

Standardized Clients and SIMPLE (SIMulated Professional Learning Environment): learning professionalism through simulated practice

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Introduction

This initiative is an international collaboration involving the Universities of Strathclyde and Northumbria in the UK, and College of Law, Georgia State University and the University of New Hampshire (UNH) School of Law (formerly Franklin Pierce Law Center). We intend to use two types of simulation in order to enhance student learning of professionalism and legal practice, namely Standardized Clients, and SIMPLE. To our knowledge no law school in the US uses either; but it is the convergence of the two that makes this initiative unique, and of interest to legal educators in the US, particularly *post*-Carnegie Report. The initiative takes place within an innovative program at UNH Law School called the Daniel Webster Scholar Honors Program, which we shall describe briefly before outlining the simulation initiatives.

The Daniel Webster Scholar Honors Program

The stated mission of the Daniel Webster Scholar Honors Program is “Making Law Students Client-Ready.”¹ Although the program does not presume to graduate new lawyers who are ready to take on all levels of complexity, and recognizes that legal education is a continuing process, it does seek to provide a practice-based, client-oriented education, which prepares law students for the responsibility of representing others. As recommended by the MacCrate Report, the program is a collaborative effort, which includes the New Hampshire Supreme Court, the New Hampshire Board of Bar Examiners, the New Hampshire Bar Association and UNH Law School. Students apply to the program in March of their first year of law school and are selected in the June following their first year. Selection is based upon overall ability to succeed in the program, which includes evaluation of academic, professional and interpersonal skills.

¹ For further information on the Program see <http://law.unh.edu/websterscholar/>

Program participants must meet all of the law school's requirements for graduation, in addition to requirements that are specific to the Daniel Webster Scholar Honors Program. During each semester, in addition to electives, scholars must take specifically designed Daniel Webster Scholar (DWS) courses, which generally involve substantial simulation, including: Pretrial Advocacy; Trial Advocacy; Negotiations; a mini-series that exposes them to Family Law, Law Office Management, Commercial Paper (Articles 3 and 9) and Conflicts of Law; Business Transactions; and a capstone course that integrates and builds upon the skills they have already learned through the program. Each student must also take four additional courses that ordinarily would be elective: Business Associations; Evidence; Wills, Trusts & Estates; and Personal Taxation. Moreover, each student must have at least six credit hours of clinical and/or externship experience. Following the mini-series exposure to Family Law, each student must work at least twelve pro bono hours at the Legal Advice and Referral Center (LARC) providing telephonic advice to low-income clients. Students must obtain at least a B- in all DWS courses and at least a 3.0 cumulative school transcript grade point average on a 4.0 scale. Scholars who successfully complete the two-year program and who pass the Multi-State Professional Responsibility Exam and the character and fitness check are then certified by the board of bar examiners as having passed the New Hampshire bar exam and are admitted to the New Hampshire bar upon graduation.²

Standardized Clients (SCs)

SCs are lay people who are trained to act as if they are clients for the purposes of teaching and learning. SCs are also used to assess student client-centered skills. The methodology creates powerful simulations of client contact that enable students to practice and improve a range of skills, values and attitudes, as well as their knowledge of substantive law. Deriving from medical education initially but now used in a wide range of disciplines and professions, the SC approach also introduces to the legal curriculum a unique client-centered assessment instrument.

Careful training of SCs is essential to the success of the method. In the Glasgow Graduate School of Law (GGSL) at Strathclyde, which piloted the introduction of the technique in Law in the UK, a training program was designed to train SCs how to deliver a scenario. SCs were also trained to assess a lawyer's client-facing skills. In a statistical study of the method we proved that SCs could assess students as well as staff tutors; and SCs are now used at Strathclyde in high stakes assessment of student performance at interview.³ This international pilot (involving Clark Cunningham and Greg Jones from Georgia State College of Law, and Karen Barton and Paul Maharg from Strathclyde) was designed by an interdisciplinary team (Dr Jean Kerr, Clinical Skills Unit, Medical Faculty, University of Dundee, joined us to advise on the project), which was also internationally funded -- the W. Lee Burge Fund, from the College of Law, Georgia State U., the GGSL and the College of Law in England and Wales contributed funds to the project. A version of this program was used with SCs in UNH Law School. The method is, of course, applicable to practicing lawyers, and is currently being adapted by the Solicitors Regulation Authority in England & Wales

² For further information see Garvey, J.B. Zinkin, A.F. (2009) [*Making Law Students Client-Ready: A New Model in Legal Education*](#). 1 *Duke Forum for Law & Social Change* 101.

³ See Barton, K., Cunningham, Jones, C.G., Maharg, P. (2006) Valuing what clients think: standardized clients and the assessment of communicative competence. *Clinical Law Review*, 3, 1-60.

for the assessment of lawyers wishing to take the Qualified Lawyers' Transfer Scheme, in order to transfer from other jurisdictions to England and Wales.

SIMPLE (SIMulated Professional Learning Environment)

SIMPLE is at once simulation software and a hitherto relatively unregarded method of simulating legal practice. Using the software tools, staff create in the software the simulation that they wish students to work upon. These sim tools are highly flexible, enabling staff to create quite open simulations of legal practice (for instance, where students may engage in fact-gathering) or highly bounded or procedural transactions (for instance in purchase and sale of real estate, or litigation). Such simulations enable students to focus upon client-centered skills and issues. Within them, students learn about the detail of legal practice, and can begin to grasp the complexities of dealing with clients and practice ethical lawyering.

The software has been in use in a number of law schools throughout England, Scotland and Wales, and in schools of Architecture and Management Science in the University of Strathclyde. They range in duration from one week to two semesters, from undergraduate first year projects to postgraduate professional legal education transactions. The transactional method has, with the guidance of the GGSL at Strathclyde University, been developed in different directions by others, most notably the RechtenOnline Foundation in the Netherlands, which was recently awarded a grant of 2.4M euros to continue its work with a similar simulation system, Cyberdam. Transactional learning, based upon principles and approaches to learning, epistemology and social practice outlined by John Dewey and others, is a way of learning substantive law, as well as the skills and values associated with its practice in society.⁴ It is a heuristic that therefore involves students not just in knowledge application but in knowledge formation as well. As many educationalists have pointed out, professional knowledge has a complex relationship to academic knowledge, and we need to provide porous zones in both the academy and in practice where students can move between the two domains. SIMPLE enables students to do this.

Convergence

Perhaps what is most interesting about this initiative is the extent to which the two hitherto separate methods of simulating practice – SCs and SIMPLE – will be used in complex simulations on the DWS Honors Program at UNH Law School. Strathclyde and Northumbria (Karen Barton and Paul Maharg) will be working directly with staff to create simulations where SCs are the clients not just at first interview but throughout a transaction, and Northumbria will be involved also in a technical capacity. CALI will be funding the provision of technical support to the project, as

⁴ For further information on transactional learning, see Maharg, P. (2007) *Transforming Legal Education: Learning and Teaching the Law in the Early Twenty-first Century*, Aldershot, Ashgate Publishing; Maharg, P., Owen, M. (2007) Simulations, learning and the metaverse: changing cultures in legal education, *Journal of Information, Law, Technology*. Special Issue on law, education, technology, 1, http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/2007_1/maharg_owen; Barton, K., McKellar, P., Maharg, P. (2007) Authentic fictions: simulation, professionalism and legal learning, *Clinical Law Review*, 14, 1, 143-93.

well as funding the second iteration of the simulation toolset for SIMPLE.⁵ We hope that the result will be a form of legal learning that is cost-effective, sustainable, results in increased learning of substantive law and increased learning of client-facing skills. Above all, we believe that the professionalism of the students at UNH Law School will be deepened, as well as their understanding of the ethical basis to legal practice.

⁵ We are currently working with CALI on further developing SIMPLE, largely on the software tools and the development of a community of practice.