The Integrated Law School Practicum: Synergizing Theory and Practice

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The Integrated Law School Practicum: Synergizing Theory and Practice

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I. INTRODUCTION

Traditional law teaching efficiently conveys an impressively broad array of doctrinal law and theory. Clinical law teaching provides the opportunity to learn lawyering skills and apply them to real or simulated client circumstances. Students learn to organize, understand, analyze, and apply law in traditional courses; they learn how to conduct factual investigation, research, analyze, interview, negotiate, advocate, problem-solve, and resolve ethical dilemmas in clinics.

Yet lawyers know that neither doctrine nor skills alone make a lawyer. In practice, we solve real, not abstract problems, translating the language and methodologies of the law to our clients. Clinical education can provide these real circumstances; the traditional classroom can provide the legal understanding necessary to assist clients in confronting and resolving them. Clinical legal education also has provided valuable pro bono legal services to communities since its inception.

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2. See id. at 165-205.


This article reports on a successful integration of traditional and clinical methodologies in one law school course. Substantively, the course focused on a specialized aspect of bioethics and law: the legal regulation of decision-making near death. Pedagogically, we combined a traditional two-hour substantive classroom course (taught by Susan) with a one-hour clinical practicum that required students to develop a community workshop about advanced directives (taught by Rob). We had four objectives in mind when structuring the course this way. First, we sought to teach our students the relevant law and the policy considerations that influenced its development. Second, we hoped to instill in our students an understanding of the performance skills needed to apply law. Third, we intended to offer students the opportunity to develop problem solving and practical judgment expertise by engaging them in the process of responding to a person's individual situation. Fourth, we hoped to provide unbundled pro bono service to workshop participants.

We enjoyed our collaboration and believe that we satisfied these objectives. But we also learned some unanticipated, valuable lessons about the challenges of blending doctrinal and clinical pedagogy. Inviting workshop participants to raise legal questions and draft advance directive documents in personal meetings also forced us to confront intriguing questions about the scope of client-lawyer relationships in the context of a rich educational experience.

This Article describes how we balanced our desire to teach substance, skills, and judgment; our hope to offer pro bono service; and our need to limit the scope of the client-lawyer relationship in the workshops. In Part II, we address the motivation and theory

6. SULLIVAN ET AL., supra note 4, at 124.
7. The A.B.A. Standing Committee on the Delivery of Legal Services identifies unbundling as a way of making legal services available to persons who could not otherwise afford legal services. See American Bar Association, Pro Se/Unbundling Resource Center, www.abanet.org/legalservices/delivery/delunbund.html. Unbundled legal services expand legal services by providing an array of discrete legal services that can assist a pro se representation or by providing services a la carte broken down by discrete tasks, such as advice, research, fact gathering, and document drafting. Clients can select some, but not all, aspects of lawyer representation, either foregoing the other parts or handling them pro se. See FORREST S. MOSTEN, UNBUNDLING LEGAL SERVICES: A GUIDE TO DELIVERING LEGAL SERVICES À LA CARTE 9 (2000).
behind our development of this course. In Part III, we recount the evolution of our course structure and pedagogy during its first and second years. Part IV describes the structure and experience of the workshops, where our ethical dilemmas occurred. In Part V, we evaluate the educational merit and community service outcomes of our endeavors. Part VI concludes with our recommendation that law school faculty consider similar collaborations refined by our experience. We also articulate what we believe to be the best way to effectively reconcile educational and community service goals: first, by providing limited representation (unbundled legal services) in the workshops with full disclosure and the informed consent of the participants, followed, secondly, by classroom discussion of the more complex issues inevitably raised by workshop participants in the course of their personal meetings with students.

II. THE MOTIVATION AND THE THEORY

Our law school practicum was intended to teach students the interrelationship between doctrine, skills, and practical judgment by affording them the opportunity to apply recently learned legal concepts to the individual circumstances of workshop participants. We counted on these participants to share their personal understanding of the substantive law as well as their own individual circumstances with students. We hoped this would nudge our students toward developing the “wisdom of practice,” what commentators also refer to as “responsible engagement with solving clients’ legal problems” or “forward-directed . . . ‘data driven reasoning.’”

Students in traditional law courses receive little or no feedback about the level of their learning or their ability to use what they have learned until the very end of a course or later, when they

8. SULLIVAN ET AL., supra note 4, at 115.
9. Id. at 124.
11. See, e.g., Paul Barron, Can Anything Be Done to Make the Upper-Level Law School Courses More Interesting?, 70 TUL. L. REV. 1881, 1885 n.18 (1996) (“Law students traditionally complain that the only feedback they receive in
attempt to review the material for the bar examination or use it in practice. Students in clinics receive continuous feedback from clients and supervisors, but clinics require a tremendous investment in student supervision that many schools simply do not have.

Over the past thirty years, clinical legal education has confronted many of these challenges. Clinical simulations have
been integrated into traditional law classes. Clinical courses also have joined law students with students from other graduate disciplines, such as social work, to encourage interdisciplinary study and service. Externships, which place students with field supervisors in community settings, extend the reach of clinical experience, but depend on the good will and motivation of busy practitioners for supervision. A handful of clinical courses have experimented with community workshops as an opportunity for teaching more than simulated skills with a controlled, unbundled, and less-than-full client representation. A few law schools also

16. See generally Elliot M. Burg, Clinic in the Classroom: A Step Toward Cooperation, 37 J. LEGAL EDUC. 232 (1987) (suggesting that an administrative law course is made more relevant when the professor presents a case he had been involved with and brings in other parties to the case to address the class); Charles C. Lewis, The Contract Drafting Process: Integrating Contract Drafting in a Simulated Law Practice, 11 CLINICAL L. REV. 241 (2005) (describing a traditional contracts course that was modified to include a "simulated drafting project that forms the core of the course"); William Shepard McAninch, Experiential Learning in a Traditional Classroom, 36 J. LEGAL EDUC. 420 (1986) (describing a first-year constitutional law course as infused with "experiential learning," including simulations, problems, and participatory exercises).

17. See generally Toby Golick & Janet Lessem, A Law and Social Work Clinical Program for the Elderly and Disabled: Past and Future Challenges, 14 WASH. U. J.L. & POL’Y 183 (2004) (describing an interdisciplinary program for law and social work students at the clinic for the Benjamin N. Cardozo School of Law); Robert F. Seibel et al., An Integrated Training Program for Law and Counseling, 35 J. LEGAL EDUC. 208 (1985) (discussing a combined clinic and seminar program open to law students from the University of Maine School of Law and counseling students from the University of Southern Maine’s Counselor Education Program).

18. See Leigh Goodmark & Catherine F. Klein, Deconstructing Teresa O’Brien: A Role Play for Domestic Violence Clinics, 23 ST. LOUIS U. PUB. L. REV. 253, 253–54 (2004) (explaining that a clinic at the Catholic University of America’s Columbus School of Law has “become involved in prevention work through conducting teen dating violence workshops at Washington, D.C. area high schools”); Richard Morgan, Public/Private Partnerships Are Not the Only Kind of Important Collaboration, NEV. LAW., Feb. 2006, at 28, 28 (reporting that first year students at Boyd School of Law are required to participate in a Community Service Program in which they “prepare and present workshops at numerous locations in [the] community, on basic legal matters such as small claims court procedure, family law and procedure, bankruptcy, guardianship and paternity/custody matters”).
have offered clinical add-ons to traditional courses, which may or may not be required.19 These clinical offerings avoid shifting the balance of control from the professor to the field supervisor and can extend the reach of clinical experiences to students by demanding less one-on-one supervision.

Our interest in this project came from our past experience as lawyers and law professors. Susan, the experienced, traditional classroom teacher, has taught Torts, Legal Ethics, Health Care Provider Liability, and Bioethics for twenty-five years. She serves on several ethics committees in local health care organizations and speaks to community groups about various topics including bioethics and the need for advance directives. She has written several legal ethics books,20 as well as dozens of law review articles on various bioethics and legal ethics topics,21 and has authored two amicus briefs in the Supreme Court right to die cases, *Cruzan v. Director*22 and *Washington v. Glucksburg*.23

Rob has been a clinical legal educator for thirteen years. He has been increasingly involved in health care law and collaborates with health care facilities and professionals on a variety of projects. He serves on the ethics committee of a local hospital and


speaks frequently on topics related to health care law. Rob regularly incorporates community educational workshops into his clinical teaching as a means of providing both rich educational opportunities for students and community access to unbundled legal services. One such workshop, co-sponsored by a local television station shortly after the death of Terry Schiavo, gave students the opportunity to assist approximately 1,200 people execute living wills and durable powers of attorney for health care.

Our quest for a better pedagogical model led us to design an integrated course where we each played to our respective strengths: students would learn doctrinal law from Susan and present community workshops about advance directives under Rob's guidance. Teaching separate course components enabled each of us to rely on our previously-honed traditional and clinical teaching methodologies. Old dogs did not have to learn new tricks, but we found that, in spite of ourselves, we learned from each other as well as from our students. Susan conveyed to students the value of rigorous traditional teaching as a prerequisite to confronting actual practice settings. She also wanted to offer students the occasion to develop professional judgment by communicating difficult legal concepts to a lay audience. Rob's previous television station workshop reinforced the value of providing students with some theoretical and historical context before a live-client experience. He observed that many students in the television workshop appeared confounded by questions from workshop participants who sought a rationale for the terms and conditions imposed by legal forms. In designing the course, we also sought to provide a discrete or unbundled legal service: assistance in completing and executing individualized advance directives. Like others before us, we believed that offering a limited yet useful legal service as part of a community workshop could provide a necessary and often neglected legal service.

As far as we have been able to determine, however, our integration of a clinical community workshop with a traditional

24. Stuckey et al., supra note 1, at 97 (explaining the advantages of such a model).

doctrinal course was the first such effort to require a theoretical course immediately followed by a practicum that forced students to translate what they had just learned in a traditional course immediately into language useful to a lay audience in a clinical workshop. The workshop offered students the opportunity to learn about the reality of applied doctrinal law as well as the range of individual circumstances the law shapes and regulates. It also prodded them to move beyond novice stages of distanced learning of formal concepts toward competent practitioners capable of exercising practical judgment in achieving a client's goal. 26 Adding document drafting experience to the workshops also suited our goal of encouraging more pro bono service for both lawyers and students. These instincts dovetailed nicely with our university's mission to engage in our local community.

III. THE COURSE

A. First Year Experiment

Our practicum model was initially born in an application for a small grant to offer an experimental clinic that was "attached" to Susan's Bioethics and the Law course. 27 The "clinic" consisted of two community workshops on advance directives (i.e., living wills and durable powers of attorney for health care) offered in local neighborhood senior community centers or residential facilities. 28

We advertised the course as a "hybrid" (between classroom and clinic) where students would gain an appreciation for the

26. SULLIVAN ET AL., supra note 4, at 116-17.
27. Professor Gabrielle Davis applied for these funds and taught the clinical portion of the course in the first year with Rob. The Ottawa Coalition, a neighborhood community group, and St. Marguerite D'Youville, a local foundation, funded the clinic; Hospice of Northwest Ohio collaborated on the project.
28. Each workshop lasted approximately three hours. During the first half of each workshop, the students provided general information about advance directives, focusing on their importance, their limitations, their use once executed, and methods to change directives. The information session also included a brief question and answer period. Following the information session, the presenters assisted seniors who desired to execute advance directives by helping them fill out the appropriate forms and execute them in accordance with the requirements of Ohio law.
myriad ways in which legal theory pertains to real life by designing and conducting a community workshop on advance directives for senior citizens. Because we offered the course in the evening division, we anticipated that most students would not be familiar with clinical education.²⁹

Nineteen students participated in the course. Susan provided the classroom component of the course both before and after the clinical component, which spanned five weeks during the middle of the semester. Two clinicians spent two of five weeks in the middle of the semester dissecting the Ohio advance directive statutes and offering basic instruction on interviewing and counseling skills.³⁰ Students then spent the remaining three weeks planning, conducting, and evaluating the workshops.³¹ Clinical

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²⁹. Students were informed that the clinical portion of the course would teach them critical legal skills, such as how to:
- analyze, interpret, and apply a statute;
- prepare for a client meeting;
- talk to clients about sensitive legal matters;
- translate legal jargon into plain English;
- work with clients to achieve their goals;
- respond to client questions and concerns;
- help clients make important end-of-life decisions;
- accomplish definite legal objectives;
- manage time, competing demands, and firm deadlines; and
- begin developing into competent legal practitioners.

³⁰. A local hospice assisted students in developing skills about communicating with clients regarding end-of-life decision-making, based on its curriculum developed for training medical students.

³¹. The class was divided into two groups, each responsible for designing and presenting a workshop tailored to the needs and expectations of low-income residents: The first group lived in a senior housing facility and the second were members of a Baptist Church. Each student submitted a final written evaluation of his or her clinical experience. Students were given the following questions to consider in planning their workshops:

(1) What information are you going to convey?
   a. How much does your audience need to know?
   b. What kind of information would be useful?
   c. How basic or technical an overview will you provide?
   d. How much is too much?

(2) How are you going to convey that information?
   a. Lecture style?
   b. Panel discussion?
professors evaluated and provided feedback on each student’s performance in the areas of professional competence, legal analysis, critical thinking, preparation and participation, productivity, resourcefulness, and collaboration. A traditional final exam followed the clinical component. Clinical faculty graded the clinical portion of the course, which amounted to 25% of the final grade.

Students’ evaluations, while basically positive, identified three problems with the design of the course. First, they told us that they felt pressed for time in planning the seminars. Second, they wanted greater clarity in grading, rather than combined grades based on point allotments from each part of the course. Third, they shared our disappointment that the workshops were poorly attended, mostly because of our reliance on program sponsors to generate an audience. We also noted that the students’ fatigue following the mid-semester workshop negatively affected their final examination performance at the semester’s end.

c. One-on-one consultation?
d. Group workshops?
e. PowerPoint presentation?

(3) Will you use any visual aids?
   a. Handouts?
   b. Forms?
   c. Overheads?
   d. PowerPoint presentations?

(4) Who will convey the information?
   a. Everyone?
   b. Someone?
   c. A group of you?

(5) Who will prepare the visual aids, if any?
   a. Everyone?
   b. Someone?
   c. A group of you?

(6) Will you provide:
   a. Question and answer session?
   b. Follow-up services?
   c. Referral resources?

(7) Can you anticipate questions from the audience?

(8) How will you avoid the unauthorized practice of law?
B. Second Year Refinements

In the second year we redesigned four aspects of the course to fix those problems that arose in the first year experience. First, we adjusted the course schedule to place the entire classroom portion of the course in the first ten weeks of the semester, followed by a final exam, and then followed by the clinical experience. This forced students to learn the substantive law in greater depth before they were required to apply it, alleviated their fatigue in preparing for the written exam, and also offered them the option of one less exam at the end of the semester. Second, we focused the substance of the course exclusively on the law of death and dying and added some Ohio law during the traditional part of the course. Third, we sought community forums that offered the students a real opportunity for dialogue with different audiences. Finally, we separated grading of the course into two portions.

These changes meant that our students knew that they were expected to learn the doctrinal law, pass a take-home exam that applied it, and then immediately use their knowledge of substantive law to plan and conduct a community forum for a lay audience. We chose the topic of death, dying, and decision-making because of its timeliness following the Terri Schiavo case, and also because it allowed us to teach constitutional, statutory, and common law reasoning. We told the students that the first part of the course would cover national trends in state law concerning guardianship proceedings and advance directives, and that they would be required to learn Ohio-specific law to complete the clinical portion of the course. We asked them for advice about places to offer the public forums and settled on two locations: a high-end assisted-living facility and a graduate nursing class at another local university.

In adjusting the course schedule, we also separated the grading of the course. The course syllabus required students to elect two linked, or integrated, courses. The first was a two-credit traditional course, entitled “Death, Dying, and Decision-Making” that ran for the first two-thirds of the semester, followed by a take-home essay exam. The second was a one-credit clinical course, entitled “Clinical Practicum,” that began the week after the take-home exam and ran for the last third of the semester, culminating in the
students’ presentation at a public forum about advance directives. Susan taught and graded the first portion of the course; Rob taught and graded the second. Both of us attended the students’ forums and critiqued their performances. Rob required students to complete a two to five page paper at the end of the semester reflecting on their preparation for and execution of the workshops.

The traditional course emphasized problem solving in the context of the law that governs death, dying, and decision-making. Susan asked students to advise individuals or entities confronted with legal issues such as brain death criteria and statutes, organ donation, the constitutional basis for a right to die, state common law rights and assisted suicide, guardianship proceedings, surrogate decision-making standards, and statutory advance directives. Selections of various state approaches to these issues were assigned, along with the Uniform Health Care Decision-Making Act, which Susan used to demonstrate the range of state advance directive statutes. Two Ohio cases were included as illustrations along the way. This portion of the course ended with a week for the students to prepare for and take their written final examination in the course.

The clinical portion of the course began the week following the examination. We divided the ten enrolled students in the class into two groups of five and instructed each group to create a workshop specifically tailored to that group’s respective audience, senior citizens residing in an upscale assisted-living facility or graduate nursing students at a local private college. The distinctions between the two audiences provided for interesting discussion and reflection on the importance of practice skills, such as the significance of a client’s life experience, the need to tailor communication to the audience’s needs and expectations, and the damaging effects of stereotyping that can prevent lawyers from competently communicating with clients.

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32. Prior to entering the practicum, we polled the students on their preferred audience for the workshop and asked for their schedules. We were therefore able to plan two workshops with suitable audiences and at times and dates that would not significantly interfere with the students’ schedules.

During the first practicum class, Rob instructed students on clinical theory using the materials developed the previous year. The next class focused on the Ohio Advance Directives statutes, a compendium of four extremely complex, lengthy, yet narrowly applicable laws. These statutes, based on the predecessor Model Rights of the Terminally Ill Act, starkly contrasted to the relatively straightforward, clearly organized, and broadly applicable Uniform Health Care Decisions Act, which the students had just studied. Grappling with an antiquated statute that did not completely address the range of issues previously studied became their first clinical lesson. Half the class reviewed Ohio's Living Will statute, and the other half focused on Ohio's Durable Power of Attorney for Health Care statute. They discussed the strengths and weaknesses of their respective statutes and reported their conclusions to the full class at the end of the session. The students were clearly frustrated by the complexity and limited scope of the Ohio laws.

The next two classes featured guest speakers from Hospice and a local non-profit organization dedicated to advance care planning. The speakers presented their perspectives on the importance of advance directives and end-of-life planning and suggested how lawyers could be more effective by understanding the personal dimensions of death and dying. Subsequent classes were devoted
to simulating client-lawyer meetings on advance directives and preparing for the workshops.

A final class after the workshops encouraged students to reflect on their experience and afforded Susan and Rob the opportunity to give the students feedback on their performance. The students then wrote reflection papers that subjectively evaluated their own experience and objectively evaluated the contributions of each member of their group. Because the students created their own system of workload distribution, and often met outside of class time to prepare for the workshops, these observations were helpful in grading.

IV. THE WORKSHOP EXPERIENCE

A. Design and Description of the Workshops

The workshops provided very meaningful learning opportunities for our students. The first workshop took place before an audience of about twenty graduate nursing students and faculty at a local private college. Our students prepared a PowerPoint presentation that addressed the legal nuances of Ohio’s Living Will and Durable Power of Attorney for Health Care laws. The presentation also included sections on the legal definitions of some of the relevant medical terms and on how to communicate effectively about the importance of advance care planning to patients. The presentation concluded with a hypothetical fact pattern regarding a young woman who suffered a cardiac arrest and remained in a vegetative state two years later. Questions were posed to the audience exploring the circumstances under which artificial hydration and nutrition could be withdrawn in such a fact pattern.

The audience was less interested in living wills and health care power of attorneys and much more focused on the legalities of do not resuscitate orders (DNRs), primarily because the nurses had a practical need to understand their clinical duties to effectuate DNRs. Many in the audience already had experience with DNRs, and upon further inquiry, our students discovered that health care professionals deal with DNRs on a nearly daily basis, yet see living wills and health care powers of attorney (POAs) much less often.
Although Ohio law devotes an entire chapter to regulating DNRs, our students were woefully unprepared to answer DNR questions and deflected the inquiries to us in the audience.

Once concerns about DNRs had been addressed, the students once again focused on the topic they were prepared to address by asking whether participants were interested in reviewing or executing a living will and health care POA form to better understand the purpose of these directives. Expressions of audience interest led to one law student’s step-by-step explanation of the forms to the audience. The audience became engaged with the topic at this point and asked many questions, which the students fielded quite effectively.

The second workshop was conducted at an expensive local assisted-living facility. The audience of approximately thirty residents and guests observed the student’s simple and visually pleasing PowerPoint presentation, which included photographs and graphics. Several slides asked a series of true-false questions about living wills and health care POAs. Our students’ stated intent was to create a simple, easily comprehensible presentation that would not confuse the audience members, whom they expected to be of limited competency. To their surprise, several people in the audience were prepared with previously executed documents and asked many challenging questions on issues such as the mechanics of executing the documents, the meanings of vague legal terms, and jurisdictional conflicts. One woman brought an advance directive that she executed years before in Illinois and wondered whether she should now execute an Ohio document. Another brought a previously executed Ohio document prepared by her lawyer that departed from the form recommended by the Ohio State Bar Association. The students were surprised and unprepared for such sophisticated questions. After initial unsuccessful attempts to respond, with some prodding they eventually were able to dig into their understanding of Ohio law to find reasonable answers.

Following this group presentation, the residents were invited to meet one-on-one with our students. These meetings provided students with more opportunities to experience the complexities of

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36. §§ 2133.21-.26 (DNR Identification and Do Not Resuscitate Orders).
the client-lawyer relationship. The conversations were lively and lengthy, and the students appeared limp and exhausted at the end of the workshop—exactly what we expected.

While the two groups had somewhat different experiences in the practicum, and particularly in the workshops, there were certainly commonalities of experience. All of the students learned important clinical skills such as analysis and interpretation of statutes, practical application of the law, preparation for client meetings, communication with clients about sensitive legal matters, translation of legal jargon into plain English, response to client questions and concerns, and management of competing demands and deadlines.

B. Student Response

Students universally praised the integrated practicum experience. Their verbatim comments below indicate the value of the combined experience, the contrast with much of the rest of their second and third year law school experience, and the personal sense of satisfaction they garnered from the workshops.

1. The two pieces of the class worked very well together. It was a fantastic experience to put the course work into practice in a more practical setting. I wish more classes were like this!
2. The two courses really went well together. Without the first part I would have felt overwhelmed by the statutes and then the presentation.
3. The substantive portion of the class was laid out well and laid the groundwork for the practicum that followed, which allowed us to see the practical applicability of what we just learned all semester. I would recommend this course to anyone. Great topic.
4. Parts of the course fit together well. I thought each completed each other well.
5. I thought that overall the class and clinic worked well together. My only suggestion is that the [first part] go over the Ohio statute before we started the clinic. I just felt there was not enough time to grasp it.
6. I think that the mix of the course was fine. Although I think the class portion should have included more emphasis on the Ohio statute as that was what the clinic was about.

7. The classes—the clinical portion/classroom portion fit together extremely well. The clinic was a great way to put to use the knowledge we gained.

8. These course sections went together well. By the time the practicum began, we were well-prepared and ready to dive in.

9. I really enjoyed the course. It was my first sort of clinical experience and I’m glad I had it—it was good to get some real life experiences with real people who had real questions.

V. Evaluating the Outcome

A. Educational Experience

We found that the workshop integration model we adopted satisfied several objectives, whether they were intended or not. First, we believe that beginning the course with traditional instruction and testing the students prior to the practicum ensured that each student had a well-developed understanding of the doctrinal law before working with real people. This may not have been the case if the doctrinal and clinical components had been scheduled simultaneously. Front-loading the class with traditional instruction enhanced the students' confidence to undertake clinical work, which many students find so frightening that they avoid taking clinics in law school. The students in our second-year course were markedly better at providing quality information and fielding questions than those in the first year course.

This type of structure may also encourage students who would ordinarily avoid clinics to take the chance, relying on several weeks of preparation in the specific subject matter. We also found that the students were surprised—maybe even shocked—at the disparity between theory and the everyday demands of practice. They thought they knew enough going into the practicum to serve their audiences well. However, they learned that knowing the law does not make them good lawyers, because they also need to
translate that law to their clients and translate their client’s needs, goals, and cultural expectations to legal forms. They also learned the value of being able to interpret a body of law rife with complicated legal and medical concepts into plain language. We believe that the structure of our course reinforced these lessons.

Second, we found that the workshop integration model had the potential to accommodate more students seeking live-client work than other integration models, including those that incorporate either live-client representation, an externship system in which students are placed with lawyers in the community to gain experience in the field, or a simulation-based clinical add-on.

Clinical Professor Rob deemed the clinical portion of this course a success because students developed a better understanding of the relevant law first and then developed an appreciation of the complex and unpredictable nature of even limited term client-lawyer relationships. He also was able to supervise students as they prepared and presented their workshops. This provided students with valuable clinical experience in the context of a seamless transition between theory and practice that enabled us to directly connect key concepts and theories to the students’ actual experiences.

Another measure of success was the public service provided to the community. Ten students assisted approximately sixty people during two workshops. Although the services did not constitute full representation, by offering legal information and unbundled advice about drafting individual form documents, they managed to reach dozens of people who otherwise may not have been served.

37. See generally Caroline Kearney, Pedagogy in a Poor People’s Court: The First Year of a Child Support Clinic, 19 N.M. L. REV. 175 (1989) (describing a clinical seminar covering substantive and procedural law that was combined with a clinic in which students represented clients throughout their child support proceedings).

In the first presentation, students were asked detailed questions about the DNR section of Ohio's advance directive statute. Because they had prepared a workshop focused on two other parts of the Ohio statute (living wills and durable powers of attorney for health care), they were not prepared to answer these questions. The lesson: do not assume your audience has the same interest you might, and be prepared to answer relevant related questions.

In the second workshop, two participants asked specific questions that perplexed the students. One participant held up a document and proudly explained how she had included all of her children together as shared surrogate decisionmakers. Because the Ohio statute is silent on the issue of joint surrogates, the students initially were not certain how to respond. Susan told them to look at the document and asked whether a lawyer had drafted it. They said "Yes." She then asked them why a lawyer would deviate from the recommended form prepared by the Ohio State Bar and Medical Associations. They replied that it obviously served the client's interests. She asked whether the lawyer was on solid legal ground in drafting such a document, and they were able at last to see that the lawyer had read the statute, discovered its silence, and drafted a document consistent with his client's wishes and arguably supported by more general statutory language of legislative intent.

The second incident led to even deeper introspection. A participant held up a document and said that it had been drafted for her in another state. She wondered whether she should have a new Ohio document drafted now that she lived in that jurisdiction. Students understood that Ohio's statute, like most, recognizes advance directives from other jurisdictions as valid in this state if they are "similar" to those authorized by Ohio law and if they "substantially comply" with Ohio provisions. Some also knew that health care personnel who lacked knowledge to the contrary could "assume that a declaration" is valid and "complies" with relevant Ohio law.

At the same time, they remembered from studying the Model Health Care Decisions Act in the first part of the course that Ohio

39. § 1337.16(G); § 2133.14.
40. § 2133.13.
statutes recognize a much more limited scope of advance directives than does the Model Act, or those recognized by most other jurisdictions. In caucusing with Susan at the workshop, they came to the conclusion that another state’s document might speak to a wider variety of medical circumstances than any Ohio document would be able to encompass.

They returned to the participant and asked whether they could look at her document. They soon discovered what we had suspected. It was broader in coverage than the more limited Ohio statute would allow. Students were asked whether they thought the workshop participant should draft a new document, which would automatically revoke the current one. They thought not, essentially because the law of the other jurisdiction appeared more favorable to protect a wider variety of the participant’s rights. They returned to her and said they believed that Ohio law would recognize this document, so there was no need to execute a new one in this state.

Of course, this was probably very good and actually quite sophisticated legal advice. But that created another problem: it was legal advice. And giving legal advice to anyone who reasonably relies on it creates a client-lawyer relationship with respect to that matter, something we hoped to limit by relying on students to draft form documents in the workshops rather than offering full-blown individual client representations. In short, what made for great law student education crossed the unbundling line into potentially full-scale client representation.

While a pure workshop format that offered only legal information and no individual drafting or advice conceivably could avoid this problem, our expansion of the workshops to include one-on-one meetings anticipated that some participants might want assistance in executing advance directive form documents. Awash with enthusiasm to help people in our audience, however, we lost sight of the ethical pitfalls of dispensing general legal advice to laypersons eager for information. What made for great education undid our initial plan to limit the scope of any representation to executing form documents and has led us to examine how we will manage this dynamic in future practicums.

We see three approaches to resolving our dilemma. The first would avoid client-lawyer relationships by providing legal information rather than legal advice. Such a workshop model would rely exclusively on a workshop presentation about the law without any specific one-on-one meetings with workshop participants. This model has the advantage of avoiding most actual or “accidental” client-lawyer relationships, but also may limit the full potential for students’ clinical interaction with people actually affected by the law. Students would have to plan how to avoid giving individual advice to workshop participants, especially if the participants ask individual questions following the presentation. Like law school simulation models, limiting audience interaction can control the client-lawyer relationship problems but may also deprive students of the real life complexities of practicing law. Students also lose an opportunity to provide pro bono legal services to individuals.

The second model, on the other end of the spectrum, would mimic live client representation. Students would prepare and present a workshop but follow that with one-on-one individual meetings. Here, clinical experience is maximized, but advance preparation of students about the appropriate scope of their ability and advice becomes crucial. Additional faculty supervision of each student-participant meeting also may be prudent to assure that students do not create unrealistic expectations or give inaccurate legal advice to workshop participants. Full representation of clients obviously exposes the program to more liability than community workshops that limit the scope of a representation.

42. See generally Martyn, Accidental Clients, supra note 21.
43. David A. Binder & Paul Bergman, Taking Lawyering Skills Training Seriously, 10 CLINICAL L. REV. 191, 216 (2003) (encouraging increased use of simulations in clinical settings, but acknowledging that “a potential downside is that unless clinicians and students devote even more time to clinical courses than they do now, increasing the amount of faculty resources devoted to simulations may undermine the amount of time that clinicians and students can devote to live client work”).
44. Courts have begun to recognize limits to the liability of lawyers who make clear the limits of their responsibilities at the onset of the representation. See, e.g., Kates v. Robinson, 786 So. 2d 61 (Fla. Dis. Ct. App. 4th Dist. 2001) (holding a lawyer retained only to execute a judgment not liable for failing to recognize another potential defendant in the case); Lerner v. Laufer, 819 A.2d
Additionally, having a traditional live-client component often requires capping the enrollment in the course to a small group of students, which in turn means that only a handful of clients get served.

The third model seeks neither to avoid a client-lawyer relationship nor to create an unlimited relationship, but instead to limit the scope of any post-informational session representation to a relatively routine legal service with full disclosure of that limit to the workshop participants. This is the model we prefer, and it is the one we intend to follow in future iterations of our bioethics practicum.

All of these models require faculty to mitigate the risk of full-scale client-lawyer relationships and potential liability. In the first model, the presenters should explicitly state during the workshops that the purpose is informational only. Under the second and third models, participants who wish to execute documents should be asked to sign an informed consent document that explains the limited scope of the representation. It will be essential that students be warned about the need to avoid giving specific individualized advice to participants beyond the scope of the form documents. At the same time, we will encourage students to take note of questions asked beyond the scope of this task and to bring these questions back to the final class session. This should help preserve the fullest possible educational value of the individual consultations while at the same time helping to limit both the scope of the client-lawyer relationship as well as the risk of harm to a participant from inaccurate or incomplete legal advice.

To accomplish these goals in future workshops, we will instruct students to provide generic information during the presentations and answer individual questions with generalized responses. Such a response might include a range of possibilities

471 (N.J. Super. Ct. App. Div. 2003) (holding that a lawyer who limited the scope of his representation to reviewing terms of a mediation agreement on its face assumed no duty to undertake discovery to evaluate the merits of a settlement).


or options for persons in general, being careful not to narrow these options to a specific course of action or conclusion. We will warn students not to apply law to individual circumstances (that is, give legal advice) beyond assisting participants in filling out the form documents. In response to questions soliciting individualized advice, we will ask students to identify how they should communicate that the information they are providing should not be relied on without further consultation with a private lawyer. We will also have referrals to local legal services agencies, the Bar Association, and our own clinical programs ready to distribute at each presentation.

For example, a response such as “people in this situation sometimes chose either of two options,” communicates legal choices without making a specific recommendation to a specific person. Similarly, the student’s answer to the question regarding the advance directive executed in another jurisdiction could have simply explained the reciprocity provision in the statute, but added that a full personal evaluation would require a consult with a private lawyer.

To avoid losing the full educational value of these questions, we will tell students to expect such questions and to make note of them for follow up analysis in class. This will afford us the opportunity to explore more sophisticated legal applications at length, but without any prospective client relying on any student’s legal advice.

B. Community Service

The workshop integration model can be used to provide needed legal services to under-represented groups, especially as the need grows and the provision of legal services for low-income persons shrinks. A class of thirty students may be able to provide legal information to hundreds of people through planned workshops. In our experience, just ten students served approximately sixty people. We do not believe that workshops should ever replace

live-client clinics, which can provide a more long-term and richer learning experience in the context of providing much needed legal services. But we do envision workshop models as adding to the mix of clinical opportunities for students and providing valuable services to a significant number of people. We believe that the practicum offered us a creative way to prepare students for the practice of law while serving the communities in which they are located.

Our students' experience with different audiences leads us to identify another dynamic. In the first year of the course, we served primarily low-income participants, who raised relatively general questions our students did not always clearly address. The second year experience involved middle-income participants, some of whom had already sought legal assistance for similar matters. Their questions tended to be more specific and raised more difficult legal issues. The first audience gave us the opportunity to provide pro bono professional services that would not otherwise be available. Such an audience also offered students an opportunity to interact with persons relatively unfamiliar with the law or legal concepts. We lost some of this dynamic in the second year, because most of the workshop participants had prior experience with the law or with lawyers. But another opportunity—the chance to learn the law at a more advanced level—arose instead. The loss of a pro bono opportunity was replaced by the gain of an audience that prodded students to analyze the law in more specialized applications.

VI. CONCLUSIONS FOR THE FUTURE

We were very pleased to join two groups—our students and the workshop participants—in enjoying and benefiting from the workshop model. Overall, the experience was a great success and has motivated us to seek out similar ventures in the future. However, we have also learned from our mistakes.

With this in mind, we recommend that faculty who decide to follow this model explicitly address the questions that most vexed us when we designed the course: the audience to be served, the scope of any client-lawyer representation, and the concomitant scope of liability insurance. Our experience suggests three models,
any one of which may prove viable in a subsequent course offering.

After two years of experimentation with our course, however, we conclude that the best model for workshop practicums is one that includes limited representation for discrete legal matters. Students do not have the time to carry out a full scale legal representation in a five week clinical offering, but they do have enough time to focus on presenting legal information to an audience and assist participants who wish to execute form documents. Similarly, clinical faculty do not have the resources to supervise students in individualized client representations in a short-term clinical experience, but our limited term, discrete matter model affords them the opportunity to extend some clinical education to students who might not otherwise benefit from it. At the same time, this practicum model offers more than workshops limited to group presentations of legal information. While such a limit obviates the problem of creating inadvertent or accidental client-lawyer relationships, that gain is more than offset by two losses: student learning in individualized participant sessions and the provision of some pro bono legal services.

We intend to continue offering our practicum as refined in our second year experience and recommend it to others. In terms of course design, we agree with our students that a traditional course ending with an exam, followed by a workshop clinical course, provides students the opportunity to gain clinical experience, appreciate the value of traditional learning, make legal services available to workshop participants, and understand the need to clearly limit the scope of client-lawyer interactions.

We hope that a similar blending of traditional and clinical methodologies will also occur in other areas of the law. Separating the two parts of the course encourages both traditional and clinical professors to stay with familiar patterns of pedagogy. Requiring that students elect both parts of a linked course provides law students with clinical training, an appreciation for the value of traditional legal analysis, and an opportunity to develop professional judgment.

We conclude that the provision of unbundled legal services in a workshop setting is the best way to provide community service and student education to the greatest number of people. As long as
access to legal services remains elusive to many, and law schools lack the resources to provide extensive live-client clinical experience to students, we see our practicum as an innovative way to address these realities. The workshop integration model provides one cost-effective and enjoyable way to serve both our students and our communities.