The Clinical Year

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Two endemic problems of legal education intersect for the students at many schools. One is that law school so often does not attempt to prepare students to practice law. The other is that the profession is bifurcating, with lavish salaries for the privileged minority of each year's new graduates, and the prospect of much more modest salaries, and much more difficult job searches, for most of the rest.[1] At New York Law School we are working on a set of programs meant to respond to this compound problem. One of these is "the clinical year," a legal rotation modeled on the medical school clinical experience. This essay describes how the clinical year might work, and also makes the case for what would be a substantial innovation in legal education. The first step in doing so is to set this change in its context, as one of a number of potential changes in the curriculum at New York Law School.

The clinical year rests on the conviction that our students need systematic preparation for and connection with the world of practice and that they need this before they graduate. But isn't "systematic preparation for the world of practice" exactly what every law school's courses collectively provide? The idea that law schools should prepare students for law practice might seem like a truism, but in fact most American law schools do not really aspire to achieve this goal. They do aspire to start students on the road to practice, by teaching them to think like lawyers and by helping them to acquire a survey knowledge of many legal fields (normally in far less detail than a practitioner in any one of those fields would require). But no one supposes that thinking like a lawyer is all there is to interviewing a client or litigating a case or negotiating a deal, and law schools generally do not suppose that it is their job to ensure their graduates learn those practical skills by the time they graduate. This observation, frequently made over the years, is a central finding of the recent Carnegie Report on American law schools.[2]

Almost all students can benefit from this kind of practice-oriented training, but for some this focus seems particularly apt. New York Law School has never been indifferent to the world of practice, as our many clinics, externships, workshops, simulation classes, and practical writing courses—as well as our commitment to "Learn law. Take action."—reflect. In recent years, we have worked to shape a program tailored to the differing needs of our different students—to provide, as we have put it, the "right program for every student." For our Harlan Scholars, the top fifteen percent of each class, the concentrated training in particular fields of law and advanced work in legal writing on the Law Review help provide the kind of entry into the legal marketplace that can launch a career.[3] For our students in

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[1] *See* William D. Henderson, *Are We Selling Results or Résumés?: The Underexplored Linkage Between Human Resource Strategies and Firm-Specific Capital* 2–4 (Ind. Univ. Sch. of Law-Bloomington Legal Studies Research Paper Series, Research Paper No. 105, 2008), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1121238; Richard A. Matasar, *Defining Our Responsibilities: Being an Academic Fiduciary*, 17 J. Contemp. Legal Issues 67, 84 (2008).

[2] *See* William M. Sullivan et al., Educating Lawyers: Preparation for the Profession of Law 87 (2007). For another thoughtful and influential report that rests on a similar perspective, see Roy Stuckey et al., Best Practices for Legal Education: A Vision and a Road Map (2007), *available at* http://www.cleaweb.org/documents/bestpractices/best_practices-full.pdf.

[3] All Harlan Scholars join the New York Law School Law Review, while also joining one of the school's Centers and meeting that Center's requirements for course selection, including a "capstone" project in their final year. New York Law School now has seven Centers with Harlan Scholar programs: the Center on Business Law & Policy, the Center for International Law, the Center for New York City Law, the Center for Professional Values and Practice, the Center for Real Estate Studies, the Institute for Information Law and Policy, and the Justice Action Center. *See* New York Law School, Centers & Programs: Overview, http://www.nyls.edu/academics/centers_and_programs (last visited Feb. 2, 2009).

the Comprehensive Curriculum Program, those who find themselves in the bottom twenty-five percent of the class after their first two semesters (or, for part-time evening students their first three semesters), the rigorous and extensive requirements for doctrinal study help ensure that the most critical precondition for a legal career— passing the bar—becomes a challenge that can be mastered rather than a nightmare.[4] But between these two groups is sixty percent of our student body, our "middle-60." The programs we offer these students, despite many strengths, are broadly like those offered by most law schools to most law students across the United States—and it is time to do better.

Though I will focus here on a proposal for a new course, what we envision is not just the creation of new courses and new curricular programs. Professional success requires more than doctrinal knowledge, more even than doctrinal knowledge combined with lawyering skills. Our Office for Professional Development, led by Associate Dean Lenni Benson, is generating a range of efforts outside the for-credit curriculum to encourage students to commit to professional values and to learn professional self-presentation, beginning with the first days of law school. If the opportunities in the hiring market do not simply present themselves, then those students who learn to search for them will be the most likely to find them, those who learn to present their achievements will be the most likely to have those achievements recognized, and those who discover for themselves what they value in the life of the law will be the most likely to meet its challenges with optimism and resourcefulness. Law school, the Carnegie Report teaches us, is a form of apprenticeship in professionalism;[5] those who understand their years here as a professional experience will gain most from them—and we plan to educate for professionalism outside the classroom as well as inside.

The "Professional Development" programs, we hope, will mesh closely with the curricular innovations we have in mind. If students are to market their experiences, then law school needs to help them gain that experience. If they are to embrace law as a meaningful vocation, then law school should help them learn the core values of professional legal work. In short, students need programs (in-class and out-of-class) that will help them to develop marketable credentials attesting to their readiness for the world of practice. Like other schools, we have already moved some distance in this direction, with in-house clinics, externships, workshops, and simulation skills courses all providing valuable experiences for our students. The new curricular programs we are considering will build on what we already offer. I will turn to describing them in a moment, but first this caveat: the shape these programs will ultimately take is a decision for the faculty as a whole, rather than for any single faculty member (or associate dean), so what I will describe here are not settled commitments but rather proposals that I hope will ultimately be shaped into valuable realities. These proposals include:

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[4] The Comprehensive Curriculum Program's "five key components" are:

a) an intensive reintroduction to the skills essential for competent performance;
b) an enhanced array of required doctrinal courses;
c) a guided approach for selecting electives;
d) an additional semester for some students; and
e) a final consolidation of knowledge and skills to prepare for entry into the bar and the practice of law.

New York Law School, A Guide to the Comprehensive Curriculum Program: Academic Year 2008–09, at 2 (Apr. 29, 2008), ttp://www.nyls.edu/user_files/1/3/4/17/CCP%20Guide%20March%202007%20 updated.pdf. The program actually begins in the second semester of the first year (for evening students, the first semester of the second year)—in other words, one semester before students are assigned to the full Comprehensive Curriculum Program—with Principles of Legal Analysis, a required course for students whose early grades have placed them in approximately the lowest third of the class. *See id.* At 3–4. This intensive class "focuses on developing those fundamental skills of legal analysis students have not yet grasped." *Id.* at 2.

[5] *See* Sullivan et al., *supra* note 2, *passim*.

1. Project-based learning: students working on projects ranging from public policy studies to legislative drafting to community legal education to pro bono litigation, typically in teams and under the supervision of full-time or adjunct faculty members; in a sense, these will all be quasi-clinics (though most probably not built around particular cases), calling on students to take responsibility for meaningful work and introducing them to a wide range of practice settings and issues;

2. A concentration in litigation or transactional skills: a certificate to be earned by taking a variety of skills courses but with a particular focus on students' participation in moot competitions (in appellate advocacy, trial advocacy, negotiation, and client counseling) and in courses in which students learn these skills, not just in the somewhat artificial modes practiced in competitions but with a focus on the elements of these skills as actually employed in practice;

3. A concentration in a practice-ready job track in a particular field: an expansion of our Harlan Program, which has been built around our Centers; several of these Centers are now offering or developing programs for middle-60 students, often involving "projects" of the sort mentioned above; and

4. A clinical year: a clinical rotation, making up the great majority of a student's third year, and modeled on medical school clinical rotation.[6] It is this program that is the focus of this essay, and I want to describe its mechanics in some detail before examining its underlying rationales.

I. THE MECHANICS OF THE CLINICAL YEAR

This program, which I hope we can initiate on a pilot basis in the 2010–2011 school year, aims to immerse students in practice for an entire academic year. While the program's details are all still under consideration, the basic outline of the pilot version could be along these lines: a small group of students (perhaps eight in all) would do three clinical rotations during their third year. Each rotation would last approximately eight weeks and count for six credits, and each would be preceded by a two-credit, one-week intensive skills and substantive law preparation course. Thus the full program would last twenty-seven weeks or almost exactly two semesters, and students would earn a total of twenty-four credits. The three rotation sites would be chosen so as to expose students to a representative range of practice settings and engage them in a range of practice tasks, with a particular view to areas in which our students might later make their careers (including, but not limited to, areas in which New York Law School has already developed relationships that might help students get future employment). For example, a clinical year might include rotations in real estate law (a transactional field); immigration law (combining administrative law and litigation practice); and juvenile law (a litigation field).

While on their placement, students would be supervised by an attorney working at the placement site who would become a member of New York Law School's adjunct faculty. These adjunct supervisors would both supervise the students, as they would any other junior members of their staff, and be responsible for holding weekly individual and/or "seminar" meeting hours with the rotation students to focus closely on the experiences the students are having. The two-credit, intensive preparation week preceding each placement would be taught by New York Law School full-time faculty, joined as appropriate by adjuncts, including the adjunct faculty who would be the students' placement supervisors. Grading would be done by the placement supervisors and the intensive-week faculty.

[6] This program was the subject of my Faculty Presentation Day discussion on April 2, 2008.

Twenty-four credits is probably light for the amount of work students should be doing in their rotations, but that number would leave room for students to take an important substantive law course such as Federal Income Tax: Individual (four credits) or Wills, Trusts and Future Interests (four credits) in the evening during their rotation year, as well as a course with particular value for bar passage, New York Law in National Perspective ("NYLNP," four credits).[7] Taking these courses would undoubtedly add to the students' overall workload but would not be any more burdensome than taking the same courses is for regular evening students, who typically have full-time day jobs, just as the clinical year students in effect would have. Students would also be required to meet all the normal requirements for graduation (and therefore would have to take all upper-level required courses during their second year), and would be encouraged to take as many fundamental, bar related courses as possible during their second year as well.

One more point of mechanics is worth discussion: compliance with the various rules that govern legal education. The most generally applicable of these rules are the law school accreditation standards of the American Bar Association ("ABA").[8] Standard 304(b) provides that "[a] law school shall require, as a condition for graduation, successful completion of a course of study in residence of not fewer than 58,000 minutes of instruction time, except as otherwise provided. At least 45,000 of these minutes shall be by attendance in regularly scheduled class sessions at the law school."[9] Forty-five thousand minutes equals 900 fifty-minute hours; 14 fifty-minute hours would be required for a one-credit course, and 900 fifty-minute hours would account for slightly over sixty-four credits of classroom instruction. Between the sixty credits students will have earned by the end of their second year, and the fourteen classroom credits that rotation students will earn during their rotation year (six from the intensive weeks, eight from NYLNP and another doctrinal course), rotation students clearly can meet the 45,000 minutes requirement. The rule also requires that the full 58,000 minutes be compiled "in residence";[10] although that phrase is not defined, it seems reasonable to say that these students, who will be in placements in the New York area and in classes at New York Law School, would be in residence throughout the clinical year.

ABA standard 305 states additional requirements for "study outside the classroom," including in "field placement."[11] We would not have to meet these requirements if the rotations qualified as law school clinical work (which can be included in the 45,000 minutes under standard 304(b)).12[12] For ABA purposes, however, the "clinical year" probably does not count as clinical work, because the students' work in the rotations will be done under the supervision of adjunct professors whose principal employment is as practicing attorneys, rather than "under the direct supervision of a member of the law school faculty or instructional staff whose primary professional employment is with the law school."[13] So the rotations would need to satisfy standard 305. Standard 305(e) creates a number of requirements

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[7] Students who felt sufficiently anxious about their bar readiness might choose to take Consolidated Legal Analysis ("CLA," four credits) as well as NYLNP, instead of taking a new substantive course in a particular subject, such as tax. In the discussion of compliance with applicable law school regulatory rules below, I will assume that clinical year students are taking NYLNP and a four-credit course in a specific field, but the conclusions I reach would be equally valid if students chose to take CLA and NYLNP instead.

[8] Standards for Approval of Law Schools (2008), *available at* http://www.abanet.org/legaled/standards/standards.html.

[9] *Id.* Standard 304(b).

[10] *Id.*

[11] *Id.* Standard 305.

[12] *See id.* Standard 304, Interpretation 304-3(e).

[13] *Id.* Interpretation 304-3(e) (permitting minutes in a "clinical course" to count towards the 45,000 minutes provided the "clinical work is done under the direct supervision of a member of the law school faculty or instructional staff whose primary professional employment is with the law school").

that we would have to put some work into satisfying—for example, "a clearly articulated method of evaluating each student's academic performance" and "a method for selecting, training, evaluating, and communicating with field placement supervisors"[14]—but these are requirements that we would need to meet as a matter of sound pedagogy even if they were not mandated by the ABA. Certainly the clinical year plan would satisfy the requirement for "opportunities for student reflection on their field placement experience"[15] with the weekly seminar meetings described earlier. Since the placement supervisor will actually be a member of our adjunct faculty, we should also be in compliance with standard 305(c)'s requirement that "each student's academic achievement shall be evaluated by a faculty member," meaning (as explained in the standard) "a member of the full-time or part-time faculty."[16]

In short, we have a design for the clinical year, and reason to believe that this design will meet the requirements of law school accreditors, as well as the complementary requirements of the New York Court of Appeals[17] and of New York Law School itself.[18]

II. THE PEDAGOGICAL THEORY OF THE CLINICAL YEAR

If the program is workable, what will it accomplish? What this program would offer, if it functions as we hope, is a deeper immersion into some aspects of the world of practice than most in-

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[14] *Id.* Standard 305(e)(3)–(4).

[15] *Id.* Standard 305(e)(7).

[16] *Id.* Standard 305(c).

[17] The New York Court of Appeals' rules govern who may take the New York bar examination. *See* Rules of the Court of Appeals for the Admission of Attorneys and Counselors-at-Law, N.Y. Comp. Codes R. & Regs. tit. 22, § 520.3 (2008). Most importantly, rule 520.3(c)(1)(i) requires students to earn at least eighty semester hours of credit, of which a maximum of twenty may be in clinical courses. Students in this pilot program could earn two years of classroom credits, or approximately sixty credits, before they enter the program; in the program, they would earn six more classroom credits for the three week-long intensive sessions within the rotation courses (it is, I believe, quite customary for schools to subdivide course credits this way in allocating credits from their clinical programs), and eight further credits for taking NYLNP and another four-credit course in the evenings, or seventy-four credits in all. The only question, then, would be whether six of the placement credits they would earn in the clinical year's rotations could count as clinical credits towards the eighty total required credits. Even though the clinical year may not count as law school clinical work for purposes of the ABA standards, it would seem to satisfy the relevant requirements of the New York Court of Appeals. Rule 520.3(c)(5) says that clinical courses must, among other things, be "under the direct and immediate supervision of a member or members of the faculty" and "include adequate classroom meetings or seminars during the same semester in which the clinical work is completed in order to insure contemporaneous discussion, review and evaluation of the clinical experience." *Id.* § 520.3(c)(5)(ii)–(iii). Since the placement supervisors, who will be directly supervising the students and meeting with them at least one hour each week in seminar classes to discuss their experiences (in addition to other supervision), are to be New York Law School adjunct faculty, the clinical year would appear to satisfy this requirement. Second, rule 520.3(c)(1)(ii) requires that students have "at least 1120 hours of classroom study, exclusive of examination time." This requirement translates, on its face, to eighty credits worth of classroom courses. But that reading of the rule would be inconsistent with rule 520.3(c)(1)(i)'s authorization to include twenty credits' worth of clinical courses in the eighty credits required. If we satisfy rule 520.3(c)(1)(i), then for similar reasons I believe we will satisfy rule 520.3(c)(1)(ii) as well. Third, rule 520.3(d) requires at least 75 and no more than 105 calendar weeks in residence. It goes on to say that "[a] semester which includes successful completion of at least ten credit hours per week of study shall be counted as fifteen full-time weeks in residence toward the residence weeks requirement of this subdivision." Assuming students have earned four semesters' worth of residency credit, or sixty weeks, by the end of their second year, this requirement should pose no difficulty. In each of their last two semesters, students in the clinical year will be earning four credits for a classroom course (NYLNP or another class), plus eight credits for one of their clinical year rotations, including the intensive week of classroom work preceding it, so they will earn two more semesters' worth of residency along with the rest of their classmates. We will need to decide to which semester or semesters to allocate the credits for the middle rotation, but that problem does not bear on our compliance with the New York Court of Appeals' residency rule.

[18] There are New York Law School rules that affect this program, but these are of course subject to our own control. Faculty Rule 2.02.1.2 specifies that students may not count towards the eighty-six credits required for graduation more than twenty-one credits in "study not involving attendance at regularly scheduled class sessions at the law school." *See* New York Law School Faculty R. 2.02.1.2 (on file with author). The eighteen credits of placement work envisioned here would not exceed that number. (We will need to keep in mind, however, that if students earn other non-classroom credits, say for moot court, those credits count towards the relevant totals as well—and a similar caution applies to the other relevant New York Law School rules.) Rule 2.02.1.3 limits students to fourteen credits of externship or workshop courses, and rule 2.10.1 limits them to twelve credits of clinical courses. The sixteen credits of placement work here could be seen as a combination of clinical and externship credits, hence not exceeding either limit. The simplest course, however, would be to amend the rules to permit this program explicitly.

house law school clinics can provide, as well as an approach to that world that is, in some important ways, more academic than the experiences most externships are structured to offer. (This is not an argument that the clinical year will be better than clinics or externships; rather, this new program will have distinctive virtues that make it another valuable element for law school curricula.) The depth of the immersion comes partly from the sheer extent of the work—a full school year—and from the variety of settings in which each student will be placed. At the same time, this immersion is in the "real world" of practice, rather than in the special environment of an in-house clinic. In-house clinics rarely, if ever, can replicate the full range of practice demands, notably because clinics frequently have limited caseloads and normally do not face billable-hour pressures.

It is fair to say that this program is a form of apprenticeship. The Carnegie Report emphasizes that professional education is always an apprenticeship in a sense—an apprenticeship in the technical knowledge, applied skills, and fundamental values of the profession for which the student is training.[19] Calling the clinical year a form of apprenticeship, however, invokes a complex history. "Apprenticeship," pure and simple, was once the central path to becoming a lawyer in the United States. Moreover, apprenticeship still plays an important role in lawyers' training in some common-law countries.[20] One might think, indeed, that the best way to learn about the realities of practice is in a pure law office apprenticeship. But in the United States, as the Carnegie Report recounts, apprenticeship was replaced long ago by law school training.[21] Education in law school was viewed as more meaningful and more intellectual than apprenticeship training, which came to be thought of more as exploitative drudgery than true preparation for a professional career; no doubt the relative inaccessibility of formal law school education also served the objectives of those who wanted to make the bar a professional elite. While the rise of clinical legal education in law schools has reflected a recognition that law is more than Langdellian legal science—as well as a commitment to providing legal service to clients who are not privileged and powerful—clinicians themselves have emphasized the importance of instruction *in skills* by full-time law school faculty.

It is not necessary to oppose skills instruction by adjunct faculty and on-the-job practicing lawyers in order to affirm the contribution that full-time faculty can make—nor do clinical law teachers doubt that students learn a great deal about law practice from practice itself. Still, it is worth asking whether there might be reasons to mistrust the potential role of law office supervisors, who would play a central role in the clinical year, at this stage in a law student's transition to professional practice.

Two such objections seem particularly important. The first is that practicing lawyers may not practice well. To a significant extent, law school skills education probably grew out of a sense that this charge was, in fact, true, and that law school clinics should serve as a laboratory for the development of better ways to practice. There is surely still a great deal to criticize in American law practice, and academics— standing one step removed from the fray, as they do—play an important role in articulating what is wrong and what can be improved.

But this contribution, important as it is, should not be exaggerated beyond its true dimensions. Law school clinicians are not, by and large, the most experienced of practicing lawyers. To the extent—

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[19] *See* Sullivan et al., *supra* note 2, at 27–29.

[20] For example, new law graduates may be required to work under supervision for a year or more, in "articles of clerkship." *See, e.g.*, John Law, *Articling in Canada*, 43 S. Tex. L. Rev. 449 (2002).

[21] *See* Sullivan et al., *supra* note 2, at 4–5.

incomplete but meaningful—that practice does make perfect, therefore, many of the most perfect lawyers must be the ones who have spent their lives in full-time practice. In addition, the dominant direction of clinical reform in practice—the call for, and analysis of, methods of "client-centered" practice, practice that rejects domination of clients and aims for emotionally sensitive support of client choice—has now been a part of legal education for a generation. Many of the students who studied client-centered practice in law school are now in practice, and perhaps have found ways to bring what they learned into what they do. There is reason to believe, in short, that practicing lawyers can offer students not just experience but also wisdom.

The second problem with pure law office apprenticeship, at least as it has been perceived by the law schools, is that it may not be reflective enough. It is somewhat perplexing to think that the experience of law practice could be educationally deficient, since lawyers in the United States currently must be learning most of what they know about how to practice from their experiences "on the job." Law Schools, after all, offer only limited practice instruction, and the lawyer's life on the job will be approximately ten times as long as his or her time in law school. It is noteworthy; too, that lawyers tend to describe their actual jobs during law school as the place where they learned the most about practice.[22] Nevertheless, it is possible that practicing lawyers typically do not teach well; after all, they are not trained in teaching. Law school professors, it must be said, generally do not have formal training in teaching either, but professors do spend a great deal of time learning to teach, since that is their job, and skills-professors treat pedagogy as a particularly important concern.

Law school professors may, in particular, be better at starting students along the road to acquiring practice skill. In that enterprise, it may be thought, what is most important is not that students master a large number of specific steps. An expert practitioner will certainly know these, but that knowledge will have been accumulated over many years. At the start, for instance in their first clinic in the third year of law school, students do not have time to learn all these steps. What they can learn is how to reflect on their own learning, so that they can continue to learn effectively once they are out in practice. This skill of reflection, or "metacognitive" thinking as the Carnegie Report characterizes it,[23] may be something that skilled teachers, in an academic setting, are best positioned to impart.

Like the concern about whether practicing lawyers practice correctly, however, the anxiety about whether they can teach correctly should not be overstated. "Metacognition" is an imposing word, but its practical meaning may be quite straightforward. Students probably do not need a psychoanalytic understanding of their own psyches in order to make progress in learning how to practice law; what they need, more likely, is a set of practical steps to guide their own learning. They need, perhaps, to know that in a new work situation they should ask for guidance from all the available players, that they need to be careful not to jump too quickly to conclusions, or that they sometimes tend to get discouraged too easily. These are metacognitive in a modest sense—but because they are quite readily stated and imparted, they seem well within the reach of nonprofessional teachers' instruction.

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[22] According to a survey study cited by the Carnegie Report, "[t]he most useful experiences for making the transition to practice, according to [recent law graduates], were real work experiences, either in the summer or during the academic year, followed by legal writing and clinical courses." Sullivan et al., *supra* note 2, at 76 (citing Ronit Dinovitzer et al., After the JD: First Results of a National Study of Legal Careers 81 (2004)). The fact that recent graduates rate on-the-job experience *above* clinics seems to point to the value of on-the-job learning in itself, even without the intense pedagogical guidance law school clinics offer. For further exploration of students' learning at their jobs, see sources cited *infra* note 25.

[23] Sullivan et al., *supra* note 2, at 173.

Still, it may well be that practicing lawyers are, as a group, less reflective than academic lawyers. Academics, after all, make a specialty of stepping back to think about what they are doing. It may also follow that practicing lawyers are not as good at guiding students towards reflection as academics are. But many different mechanisms contribute to learning, and reflection is only one of them. We need not doubt the value of reflection to acknowledge that students, or at least some students, may do more learning by other paths, such as the habituation that sheer repetition can foster or the modeling that a mentor may inspire.[24] Practicing lawyers may not teach in quite the same ways that academics employ, and yet they may teach very effectively.

In any case, the argument for the clinical year does not rest on definitively establishing the intrinsic educational quality of students' experience under nonacademic, practicing lawyers[25]—because the clinical year's instructors are not non-academic. The clinical year, in fact, will in important ways be a distinctly academic immersion in practice. Full-time faculty at the law school will likely be closely involved in teaching the intensive pre-placement preparation weeks, and the result should be that they also work with the placement supervisors to frame the most useful curricula for these weeks. Meanwhile, the placement supervisors will not simply be attorneys adding supervision to their duties, but rather will become members of the school's adjunct faculty, with distinct teaching responsibilities in the program. These adjunct faculty members in turn will be in a position to work with the school's full-time faculty, particularly the clinical faculty, to structure their roles to be as pedagogically effective as possible.

It is quite possible, however, that clinical year placements will put less emphasis than many clinics do on the students' duty to figure out for themselves the tasks of representation. An important theme of many, though not all, law school clinics is that students learn the core professional values of

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[24] *Cf. id.* at 26 (asserting expert modeling, along with novice performance and expert feedback, as integral to learning).

[25] On the issue of what lessons students learn from experiences in practice, see Robert J. Condlin, *Learning From Colleagues: A Case Study in the Relationship Between "Academic" and "Ecological" Clinical Legal Education*, 3 Clinical L. Rev. 337 (1997). Condlin's provocative and thoughtful article is in part a response to the equally striking insights of scholars at Northeastern University School of Law. *See, e.g.*, Daniel J. Givelber et al., *Learning Through Work: An Empirical Study of Legal Internship*, 45 J. Legal Educ. 1 (1995). Their theory of "ecological learning" seeks to explain the benefits they perceive students getting from unmediated experience in practice, of the sort that Northeastern students in fact receive in their "co-ops," four three-month periods in full-time practice that are interspersed between periods of academic study in the second and third years of their law school education. *See generally* Northeastern University School of Law, Cooperative Legal Education Program, http://www.slaw.neu.edu/coop/ (last visited Feb. 3, 2009). The clinical year resonates with, but is not identical to, Northeastern's co-ops. The Northeastern model, though it embraces the co-ops as a source of knowledge, still separates these periods of full-time practice experience out from the coursework of the school. Undoubtedly the two forms of student study cross-fertilize, but, as described by Givelber and his co-authors, while the school provides "extensive guidance and administrative support" for the co-ops, the students choose their placements, the school "does not exercise any control over the actual content of the student's work experience," Givelber et al., *supra*, at 7, and the students receive no academic credit for the experiences, *see id.* at 46. The New York Law School clinical year proposes to make learning from practice a part of the instructional program of the school, and to design the sequence of rotations, as well as the reparation weeks preceding them and the actual student experiences during them, to maximize their pedagogical value. If academic instruction can add value to the learning derived from experience itself, as the Northeastern scholars recognize may be the case, *see id.*, then the clinical year's structure will enable that value to be added. There is, to be sure, a price for this—a program relying on faculty, full-time and adjunct, to teach as part of the students' practice experience must budget for those teachers' salaries. To enable hundreds of students to go through the clinical year could be an expensive proposition indeed; law schools may someday make that investment, as medical schools do, but surely not until smaller-scale projects such as the one described in this essay have proved the value of the effort. The clinical year proposal may also share important features with the "semester in practice" program of Vermont Law School. *See* Vermont Law School, Clinics and Experiential Programs: Semester in Practice, http://www.vermontlaw.edu/x594.xml (last visited Feb. 3, 2009). The Vermont program, however, apparently runs for a single semester rather than a full academic year, and does not incorporate the rotation feature of the clinical year. Both the length and the multiple placements in the clinical year will, we hope, contribute to the intensity of the educational immersion it will offer. Another very interesting program, Drexel's system of "co-op" placements for second-year students, also resembles the clinical year but is designed to be a less all-encompassing commitment of students' efforts and places each student in a single setting rather than in a rotation. *See* Drexel University Earle Mack School of Law, Drexel Law Co-op Program: Overview, http://www.drexel.edu/law/coop-overview.asp (last visited Feb. 3, 2009).

law practice, including responsibility to clients and commitment to combating injustice, by taking responsibility themselves—finding, for themselves, the answers to the questions the matter poses, and making, for themselves, the judgment calls it requires—all with the careful guidance and feedback of a supervisor. Most practicing lawyers, even in their capacity as adjunct faculty, may be somewhat more directive than this. But learning proceeds by many paths, as we have just seen, and there is surely much to be learned from work-under-direction.

It is worth pausing for a moment to consider the lessons of medical rotations on this score. Medical education is a long process, beginning with pre-med coursework in college, continuing with primarily classroom work in the first two years of medical school, then turning emphatically to rotations in the third and fourth years of medical school, and then incorporating years of additional, formal training after graduation.[26] In this overall picture, it is noteworthy that medical students in their first year of rotations are under very close supervision; they may take a patient history, for example, but that history will be re-taken by a fully qualified physician.[27] In due course, these carefully supervised students will become physicians wielding profound responsibility (though still, in their years of residency training, under supervision)— but the first year of practice education proceeds more incrementally. Lawyers' formal education is far quicker than doctors' training, and so there is certainly good reason for clinical legal educators to entrust their students with great responsibility over cases at a stage where future doctors perform more confined tasks. But this approach is not the only reasonable response to the fact that law school is so brief. It is surely also plausible to say that it might make sense to engage law students in a clinical education that is, like the first year of medical clinical training, both intense and preliminary, as the preparation for the more independent learning that will follow.

All of this is to say that when we consider the likely moment-by-moment experiences students will have in their rotations, we have good reason to expect that students will learn a great deal from them. But it is important to look at the program not only in detail but in full. In a broad sense, this program aims to bridge the gap between practice and academia by moving students out into practice—and by moving the academy into practice with them. The (almost) all-encompassing character of the program is integral to it—we seek to engage students in a learning environment as demanding and gripping as medical school rotations can be. We hope that these rigorous experiences in the real world will inspire our students to shine, and that as our students rise to meet the challenges of the rotations they will gain a uniquely comprehensive introduction to the world of practice, and a wide introductory experience in the skills necessary for working in that world. We also hope this program will provide students with a credential—a year of on-the-job training—with unmistakable value in the hiring market (in addition to many networking opportunities over the course of the year).

The move into practice has two other features that are important to mention. The first is that the decision to rely more on practicing lawyers to train students is a way to bridge the gap between law school and law practice, a divide that has troubled both lawyers and law teachers. Bridging this gap has been a prominent goal of legal education reform.[28] The rise of clinical legal education has been one answer—an effort to build this bridge from the law schools out to the world of practice. But a comparison with medical education suggests that this answer is incomplete. Medical education is, of course, supported by far greater resources than society has chosen to devote to the training of

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[26] *See* Sullivan et al., *supra* note 2, at 192; Interview with W. Peter Metz, M.D., Professor of Clinical Psychiatry and Pediatrics and Director of Child and Adolescent Psychiatry Residency Program, University of Massachusetts Medical School (July 7, 2008) [hereinafter Metz Interview].

[27] Metz Interview, *supra* note 26.

[28] *See, e.g.*, Am. Bar Ass'n Section of Legal Educ. & Admissions to the Bar, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, at ch. 7 (Robert MacCrate ed., 1992).

lawyers—and probably with good reason, given the tremendous complexity and expense of modern medicine. But the many financial resources supporting medical education are not all that supports it. A remarkably large number of regular, practicing physicians are involved in educating future doctors—not just as clinical professors at medical schools, but also as volunteers. Medical schools reported having 137,353 "volunteer clinical faculty" in 2000–2001![29] The clinical year does not necessarily look to practicing lawyers to serve on an unpaid, volunteer basis (welcome as such contributions would be at a time of budget constraints). This proposal does, however, embody a recognition that bridging the gap between school and practice will require more involvement of the practicing bar with teaching—not just more involvement of the teaching profession with practice.

The other feature of the clinical year calling for discussion is that it bridges a range of practice settings, probably including not only public interest law (for example, juvenile law) but also traditional private practice (for example, immigration law or real estate law). One of the missions of law schools is to teach their students the importance of pro bono service to otherwise unrepresented clients; a juvenile law legal aid office would exemplify that value. But the other two rotations, if they were in private law offices, perhaps would not embody this lesson as a central part of their day-to-day work. This point should not be overstated, since some private law offices themselves fully honor the duty to contribute their efforts to helping underserved clients and groups. But if we assume that the private law rotations will offer less emphatic reinforcement of the duties of public service than public interest law settings would, we should recognize as well that the private offices can teach a lesson that the public interest law settings may not. This lesson is about the moral value of private practice itself, and more generally of legal work that merely seeks to help clients to achieve their goals within the law and to guide those clients, to the extent the lawyer feels appropriate doing so, towards resolutions that treat other people better rather than worse. This is the work that most law students will go on to do after they graduate. There is evidence that many lawyers have lost heart about their work, perhaps because they have lost track of its moral meaning;[30] if we are to help future lawyers find that meaning, we need to help them find it in the work they are most likely to do.

III. THE IMPLEMENTATION OF THE CLINICAL YEAR

A great deal must be done to make the course a reality. A number of faculty members are thinking about, or already implementing, "middle-60" curricular reform, but the full faculty will need the opportunity to consider the clinical year and the other proposals now being discussed. Faculty approval of the clinical year itself and perhaps of related changes in some curricular rules will be a necessary prerequisite to the program going forward. Placements must be found that provide the mix of legal settings and skill development opportunities that students need. Placement supervisors must be found who are prepared to make a substantial commitment to pedagogy as part of their daily practice. Members of the full-time faculty must be recruited to teach the intensive pre-placement weeks. A system of monitoring and problem-solving must be put in place to deal with the many challenges to be expected in the actual operation of the program. Students, of course, must have the chance to learn about the program and to decide to join it. Needless to say, funding is also necessary, though the

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[29] Donald Nutter & Michael Whitcomb, The AAMC Project on the Clinical Education of Medical Students 1, 13, *available at* http://www.aamc.org/meded/clinicalskills/clinicalskillsnutter. pdf (last visited Feb. 3, 2009). There were also 85,902 full-time clinical faculty in medical schools. *Id.* at 11. The Association of American Medical Colleges (AAMC) report comments that "[s]ince the schools had only 16,561 third-year students, medical schools had, on average, 5.2 clinical faculty members for every medical student rotating through the required clerkships." *Id.* It is clear from the AAMC report that medical clinical education has its own problems, but it is also clear that law schools will never have clinical faculties of comparable size. They may, however, be able to expand their clinical teaching by involving more members of the practicing bar.

[30] *See* Sullivan et al., *supra* note 2, at 127–28.

costs for an initial pilot are not immense; there are possible avenues to find this funding, despite the constraints of the current economic downturn. Finally, we must work on ways to integrate this program (and the other curricular innovations we have in mind) with our concurrent "professional development" education for students in order to develop and present a portfolio of their accomplishments to potential employers.

It will also be very important to select and implement effective evaluation tools for the clinical year. Effective evaluation is important throughout law school, but there is, inevitably, a special responsibility to assess carefully whether new programs really do make the difference they aspire to make. There are several possible forms of evaluation here. One, the most familiar, would be faculty evaluations: do students master the material taught in the intensive preparation weeks (perhaps measured by exams or simulation exercises) and do they progress and perform well in the practice settings (as assessed by their supervisors)? These immediate assessments of teaching success are needed, certainly, but they ultimately do not tell us as much as we would like to know. A more far-reaching tool, but perhaps a far more difficult one to fashion, would be job measures: do students from the program have more success than others in getting the jobs they want (to the extent this can be measured) and do employers tell the students and the school that participation in this program is a valuable credential? A third evaluation tool would be student assessments, and ultimately graduates' appraisals, of what they have learned and of whether the program has helped them to start their careers. If we can shape evaluation tools that go beyond assessing learning as it takes place, to assessing its impact over time in these ways, we will have a powerful resource for further shaping our programs to provide the training our students need.

IV. CONCLUSION

Many observers of legal education have emphasized the need for law schools to become more truly schools for lawyers—schools focused on imparting to students the intellectual and practical skills they need, and the engagement with professional values that can make their employment of those skills meaningful. The clinical year speaks to all elements of the legal education apprenticeship, but does so in a way that may seem surprisingly obvious—namely, by making the third year something quite close to explicit apprenticeship.