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# **PUTTING THEORY INTO PRACTICE: THOUGHTS FROM THE TRENCHES ON DEVELOPING A DOCTRINALLY INTEGRATED SEMESTER-IN-PRACTICE PROGRAM IN HEALTH LAW AND POLICY**

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## I. INTRODUCTION

With the employment market for attorneys currently in a subpar state,<sup>1</sup> legal employers have the attention of both law students and law schools, and these employers are demanding practice-ready practitioners.<sup>2</sup> In response, law schools are turning increasingly to experiential learning opportunities of various types.<sup>3</sup> For law schools with concentrations, certificate programs, or centers of excellence, experiential learning presents synergies upon which to capitalize in offering students specialized, hands-on training that matches their interests and makes them more attractive employment candidates upon graduation.

Through its Health Law Program and the Southern Illinois University (“SIU”) Center for Health Law and Policy,<sup>4</sup> SIU School of Law has recently dovetailed its health law and policy expertise and its commitment to preparing practice-ready practitioners through experiential learning with the creation and launch of the SIU Health Law & Policy Semester-in-Practice Program (“SIU Program”), a full-time, semester-long student immersion in

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1. See, e.g., William D. Henderson & Rachel M. Zahorsky, *The Paradigm Shift: The Law School Bubble*, A.B.A. J., Jan. 2012, at 30; Debra Cassens Weiss, *Legal Field is Nation's Most Difficult Industry for Job Placement, Employment Website Says*, A.B.A. J. (Sept. 6, 2011), [http://www.abajournal.com/news/article/legal\\_field\\_is\\_nations\\_worst\\_industry\\_for\\_job\\_placement\\_employment\\_website\\_](http://www.abajournal.com/news/article/legal_field_is_nations_worst_industry_for_job_placement_employment_website_); Nathan Koppel, *Bar Raised for Law-grad Jobs*, WALL ST. J., May 6, 2010, at A3; see also William Henderson, *The Hard Business Problem Facing U.S. Law Faculty*, NAT'L LAW JOURNAL'S LAW SCH. REVIEW BLOG (Oct. 31, 2011, 12:39 PM), <http://legaltimes.typepad.com/lawschoolreview/2011/10/the-hard-business-problems-facing-us-law-faculty.html?cid=6a00d83451d94869e20154368c8aa4970c#tp>.

2. See, e.g., David Segal, *What They Don't Teach Law Students: Lawyering*, N.Y. TIMES (Nov. 20, 2011), <http://www.nytimes.com/2011/11/20/business/after-law-school-associates-learn-to-be-lawyers.html?pagewanted=all>; Rachel M. Zahorsky, *ABA Urges Law Schools to Adopt More Practical Training for Law Students*, A.B.A. J. (Aug. 9, 2011), [http://www.abajournal.com/news/article/aba\\_urgues\\_law\\_schools\\_to\\_adopt\\_more\\_practical\\_training\\_for\\_students/](http://www.abajournal.com/news/article/aba_urgues_law_schools_to_adopt_more_practical_training_for_students/) (discussing Resolution 10B, from the New York State Bar Association, which was adopted by the American Bar Association (ABA) House of Delegates at the ABA's 2011 Annual Meeting). See *infra* note 6 and accompanying text.

3. See generally Robert A. Parker & Sue Schechter, *The Ugly Duckling Comes of Age: The Promise of Full-time Field Placements* (2011), available at <http://ssrn.com/abstract=1886509>; Karen Sloan, *Action on Law School Reform*, NAT'L L. J., Aug. 22, 2011, at 1, 6–7; Patrick G. Lee, *Law Schools Get Practical*, WALL ST. J., July 11, 2011, at B5, available at <http://online.wsj.com/article/SB10001424052702304793504576434074172649718.html>.

4. SIU's Health Law Program features an opportunity for students to participate in the editorial preparation of and contribute commentaries and case briefs to American College of Legal Medicine publications, including *The Journal of Legal Medicine* and *Legal Medicine Perspectives*; an M.D./J.D. program; numerous outreach and educational activities throughout the year, including a distinguished lecture series and a health policy symposium now in its fourteenth year; the National Health Law Moot Court Competition; Professional Responsibility Day, during which first-year law and medicine students collaborate on addressing professional ethical dilemmas; and a wide range of health law and policy course offerings, including the Health Law & Policy Semester-in-Practice Program.

a designated health law and policy practice setting.<sup>5</sup> Section II of this article briefly explores trends in legal education related to experiential learning. Section III provides some guiding principles for developing a doctrinally integrated health law and policy field practicum program through the lens of the SIU Program. Section IV concludes.

## II. INCREASING FOCUS ON EXPERIENTIAL LEARNING IN LAW SCHOOL

### A. Calls for Change in Legal Education

At its 2011 Annual Meeting, the American Bar Association (“ABA”) House of Delegates adopted a resolution “urg[ing] legal education providers to implement curricular programs intended to develop practice ready lawyers, including, but not limited to enhanced capstone and clinical courses.”<sup>6</sup> While perhaps one of the most urgent and direct official appeals for practice-oriented legal education, this “call to relevance in legal education”<sup>7</sup> is far from the first. The *MacCrate Report* in 1992,<sup>8</sup> the subsequent revision of Curriculum Standards 302(b)(1) and 305 of the *ABA Standards and Rules of Procedure for Approval of Law Schools*,<sup>9</sup> the *Carnegie Report* of 2007,<sup>10</sup> and 2007’s *Best Practices for Legal Education*<sup>11</sup> all previously

5. SIU School of Law also currently offers semester-in-practice programs in the areas of criminal law, and state and local government law. In addition, SIU School of Law offers semester-long placements through its judicial and public interest externship programs.

6. AM. BAR ASS’N, RESOLUTION 10B (2011), available at [http://www.abajournal.com/files/10B\\_2011.pdf](http://www.abajournal.com/files/10B_2011.pdf). In a related vein, at the start of 2012, the New York Court of Appeals amended its bar admission rule related to legal education to provide more flexibility for clinical education, including field placement programs. See 22 N.Y. Ct. R. § 520.3 (McKinney 2012), available at <http://www.nylj.com/nylawyer/adgifs/decisions/011312rules.pdf>; see also Joel Stashenko, *New Requirements for Bar Exam Stress Clinical Education*, N.Y. L.J., Jan. 13, 2012, available at <http://www.law.com/jsp/article.jsp?id=1202538196535&slreturn=1>.

7. Keith A. Findley, *Rediscovering the Lawyer School: Curriculum Reform in Wisconsin*, 24 WISC. INT’L L.J. 295, 306 (2006) (using this phrase to encapsulate earlier appeals).

8. A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO THE BAR, AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) [hereinafter MACCRATE REPORT].

9. A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO THE BAR, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS, *Curriculum*, Standard 302(b)(1) (2010) (requiring that approved law schools “offer substantial opportunities for . . . real-life practice experiences, appropriately supervised”) [hereinafter ABA STANDARDS]; ABA STANDARDS, *Study Outside the Classroom*, Standard 305 (addressing field placement programs). See James H. Backman, *Where Do Externships Fit? A New Paradigm is Needed: Marshalling Law School Resources to Provide an Externship for Every Student*, 56 J. LEGAL EDUC. 615, 615–16 (2006).

10. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) [hereinafter CARNEGIE REPORT].

11. ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007) [hereinafter BEST PRACTICES]. “There is no more effective way to help students understand what it is like to be a lawyer than to have them . . . perform the tasks that

stressed the import of applied legal training in the modern law school curriculum. And, while inclusion of experiential learning is not at all a novel concept within the legal academy,<sup>12</sup> the emphasis on expanding and truly integrating practicum programs with doctrinal academics, however, is rising to the fore.

### *B. Intensive Experiential Learning in Legal Education*

In response to the continued “call[s] to relevance,”<sup>13</sup> “experiential learning,” the hottest buzzword in legal education today, is generally defined as a type of “learning undertaken by students who are given a chance to acquire and apply knowledge, skills and feelings in an immediate and relevant setting.”<sup>14</sup> This definition, based on the experiential learning model developed by learning theory scholar David Kolb, along with his colleague Roger Fry, interweaves four elements: (1) “concrete experience,” (2) “observation and reflection,” (3) “formation of abstract [or theoretical] concepts,” and (4) “testing [or applying these theories and concepts] in new situations.”<sup>15</sup> These elements, in turn, form a feedback loop through which learning occurs.<sup>16</sup>

In line with Kolb’s model, the *Best Practices* report explains that effective utilization of experiential learning in legal education requires teaching methodologies to “integrate[] theory and practice by combining academic inquiry with actual experience.”<sup>17</sup> As a result, bona fide experiential learning can take various forms in the law school context: from class exercises, to clinics, to full-time field placements. The latter form is the most intensive, including externships, curriculum-integrated field practicums, and co-ops. While full-blown co-op programs are relatively rare in the realm of legal education, they have become the calling card of a few schools, including Northeastern University School of Law<sup>18</sup> and the Earle

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lawyers perform and observe practicing lawyers at work.” *Id.* at 170.

12. See Parker & Schechter, *supra* note 3, at 2 (discussing legal education’s apprenticeship roots and the rise of clinical programs in law school education beginning in the 1960s).

13. Findley, *supra*, note 7, at 306.

14. Mark K. Smith, *David A. Kolb on Experiential Learning*, ENCYCLOPEDIA OF INFORMAL EDUC., <http://www.infed.org/biblio/b-explrn.htm> (last visited June 14, 2012).

15. *Id.*; see also BEST PRACTICES, *supra* note 11, at 166 (citing Steven Hartwell, *Six Easy Pieces: Teaching Experientially*, 41 SAN DIEGO L. REV. 1011, 1013 (2004)) (discussing the four elements).

16. *Id.*

17. BEST PRACTICES, *supra* note 11, at 165. “Both the field clinical model and academic legal teaching are, from a Kolb[ian] perspective, incomplete learning models because both typically lack two stages of the learning sequence. The clinical field model lacks the theory stage and application. The academic model lacks experience and reflection.” Hartwell, *supra* note 15, at 1015.

18. Northeastern University School of Law’s year-round co-op program, operated through the school’s Office of Cooperative Legal Education, has been in place for more than forty years and features “four quarters of full-time employment.” *Cooperative Legal Educa-*

Mack School of Law at Drexel University,<sup>19</sup> which have distinguished themselves by setting the bar for cooperative legal education. A modified approach to cooperative learning, however, is becoming prevalent. A 2010 survey by Robert Parker, of the University of the Pacific's McGeorge School of Law, and Sue Schechter, of the University of California's Berkeley School of Law, found that 60 of the then-200 ABA-approved law schools "offered full-time field placements."<sup>20</sup> To be successful, however, these off-campus, full-time practicum programs require considerable, ongoing commitment and integration at all levels—mission, vision, and resources. While most law schools are not prepared for the fundamental programmatic obligations and alterations associated with a full-fledged co-op program,<sup>21</sup> developing a limited, doctrinally integrated practicum program that capitalizes on an existing area and critical mass of doctrinal expertise, such as health law, may offer some schools a natural, effective, and unique approach to expanding and integrating robust experiential learning. SIU has opted for this approach in its areas of excellence, including health law and policy.

### III. DEVELOPING A HIGH-CREDIT, INTEGRATED HEALTH LAW FIELD PRACTICUM PROGRAM: AN OVERVIEW OF AND LESSONS LEARNED THROUGH SIU'S HEALTH LAW & POLICY SEMESTER-IN-PRACTICE PROGRAM

Linking full-time field placements with doctrinal coursework, the SIU Health Law & Policy Semester-in-Practice Program provides an applied capstone to participating students' legal education by combining health law courses with unpaid, semester-long field placements under the supervision of attorneys working in health law and policy at sites, such as hospitals and health systems, medical schools, health-related government agencies, and health care associations. The third-year students enrolled in the SIU Program work full days at their assigned placement site, Monday through Thursday, for which they earn up to nine hours of credit in a single semester, awarded on a modified pass-fail basis.<sup>22</sup> The goal is to reinforce, aug-

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tion Program, NE. UNIV. SCH. OF LAW, <http://www.northeastern.edu/law/co-op> (last visited June 14, 2012); see also Roger I. Abrams, *Symposium: Legal Education at the Threshold of the New Millennium, Co-op Program*, 15 ST. JOHN'S J. LEGAL COMMENT. 295 (2001).

19. The Earle Mack School of Law at Drexel University features a one-semester field placement. *Hands-On Learning: The Co-op Program*, EARLE MACK SCH. OF LAW AT DREXEL UNIV., <http://earlemacklaw.drexel.edu/academics/co-op/> (last visited June 14, 2012).

20. Parker & Schechter, *supra* note 3, at 13–14, 24.

21. For example, Northeastern's co-op program: "cost[] . . . more than \$800,000 a year" as of 2001; requires a very substantial staffing complement, which, in 2001, entailed six full-time employees, including three attorneys; "consumes an enormous amount of student and administrative time;" and "presents quite a logistical challenge," mandating an academic year based on the quarter system. Abrams, *supra* note 18, at 296–98.

22. The SIU Program calls for forty-seven hours of approved practicum work to be completed by the student for each credit hour awarded. The Program also utilizes a

ment, and *integrate* law students' "knowledge, know-how, and ethical judgment"<sup>23</sup> in an area of interest to them—the practice of health law and policy—and to, thereby, provide a bridge from legal education to legal practice.<sup>24</sup>

*A. Individualized Student Learning Plans and Related Assessments*

The practicum is tailored for each student and placement site, within broad guidelines, in order to achieve practical, personalized, and pedagogically effective learning outcomes through the creation, at the commencement of the semester, of an individualized "Learning Plan" jointly prepared by the supervising attorney and the student. Focused on the overarching categories of applied lawyering skills, professional conduct and identity, and legal ethics,<sup>25</sup> the Learning Plan requires articulation of specific objectives tied to measurable activities and deliverables that are to be assigned and completed during the semester in each of the categories. In each area, the activities and deliverables must include observation, application, and assessment components. Within the first week of the placement, the faculty program director reviews and, if necessary, works with the student and supervising attorney to revise the Learning Plan to ensure: outcomes orientation, rigorousness, balance between hands-on and observational learning, variety of assignment types, breath of legal skills to be employed, professionalism and ethics development opportunities, and plausibility and appropriateness of the volume of assignments. Throughout the semester, the student, supervising attorney, and faculty director revisit the Learning Plan, which serves as the touchstone for measuring student progress. Specifically, at the midpoint and endpoint of the practicum, formalized, in-person reviews<sup>26</sup> are conducted with the student by both the field-supervising at-

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"plus/minus" pass-fail grading system.

23. The Author here applies a twist to the notion stated in the *Carnegie Report* that "what the [traditional] academic treatment of law works hard, for legitimate intellectual reasons, to keep separate [are] knowledge, know-how, and ethical judgment." See CARNEGIE REPORT, *supra* note 10, at 81. The purpose of the SIU Program is to build, *integrate*, and transfer students' stable of substantive knowledge, practical skills, and professional values.

24. In addition, the Program offers a "cure" to the "3L malaise" that is pervasive among students in their final year of law school. See, e.g., BEST PRACTICES, *supra* note 11, at 153 (citing Mitu Gulati et al., *The Happy Charade: An Empirical Examination of the Third Year of Law School*, 51 J. LEGAL EDUC. 235, 238 n.4 (2001)); Edward Rubin, *Symposium: What's Wrong with Langdell's Method and What to Do About It*, 60 VAND. L. REV. 609, 660–61 (2007). Such "[c]apstone courses . . . represent a . . . serious effort to hold the students' interest." *Id.* at 661.

25. These areas of focus tie directly into the "three apprenticeships" that law students require in order to be prepared for practice, and, therefore, that law schools should stress; these "three apprenticeships" have emerged from the major modern critiques of legal education. See MACCRATE REPORT, *supra* note 8; CARNEGIE REPORT, *supra* note 10; BEST PRACTICES, *supra* note 11; see also Jerry R. Foxhoven, *Beyond Grading: Assessing Student Readiness to Practice Law*, 16 CLINICAL L. REV. 335, 337–41 (2010).

26. Such meetings, which take time and other resources, could be conducted telephonically or using video conferencing, while still complying with ABA Standard 305(e)(5). See



torney and the faculty program director, using the Learning Plan and a “Student Performance Review,”<sup>27</sup> the latter of which is akin to a traditional employment performance review, as guideposts.<sup>28</sup> In line with the midterm evaluation, revisions to the Learning Plan are made, if necessary. Additionally, students conduct and submit to the faculty director written self-assessments, analyzing their own learning, professional growth, and specific and overall performance, at both the midpoint and endpoint of the semester.<sup>29</sup> Both self-assessments are accompanied by selected student work product, with the permission of the site supervisor and appropriate redactions, as needed.

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ABA STANDARDS, Standard 305(e)(5), *supra* note 9 (requiring “periodic on-site visits or their equivalent by a faculty member if the field placement awards four or more academic credits (or equivalent) for field work in any academic term”). In-person meetings, however, stress their import and are preferable—at least initially—in starting a program and developing working relationships with placement sites and field supervisors.

27. Program directors may also choose to adopt or adapt student evaluation forms already in use in their legal clinic(s) or externship program(s), if applicable. Additionally, program directors may wish to consider the nine competency areas set forth by Professor Alice Alexander and Professor Jeffery Smith, both then of Northeastern University’s School of Law, in their article, “A Practical Guide to Cooperative Supervision for Law Students and Legal Employers.” Alice Alexander & Jeffery Smith, *A Practical Guide to Cooperative Supervision for Law Students and Legal Employers*, 29 LAW OFF. ECON. & MGMT. 207, 216–17 (1998). These general competency areas include: research ability, legal analysis, intellectual capacity, writing skills, oral communication skills, judgment, responsibility, and client relations. *Id.*; *see also infra* note 25. Regardless, the evaluation form and criteria should be made available, prior to the start of the practicum, to both field supervisors and students in order to ensure that expectations are transparent from the start.

28. This process is in line with ABA Standard 305(e)(3), which calls for “a clearly articulated method of evaluating each student’s academic performance involving both a faculty member and the field placement supervisor.” This method of assessment, when framed in terms of competence or proficiency level, lets students know how they are performing with regard to their professional development in specific, core lawyering skills and comportment. *See* BEST PRACTICES, *supra* note 11, at 245; ABA STANDARDS, *supra* note 9. For a formalized and effective mid-semester externship review protocol, *see* Laurie Barron, *Learning How to Learn: Carnegie’s Third Apprenticeship*, 18 CLINICAL L. REV. 101 (2011). As discussed in detail by Barron, well-conceived, formal review processes coupled with student self-assessment during the placement experience teach students how to effectively and appropriately interact with supervisors and actively participate in their professional development. *See generally id.*

29. Self-assessment is “directed inquiry” in which students identify “the basic competencies essential to becoming an effective lawyer[,] . . . measure their performance against those ideals, and then direct their focus more specifically on those [that] they must develop and/or refine.” Alexander & Smith, *supra* note 27, at 222–25 (providing a list of practical legal skills that can be summarized as research, analysis, writing, speaking, interpersonal, and professionalism). “Through . . . [s]elf-[a]ssessment, students can use [the identified] competencies as points of reference from which to examine and track progress of their practical legal skills development.” *Id.* at 225. For ideas on productively directing and employing student self-assessment in such a program, *see* Laurie Barron, *Learning How to Learn: Carnegie’s Third Apprenticeship*, 18 CLINICAL L. REV. 101 (2011) (paying particular attention to the appendices).

*B. Inclusion of a Classroom Component and Doctrinal Course Integration*

The goal of SIU's capstone program differs somewhat from stand-alone externships and clinical experiences<sup>30</sup> in that it is practice-area specific and doctrinally integrated. This tracks with the "Best Practices" report's calls for "more than simply training students to perform mechanical lawyering tasks."<sup>31</sup> As a result, the Program features a full-time health law and policy field placement coupled with a robust classroom component and concurrent courses in substantive health law.

*1. Practicum Classroom Component*

In addition to skills building through daily performance of assignments and observation of health law and policy practice, students participate in a contemporaneous, seminar-style classroom component, taught by the Program director, who is a faculty member with health law and policy expertise.<sup>32</sup> With the goals of integrating substantive legal concepts and policy with applied legal skills, intensifying meaningful reflection, promoting ongoing knowledge transfer among students, and enhancing professional problem solving, ethics and identity, the classroom component includes:

- a day-long, orientation at the start of the semester to identify and articulate measurable learning objectives, provide a primer on key health law concepts, address commonly arising ethically issues, cover professionalism standards, review legal research skills, and discuss Program documentation and reporting requirements;
- periodic course meetings among the faculty director and all enrolled students;<sup>33</sup>
- group field trips to observe health law and policy in actual operation,<sup>34</sup> and

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30. "Clinical teaching only rarely touches on legal theory." Hartwell, *supra* note 15, at 1015.

31. BEST PRACTICES, *supra* note 11, at 17.

32. This seminar, held contemporaneously with the high-credit field placement, complies with the requirements set forth in ABA Standard 305(e)(7), mandating: opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student can earn four or more credits (or equivalent) in the program for fieldwork, the seminar, tutorial, or other means of guided reflection must be provided contemporaneously.

ABA STANDARDS, *supra*, note 9.

33. While the SIU Program features in-person meetings, these meetings could be conducted via conference call, video conferencing, or online.

34. Given that the field placements for the SIU Program are currently concentrated in Springfield, Illinois, the state capital, there are numerous observational opportunities related to applied, high level health law and policy, including legislative session, legislative hearings, and oral argument at the Illinois Supreme Court.

- an end-of-the-semester peer teaching<sup>35</sup> exercise in which each student presents to the class his or her placement site, its health law and policy functions, the ethical issues that arose during the semester, the lawyering skills the student honed through the practicum, and key lessons learned about the practice of health law and policy.

## 2. Concurrent Doctrinal Course Offerings

Over and above the mandatory classroom portion of the practicum, participating students are eligible to enroll in doctrinal courses that complement their placements, such as public health law and/or bioethics and the law, allowing them to earn up to a total of fifteen credits during the semester. The courses, which are offered on Fridays or in the evenings, work around the students' placement schedule and parlay the law school-medical school collaboration<sup>36</sup> and distance-learning technologies.<sup>37</sup> Most critically, offering such substantive health law and policy coursework in parallel with the experiential placement is designed to integrate, enhance, and enrich students' appreciation for and transference<sup>38</sup> of theoretical materials by "help[ing] students to understand the law in context, . . . see the bigger implications of the law, and . . . critically evaluate . . . institutions and the way they affect . . . [social policy]."<sup>39</sup>

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35. See generally Keith J. Topping, *Trends in Peer Learning*, 25 EDUC. PSYCHOL. 631, 643 (2005). Not only does peer teaching hone students' oral communications skills, but it also requires serious reflection on the immersive practical experience, their growth as a lawyer-in-training, and the health law and policy arena. Moreover, it enables knowledge transfer among students of setting-specific experiences, given that placement types vary.

36. As the majority of the placements are co-located in Springfield, Illinois, where the SIU School of Medicine has a primary presence, students can access a designated class offered by medical school faculty with law school cross-appointment. In addition, the medical school offers both a location for and the technology through which law students enrolled in the Program can access a substantive health law course based at the law school via an interactive, real-time video linkage.

37. An ABA Standard 306-compliant, distance-learning, doctrinal health law course is also available to Program students through the use of technology that makes interaction among class participants at multiple locations fully interactive in real time. See ABA STANDARDS, Standard 306 (setting forth the requirements for credit-eligible distance-learning courses), *supra* note 9.

As the professor teaching the doctrinal course, offered via distance learning, and as the Program director conducting the classroom component of the practicum and performing regular field placement site visits, the Author travels between the law school and medical school locations frequently during the semester, which allows for alternation between the sites' receipt of in-person instruction for the distance-learning-qualified doctrinal course.

38. "'Transfer' refers to a student's ability to employ skills in one context that have been learned in a different context." David A. Binder & Paul Bergman, *Taking Lawyering Skills Training Seriously*, 10 CLINICAL L. REV. 191, 197 (2003).

39. Findley, *supra* note 7, at 314. This is based on "[f]undamental principles of learning theory [that confirm] that, 'when cognitive studies are accompanied by active engagement in their application to concrete problems, a likely result is fuller comprehension, better retention, and more apt recall of the cognitive material.'" *Id.* (quoting Frank Michelman,

### *C. Time Tracking and Guided Reflection*

Preparing students to be competent and thoughtful professionals through practice-oriented experiences, even when combined with a classroom component and augmented with concurrent substantive legal coursework, is insufficient. To provide true and higher learning, reflection must also occur, according to Kolb's circular model of experiential learning.<sup>40</sup> This need for reflection has also been captured in ABA Standard 305(e)(7), which calls for:

opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student can earn four or more credits (or equivalent) in the program for fieldwork, the seminar, tutorial, or other means of guided reflection must be provided contemporaneously.<sup>41</sup>

By requiring time and activity tracking and guided reflection, professors overseeing experiential practicums can enable students to step back and consider the cognitive and affective aspects of relevant issues related to their field placement. Through exercises, such as reflective journaling with the use of directed prompts, students can: evaluate key issues inherent in legal practice, including practice within a substantive area, such as health law and policy; explore the various roles and professional norms of lawyers in general, as well as within a specialty, such as health law and policy; contemplate their specific and overall skills performance and professionalism; develop an awareness of their underlying perceptions of and reactions to the practicum experience; and explore their professional interests within legal practice, including within the given subspecialty.<sup>42</sup>

As such, the SIU Program has incorporated tried-and-true methods that are part of many externship programs, including:

- weekly, “billable-hours”-styled activity reporting to ensure students track their accrual of hours in order to meet the credit-hour requirement for the semester,<sup>43</sup> to acclimate students to time accountability methods used in practice, and to memorialize the breadth of activities in which students are engaged as part of their placement;

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*The Parts and the Whole: Non-Euclidian Curricular Geometry*, 32 J. LEGAL EDUC. 352, 353–54 (1982)); *see also* Section II.B., *supra*.

40. *See* Smith, *supra* note 27, and accompanying text.

41. ABA STANDARDS, Standard 305(e)(7), *supra* note 9.

42. *See generally* BEST PRACTICES, *supra* note 11, at 173; GERALD HESS & STEVEN FRIEDLAND, *TECHNIQUES FOR TEACHING LAW* 109–10 (1999).

43. *See, supra* note 22.

- bi-monthly, prompt-based reflective journaling assignments to complete the experiential learning cycle and encourage higher-level learning, as well as to build self-assessment skills; and
- an end-of-the-semester final report, which includes an overall accounting of qualified hours completed, observations, assignments and deliverables completed, lawyering skills used and improved, and ethical issues encountered, as well as an overall self-assessment and placement site assessment.

#### *D. Developing Practicum Partnerships and Ensuring Quality Control*

At the heart of successful intensive learning programs that utilize field placements is the formation of long-term partnerships between practicum sites and the law school, which, in turn, hinge upon strong working relationships between the field supervisors and the faculty program director. Critical not only to securing and maintaining a sufficient number and variety of placement opportunities, such ongoing relationships also ensure “quality control” of and among the practicums.

Because students are assigned to different sites, the program experience will vary among students, due, in part, to the specific placement type. This is highly desirable, as providing a student-centered experience is part and parcel of the SIU Program’s goals. At the macro level, however, a baseline of consistency across placements is necessary to ensure structured, rigorous, applied experiences are provided to each student and at each site. This is in both the students’ and school’s interests because significant credit is being awarded through the Program toward the law degree. Moreover, “[i]f a full-time field placement experience is not positive, it impacts a much greater part of the student’s law school career than does a . . . part-time externship, clinic[,] or podium course.”<sup>44</sup>

#### *1. Training the Trainers*

Therein lies both the intended fortune and potential folly of off-site, full-time practicums in legal education: the day-to-day instruction of students occurs outside of the law school walls and beyond the direct control of vetted law faculty.<sup>45</sup> Rather, as the practicum portion of the SIU Pro-

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44. Parker & Schechter, *supra* note 3, at 8.

45. Proponents of experiential learning—especially those utilizing off-site placements—underscore that, “to realize the potential . . . , we must decrease the tight control of legal educators over learning.” Brook K. Baker, *Learning to Fish, Fishing to Learn: Guided Participation in the Interpersonal Ecology of Practice*, 6 CLINICAL L. REV. 1, 8 (1999). Doing so provides the added benefit that the faculty director is then free to assume a relationship of “pedagogical purity” with the student, such as exists in traditional law school classes but not in in-house clinical courses; as a result, the faculty member “can focus solely on the student and [the student’s] concerns” in navigating and learning through the practi-

gram provides direct training in professional practice, approved field supervisors at the assigned placement sites are charged with the daily instruction and oversight of students.<sup>46</sup>

Alice Alexander and Jeffery Smith define the vital role of field supervising attorneys in the legal practicum context as “directing the completion of work assigned to . . . students” through the provision of “guidance, constructive criticism, and a final critique of the student’s work product in a timely and meaningful fashion.”<sup>47</sup> As such, field placement attorneys overseeing students must have both time for and expertise in effectively providing such direction<sup>48</sup> and feedback<sup>49</sup> to students. While the existence of the prior is within the exclusive discretion of the placement site and supervising attorney,<sup>50</sup> the program director can and should aid in building the latter in a number of ways, including:

- designating a single attorney at each site who serves as the field supervisor for a given student or students;<sup>51</sup>

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cum experience. Laurie Baron, *Learning How to Learn: Carnegie’s Third Apprenticeship*, 18 CLINICAL L. REV. 101, 113 (2011).

46. This directly and formally achieves the edict, in both the ABA Standards and the *Best Practices* report, to involve practitioners in the instruction of law students. See ABA STANDARDS, Standard 403(c), *supra* note 9; BEST PRACTICES, *supra* note 11, at 157.

47. Alexander & Smith, *supra* note 27, at 208 (setting forth a contemporary, cooperative supervisory model for law student externships).

48. “Direction refers to the [field supervisor’s] responsibility for adequately defining and explaining work assignments.” *Id.* at 212. “In providing the necessary [d]irection for successful cooperative supervision, [field supervisors] have a dual task: the first is defining the assignment; the second is exercising control over it.” *Id.*

49. “Feedback refers to the ongoing process of communicating to the student the [field supervisor’s] evaluation of the student’s performance.” *Id.* at 215. “[T]he three critical elements of [f]eedback are: (1) that it be an *ongoing*, not a static, process; (2) that it be *communicated*; and (3) that it involve *constructive criticism*.” *Id.*

50. In establishing placement opportunities, it is critical that the program director is upfront with field supervisors about the time commitments of and other responsibilities and requirements related to taking on a practicum student. In addition, the program director must be cognizant of his or her own responsibilities and duties not only to the enrolled students but also to the “‘care and feeding’ of . . . field supervisors” who are “work[ing] for free.” Michael A. Yarnell, *An Externship Program: Start It, Grow It, Improve It*, 3 PHOENIX L. REV. 473, 500 (2010).

51. The designated supervising attorney then is responsible for directing and providing feedback to the student, as well as for reporting to the program director. In addition to providing for clear working relations and accountability, such designation gives the student a “go-to” person in the field for any issues that arise during the placement, and helps control work flow so that the student does not experience the pressure of being given unexpected assignments that are not part of the Learning Plan, which may arise when others at the placement site view the student as a valuable resource for extra projects, including projects that may not be valuable to the law-and-policy related learning that is the goal of the practicum. See generally, Alexander & Smith, *supra* note 27, at 214. Such designation, however, does not and should not mean that the student is exclusively assigned to or can only work with the designated field supervisor during the placement. Rather, a variety of relevant assignments meet the objectives set forth in the Learning Plan should be encouraged to provide a well-rounded experience. These assignments, however, should be channeled to though the designated field supervisor.

- providing a detailed, easy-to-use field supervisor manual, which contains a checklist of key dates and deliverables, required program documents and forms in hard copy and electronic formats, contact information for the faculty director, and an outline of supervisory expectations and program objectives;<sup>52</sup>
- hosting a short-but-informative individual or group orientation session for new field supervisors, prior to the start of the placement;
- sending reminders about deadlines and associated deliverables, as well as the import of providing students with frequent feedback on their work product and professional conduct;<sup>53</sup>
- being available and responsive to placement supervisors via all media, as well as through one-on-one contacts prior to and during the semester; and
- offering helpful feedback gathered from the student(s) as to the specific placement, as well as general insights and tips gathered across placement sites.<sup>54</sup>

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52. Excellent resources for those developing field supervisor materials for such programs include:

- any externship program field supervisor materials used at the home institution;
- the LexternWeb website and Lextern listserv provided by Professor Sandy Ogilvy of The Catholic University of America's Columbus School of Law and available at LexternWeb, CATHOLIC UNIV. OF AM., <http://lexternweb.law.edu/> (with details on subscribing to the listserv, as well as accessing the archives, are included on the website) (last visited June 15, 2012); and
- the Greater Los Angeles Externship Consortium, known as "GLACE," which has a website hosted by Loyola Law School and is available at GLACE Home Page, <http://www.lls.edu/glance/> (last visited June 15, 2012).

See also BEST PRACTICES, *supra* note 11, at 198–206.

53. It is critical that the program director encourage the field supervisor throughout the semester to provide ongoing feedback directly to the student(s) because, "[w]hile many legal employers generally operate under the 'no news is good news' rule, this silent approval system is not the most constructive way for students to measure their progress." Alexander & Smith, *supra* note 27, at 215. The *Best Practices* report stresses that "guidance and feedback that students receive in experiential education courses influences the quality of the experience more than any other component." BEST PRACTICES, *supra* note 11, at 175. Specifically, effective and timely feedback benefits the student(s), who can then take corrective action and refine skills; moreover, it also aids the field supervisor, who can subsequently expect to receive improved work product. See *id.*; see also Binder & Bergman, *supra* note 38, at 202. See generally BEST PRACTICES, *supra* note 11, at 174–76. In addition, frequent, meaningful feedback also distinguishes practicums from traditional law school classes and further enhances their pedagogical value. See generally CARNEGIE REPORT, *supra* note 38, at 164–65, 173; BEST PRACTICES, *supra* note 11, at 126.

54. These efforts to prepare, support, maintain ongoing contact with, and offer feedback to the supervising attorneys also provide compliance with ABA Standard 305(e)(4), which calls for "a method for selecting, training, evaluating, and communicating with field placement supervisors." ABA STANDARDS, *supra* note 9.

## 2. *Playing Match Maker*

A key “underlying premise of a successful program of practical legal education is that [placement sites] and students provide mutual benefit to each other.”<sup>55</sup> This front-end task for the program director involves understanding the needs of each vetted placement site, and the skills and interests of qualified applying students, as well as developing and implementing a system through which productive student-placement matches are made.

Given the import of this initial task, the process for the SIU Program, which runs the practicums during the fall semester, holds the application process during the prior spring semester with interested second-year students submitting a cover letter explaining their interest in the Program and placement site-type preference, their resume, and their official law school transcript. Applications are then reviewed to ensure that applying students meet Program requirements, including: minimum grade-point average,<sup>56</sup> academic standing as a third-year student by the commencement of the placement,<sup>57</sup> and successful completion of Program prerequisites.<sup>58</sup> Based on their expressed placement-type preferences,<sup>59</sup> the faculty director tentatively pairs qualified students with placement sites and contacts field supervisors to discuss potential placements for the fall. Upon receiving placement site participation agreement, the faculty director facilitates interviews between the tentatively matched applicants and field supervisors to ensure a fit. After following up with placement site field supervisors, the faculty director then assigns qualified and approved students to placement sites, and students are enrolled in the Program with sufficient advance notice to allow them to make arrangements for the fall semester.<sup>60</sup> The Pro-

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55. Alexander & Smith, *supra* note 27, at 211. In addition to the professional duty to “give back” to the profession and serve as mentors, the expected benefit provided by student manpower is a primary reason sites and field supervisors, who are busy professionals with tremendous responsibilities and deadline pressures, agree to such placements in which they guide and train students without remuneration. Hence, providing students who are equipped, albeit at a novice level, and motivated to meet the needs of a given site is a core function of the faculty director.

56. The minimum grade-point average requirement for enrollment in the Program is 2.6 (based on a 4.0 scale), as set forth in the Southern Illinois University School of Law Rules. *Id.* at Art. IV.1.B.(iii)(B.), available at <http://www.law.siu.edu/Current%20Students/PDF/Clinic%20&%20Field%20Placement%20Rules-excerpted%20from%20SOL%20rules%20for%20AY%2011-12.pdf> (last visited June 14, 2012).

57. As a capstone course, the Program is only open to students in their final year of law school.

58. For example, having taken and passed the professional ethics course is a prerequisite for acceptance into the Program. Consideration of logical prerequisites and baseline skills is critical to help ensure student success in placements. *See, e.g.*, BEST PRACTICES, *supra* note 11, at 204.

59. *See id.* at 203 (stressing student-centered placement assignments).

60. Given that the placements are primarily co-located in Springfield, Illinois, while the law school is located in Carbondale, Illinois, students are required to obtain alternate housing for the upcoming semester.



gram director then communicates with both the field supervisors and the students throughout the summer and holds orientations for both groups just prior to the commencement of the fall semester.

### *E. Staffing*

Experiential learning through field placement programs not only requires “reconceptualizing of the law curriculum” but also of “the faculty’s roles in it.”<sup>61</sup> Although the day-to-day student instruction and supervision occurs offsite by typically unpaid field supervisors,<sup>62</sup> ABA Standard 305(e)(2) mandates that all field placement programs receive “adequate instructional resources, including faculty teaching in and supervising the program who devote the requisite time and attention to satisfy program goals and are sufficiently available to students.”<sup>63</sup> Moreover, Interpretation 305-4(b) of ABA Standard 305 states that, “as the number of credits awarded [for a field placement] increases, the level of instructional resources devoted to the program should also increase.”<sup>64</sup> While the standard and the interpretation provide for tremendous flexibility through their broad language, the more directly linked these programs are with doctrinal specialty areas, and the more they are intended to serve as intensive capstones to students’ legal education, the more faculty resources they require.<sup>65</sup>

## IV. CONCLUSION

While building and maintaining a truly doctrinally integrated, high-credit, capstone practicum program can be resource intensive, it builds the type of bridge to practice that the recent critiques of legal education have urged, and it provides participating students with an advantage in today’s very challenging legal employment market. The efforts and resources involved in developing and sustaining such an initiative, however, can be modulated, at least to an extent, when it builds upon an area where the law school already boasts a core competency and critical mass. While the SIU Health Law & Policy Semester-in-Practice Program is still—and will continue, for the foreseeable future, to be—a work in progress, continually evolving and improving, its design and the truly experiential learning gar-

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61. BEST PRACTICES, *supra* note 11, at 145; *see also, supra* note 45 and accompanying text.

62. *See supra* note 50 and accompanying text.

63. ABA STANDARDS, Standard 305(e)(2), *supra* note 9.

64. ABA STANDARDS, Standard 305, Interpretation 305-4, *supra* note 9.

65. While part of the law school’s overarching experiential learn program, each of SIU’s Semester-in-Practice Programs has a specialty orientation and a doctrinal linkage and, as such, is actively directed by a member of the full-time faculty within the given area of substantive legal expertise. This requires the school to dedicate a significant portion of its limited faculty resources to the operation of these programs.

nered through its initiation and early operations may serve the added benefits of informing, if not encouraging and inspiring, others considering such initiatives.<sup>66</sup>

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66. There are many ways to set up doctrinally linked semester-in-practice programs that are pedagogically sound and comply with ABA Standards. *See* Backman, *supra* note 9.