most of them will be required to play many times over the course of their careers, the role tends to be more one of independent evaluation than of advocacy. This shift in role and the need to find effective ways to deal with the different professional culture modeled by the law students are the main learning points for the social work students.

To be effective as expert witnesses, the social workers must be able to marshal their knowledge of the research, apply it in their theoretical evaluation of the children and family settings (discussed in class as to the elements of the situation that support the father’s custody versus that of the grandparents) and then communicate effectively with an attorney who shares their view as well as deal with a hostile attorney who wishes to rebut their conclusions.

Social work education inculcates ecological theories of relationships and training in therapeutic techniques,<sup>34</sup> often involving a cognitive-behavioral approach. The way social workers learn to think about the family, relationships and the long-term well-being of each individual differs from the educational experience of the law students. Law students typically begin this problem with a mindset of “how do I

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<sup>34</sup> See, e.g., DEAN H. HEPWORTH ET AL., *DIRECT SOCIAL WORK PRACTICE: THEORY AND SKILLS* (6th ed. 2001); CAREL B. GERMAIN & MARTIN BLOOM, *HUMAN BEHAVIOR IN THE SOCIAL ENVIRONMENT: AN ECOLOGICAL VIEW* (1999).

get what my client wants?" as opposed to any consideration of a "good" or "best" outcome for the children, the father, or the grandparents — the perspective of most social workers.

Social work programs focus upon imparting ways of thinking about the professional roles of social workers and their relationships to their clients. Social workers, in general, have fealty to their clients in the same general way as do lawyers, but they do so from a therapeutic perspective. In our exercise, the social work students are serving as evaluators, not client advocates. This is a different role than most of them are accustomed to, or have previously considered in depth. The educational value for the social work students is not only in being questioned by an "attorney" who has an advocacy role, but also in serving in the expert role.

The law students, in contrast, come to the exercise with a firm idea of their role as advocates. Over the course of the exercise, the law students must find a way to gain value from the perspective of the social workers if they are to serve their clients' interests. The law students must shift from an advocacy mode to one of problem-solving as they help their clients reframe their goals away from their unobtainable initial quest for custody.

When this exercise works at its most effective level, which happens frequently, each participating student has an opportunity to think more deeply about her professional role. The law students come to terms with their preconceived notions about their role as advocates and learn to see other professions as valuable resources for problems that the law cannot effectively "fix." The social work students receive an object lesson in different professional roles and in presenting themselves effectively in an adversarial, legal setting.

## VI. WORKING WITH MEDICAL STUDENTS AND PRACTICING MDs

Perhaps our most ambitious cross-disciplinary exercises are the capstone simulations we have developed for CFI.<sup>35</sup> These exercises focus on medical-legal interactions in high-emotion situations, generally where the physician is the subject of a patient complaint that the physician believes to be unjustified and groundless. Nonetheless, the complaint opens a formal process in which the physician's practice standards are brought into question and examined by others, includ-

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<sup>35</sup> All of these exercises were developed in collaboration with Laura D. Clower, who, when we began this adventure, maintained a large health-care related practice in Illinois and taught with us as an adjunct in both the Trial Ad program and in the inaugural round of CFI. She has since accepted a position in the Office of University Counsel at the University of Illinois Urbana-Champaign. We are indebted to Laura for her energy and expertise in developing and running these complex exercises.

ing non-medical personnel. As with most exercises that involve collaboration across professional education programs and training, these are multi-week exercises. For our students, they require interviewing, fact investigation and counseling components, as well as representation of the physician during an investigative interview. We have variations of this exercise, which is open to medical students and practicing physicians (who receive continuing medical education credits), so that the physicians who participate may do so more than once.

The medical people who participate in this exercise have, in Shulman's words, markedly different "signature" pedagogy of their profession than do our law students. Whereas law students go through the Socratic/Langdellian first year of law school and emerge with a distinctive analytical style — learning to "think like lawyers" — medical education inculcates a clinical ethic, or habit of mind. As put by Shulman, "the moral challenge to the pedagogy is to guide students through these increasingly responsible levels of practice, while sustaining the social contract with clients that guarantees zealous concern for their wellbeing and safety."<sup>36</sup>

The JD/MD exercise begins as a complaint about interpersonal treatment by a patient. In the original exercise, an excerpt from the culminating interview of which starts this paper, the law students are lawyers whose firm represents a medical clinic and are informed that they have an appointment with a physician who has a complaint pending with the Department of Professional Regulation. The Risk Management department of the clinic wants the firm to represent the doctor in connection with the DPR matter. The lawyers have received the medical records, of the patient, Jennifer Suss.<sup>37</sup>

With the receipt of the medical records, our budding lawyers think they have gone through the looking glass. They have never seen medical records and they have no idea what they say or mean. What is a "CC" (current complaint) or "HPI" (history of present illness)? What are these medical words and abbreviations? One can imagine the fear of communicating with a doctor who knows what all the records say and mean by someone who is meant to be protecting the doctor but does not understand even the basic medical terminology. We provide some base-line briefing to our class as a whole (our metaphor is a staff meeting at our law firm), before the first appointment with the doctor. But sometime, our attorneys must ask their clients to go through the chart in detail and explain the medical procedures that were followed so that the patient complaint can be defended.

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<sup>36</sup> Lee Shulman, *Introduction to SULLIVAN*, *supra* note 4, at xi.

<sup>37</sup> Other versions involve peer reviews in hospital or HMO settings, or other complaint-based situations realistic to the lives of practicing physicians.

The patient in the complaint, Jennifer Suss, has symptoms indicating a possible heart attack, panic attack or drug (cocaine) use. The strict application of a standard medical protocol (symptomatic information and medical history of complaint obtained from a nurse's interview, followed by a physical exam and visit with the physician) to this young African-American patient leads to a request for a current urine screen by the doctor. This, in turn, disturbs the patient, who denies any drug use and feels that the doctor has engaged in racial stereotypes and assumptions. The patient's medical chart contains a prior emergency room record referring to cocaine use, which is part of the basis for the doctor's inquiry, but the accuracy of that report is denied by the patient. The doctor orders the urine test, but the patient is so upset that she leaves the facility, even as the doctor is warning of the risks.

Of course, from the lawyer's perspective, this is not about the medical problems, but about a complaint of racial animus. The law students prepare their client-doctors for an initial interview with a DPR investigator, who is not normally a doctor, but instead a retired or moonlighting police officer (played in our exercise by private investigators and actors), who has been provided questions by DPR medical staff. In the problem, the "racial animus" issue is soon replaced by a serious "charting" issue that emerges upon review of the records.

The overarching lesson from the JD/MD exercise is about power and relationships. Doctors exercise power and control in their own world, and must come to terms with putting their professional futures in the hands of a lawyer who has her own complement of power and control. The lawyers must deal with a professional client used to giving advice, not receiving it. As a result, the attorney-client dynamic is different than any other exercise in the course. The exercise is designed to give our law students a "wake-up call" about client relationships, preparation of the facts, the law, and the procedure attendant to client legal problems in an external system, whether in court or an administrative process.

On the medical side of the educational equation, doctors and medical students learn how a patient can misperceive their best professional intentions, about the importance of professionalism and attention to detail in charting, and about the professional disciplinary system. The doctors also experience an attorney-client relationship and, we hope, recognize the need to establish trust and confidence in another professional whose skilled handling of a threatening professional incident can prevent stigmatizing and career-affecting consequences.

Our JD/MD exercise touches all the interdisciplinary pedagogical

bases. There are two-way vocabulary issues, law student technophobia, medical due process fears, and professional relationship and boundary issues. The simulated exercise and the opportunity to reflect on the experience with a course ending paper and class discussion bring the points home. In the process, the law students, doctors, medical students (and even the role-playing investigators) have fun, debunk some myths about other professions, and gain insights into an area of law and regulation that was often totally unknown to them.

In designing this exercise, we have scaled back from our more elaborate original plans in some areas and focus on the basics. We have learned over time that the concept of applying classroom knowledge to client interactions is not an intuitive one: even a concept so basic as protecting the confidentiality of attorney-client discussions must be taught.

The vignette at the beginning of this paper is illustrative. The script for the actors and volunteers playing the DPR investigator<sup>38</sup> includes a series of questions in which the investigator asks the physician both what his/her attorney advised him to say on a particular point, and for the names of a set of similarly situated patients so the investigator can interview them. Almost all of our students take Professional Responsibility before these classes. While Ms. Kincaid, in that exchange, asserts the client's privilege, it was rare for our students to object to this line of questioning when we started using this exercise. Upon inquiring about this, we were initially told by our students that "we never expect to apply information from one class to another." Their medical clients, however, universally objected to the question and refused to answer it, again demonstrating the power dynamic that can easily unbalance these inter-professional interactions. We reworked our lesson plan and now teach our students to be alert to these professional privilege issues as part of their orientation to the law surrounding these matters.

#### CONCLUSION

The interdisciplinary aspects of these simulations introduce a layer of complexity not present in law students practicing on each other. Rather than distracting we find this complexity to be useful to the teaching and learning in our courses. The fact that their clients

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<sup>38</sup> We recruit private investigators as our community volunteers for these roles, since these professionals are most like the genuine investigators in these meetings, who are generally ex- or moonlighting police officers. Our community is not as well stocked with licensed private investigators as human resources (HR) and managerial professionals, so we occasionally fall short, and resort to our actors and theatre collaborators to play the investigator's role.

need them is galvanizing for our students, giving them a sense of reality and focus not achieved when the only participants are other law students. Even though most of the early part of the semester involves practice with each other and first-year law students, beginning the CFI semester with external, standardized clients having a different professional expertise (our theatre collaborators) seems to us to make a qualitative difference in the course.<sup>39</sup>

While it may seem counter-intuitive that adding complexity actually improves acquisition of the basics, the literature of other fields provides some illumination as to why this might be. Motivation is a central element of learning, among other important factors, and the research shows that “[l]earners of all ages are more motivated when they can see the usefulness of what they are learning and when they can use that information to do something that has an impact on others.”<sup>40</sup> Context affects learning: “When a subject is taught in multiple contexts . . . and includes examples that demonstrate wide application of what is being taught, people are more likely to abstract the relevant features of concepts and to develop a flexible representation of knowledge.”<sup>41</sup>

Further, there is a school of thought, which is beyond the scope of this article for us to explore in depth, that describes how practice informs theory in the development of expertise. As argued by Sullivan:

[I]n the teaching and learning of expertise, practice is often ahead of theory. It is expert practice that is the source of formal knowledge about practice, not the other way around. Once enacted, skilled performance can be turned into a set of rules and procedures to be put to pedagogical use, as in cognitive apprenticeship. But the opposite is not possible; the progression from competence to expertise cannot be described as simply a step-by-step buildup of the lower functions. In the world of practice, holism is real and prior to analysis. Theory can—and must—learn from experience.<sup>42</sup>

Sullivan points out that the key to intrinsic motivation is engagement and caring. In discussing the work of Mihaly Csikszentmihalyi, Sullivan distills a large body of work with the following observation:

Engaged people report that, provided their capacities are such as to be challenged by not overwhelmed by the intrinsic demands of the

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<sup>39</sup> One of our next challenges is to find effective assessment approaches for measuring the quality of learning in these simulations beyond our own perceptions, the continuing interest and participation of other professional programs and the highly positive feedback we receive from participants.

<sup>40</sup> BRANSFORD, *supra* note 9, at 49.

<sup>41</sup> *Id.* at 50 (citing M.L. Gick & K.J. Holyoak, *Schema Induction and Analogical Transfer*, 15 *COGN. PSYCH.* 1 (1983)).

<sup>42</sup> SULLIVAN, *supra* note 4, at 250.

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activity, and if the activity is sufficiently structured to furnish clear clues as to performance, their self-consciousness disappears, time seems to slow down, and “they realize that they are willing to do it for its own sake . . . even when difficult or dangerous.” . . . Practice develops a disposition to engage in the activity for its own sake, indeed to want to continue the practice. The flow experienced in such engagement is the chief motivational force driving development of expertise.<sup>43</sup>

Our model and design of interdisciplinary exercises can be replicated with any field of study or profession that encounters legal problems. We have yet to be turned down when we proposed a collaborative exercise, although the entry costs in terms of planning, logistics, and coordination of semester calendars can be daunting. The rewards, though, are disproportionately positive for all participating. At the end of the day, could we do better than to engage our students, and to help them develop intrinsic motivation to be expert, caring professionals?

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<sup>43</sup> *Id.* at 268-9.

