

The client as teacher: Formation of students by simulated clients

Clark D. Cunningham

W. Lee Burge Professor of Law & Ethics

Director, National Institute for Teaching Ethics & Professionalism

Georgia State University College of Law

Atlanta, Georgia U.S.A.

cdcunningham@gsu.edu

www.clarkcunningham.org

www.niftep.org

My home page

Clark D. Cunningham



W. Lee Burge Chair in Law & Ethics

The Burge Chair was established by an endowment from the U.S. District Court for the Middle District of Georgia, using funds collected for alleged lawyer misconduct to promote ethics, professionalism and access to justice.

Georgia State University College of Law
P.O. Box 4037
Atlanta, GA 30302-4037
Phone: (404) 413-9168 Fax: (404) 413-9225
Email: cdcunningham@gsu.edu
www.ClarkCunningham.org
Address for FedEx/UPS/Courier Delivery:
GSU College of Law
85 Park Place NE, 2nd Floor
Atlanta, GA 30303
(404) 413-9000 (reception)
Office: Room 210

[Publications](#)

[Resume](#)

[In the News](#)

[National Institute for Teaching Ethics & Professionalism \(NIFTEP\)](#)

[International Forum on Teaching Legal Ethics & Professionalism](#)

[Burge Endowment for Law & Ethics](#)

[Legal Ethics in Georgia](#)

[Expert Witness on Legal Ethics](#)

[Lawyer-Client Communication Project](#)

[Public Interest Litigation in India](#)

[Fourth Amendment Research](#)

[Original Meaning](#)

[Law & Linguistics](#)

[Nonpartisan Originalism](#)

[Trump: Investigations, Litigation, Impeachment Election 2020](#)

Specializations:

[Legal Ethics](#), [Legal Education](#), [Constitutional Law](#), [Criminal Justice](#), [Comparative Law](#), [Law of India](#), [Law Firm Management](#), [Interpretation](#), [Social Justice](#)



Download this presentation

PPT

PDF



13 Clinical Law Review 1 (2006)

VALUING WHAT CLIENTS THINK: STANDARDIZED CLIENTS AND THE ASSESSMENT OF COMMUNICATIVE COMPETENCE

KAREN BARTON, CLARK D. CUNNINGHAM,
GREGORY TODD JONES & PAUL MAHARG*

An international and interdisciplinary team from the Glasgow Graduate School of Law (GGSL) and the Dundee Medical School - in Scotland - and the Georgia State University College of Law (GSU) - in the United States - has undertaken an ambitious project to change the way lawyer-client communication skills are taught and assessed.



Standardized or Simulated Patients in Medical Education

[★ School of Medicine Home](#) • [Education](#) •

Human Simulation Education Center

Human Simulation Education Center

"We enhance human interaction."



The Human Simulation Education Center (HSEC) is used for simulated patient education, clinical skills education, and other educational experiences. It contains four suites, each of which contain a central debrief room with projection capability and 4 examination rooms equipped with examination table and standard clinic equipment.

Simulated patients are skilled professionals who are trained to present clinical scenarios in a standardized fashion to each learner, thus earning the title of “standardized patient.” They present the history in a certain manner, simulate abnormal physical findings, and provide feedback to learners about bedside manner, professionalism and communication skills.

Cameras and sound equipment in each exam room allow each experience to be recorded. Faculty can watch the patient interaction live via a web based program or can watch the recording after the fact. A software program provides ease of grading these encounters using a checklist and/or comments.

SCs – origins

Adapted from Paul Maharg July 20 presentation

- Strathclyde University, 2005. Diploma in Legal Practice
- *Pilot project* (partners Georgia State University College of Law, Dundee University Medical Faculty)
- Used *model from medical profession* of Simulated Patients (SPs), non-lawyers were trained to be Simulated Clients (SCs)
- SCs evaluated **aspects of the interview that can be assessed by non-lawyers (e.g. “I understood what the lawyer was saying”)**
- Study proved *SCs assessed important aspects of client interviewing with **better validity and reliability** than law teachers*
- Made ***what client thinks important*** the most salient for the student: the interview **grade is given by the client**
- This ***changed*** how the Diploma course enabled students, lawyer trainees and lawyers to learn interviewing & client-facing ethical behaviour

University of Strathclyde Law School (Glasgow, Scotland) Diploma in Legal Practice	WS (Writers to the Signet Society) (Edinburgh, Scotland) Signet Accreditation
State of New Hampshire (USA) Alternative to the Bar Exam (Webster Scholars Honors Program Univ of New Hampshire Law School)	The Australian National University College of Law (Canberra, ACT, AUS)
Northumbria University Law School (Newcastle, England)	Kwansei Gakuin University Law School (Osaka, Japan)
Hong Kong University Faculty of Law (Hong Kong)	The Chinese University of Hong Kong (Hong Kong)
Nottingham Trent University Law School (Nottingham, England)	Newcastle University Law School (Newcastle, England)
Osgoode Hall Law School/ OPD (Toronto, Ontario, Canada)	University of Windsor Faculty of Law (Windsor, ON, CA)
Flinders Law School (Adelaide, S. Australia, AUS)	Solicitors Regulation Authority (England & Wales) Solicitors Qualifying Examination Pt2
Canadian Centre for Professional Legal Education (CPLED, Provinces of Alberta, Manitoba, Nova Scotia, Saskatchewan)	Law Society of Ireland (Dublin, Ireland)
National Centre for Skills in Social Care (London, England)	AND NOW YOU?

Name of assessor:

Name of student lawyer:

Score 0 - 5

The **greeting and introduction** by the student lawyer was appropriate

Comments

I felt the student **listened** to me

Comments

The student lawyer approach to **questioning** was helpful

Comments

The student lawyer accurately **summarised** my situation

Comments

I **understood** what the student lawyer was saying

Comments

I felt **comfortable** with the student lawyer

Comments

I would feel **confident** with the student lawyer dealing with my situation

Comments

If I had a **new legal problem**, I would come back to this student

Comments

Total 0 /40

Percentage 0.00 /4%

Matching standards to criteria

- eg assessment criterion 2

2. I felt the student lawyer listened to me.

This item is designed to assess the degree to which the lawyer can listen carefully to you. These criteria focus especially on the early part of the meeting when the client should be encouraged to tell their story and concerns in their own words. This entails *active* listening – where it is necessary for the interview structure or the lawyer’s understanding of your narrative. The lawyer will not interrupt, cut you off, talk over you or rush you in conversation. The lawyer reacts to your responses appropriately. The lawyer may take notes where appropriate, but if the lawyer does so, the lawyer should not lose much eye contact with you. To some extent in this item we are concerned with what the lawyer does *not* do that facilitates the interview.

I felt the student lawyer listened to me

1	2	3	4	5
<p>Lawyer prevents you from talking by interrupting, cutting off, talking over, rushing you. Takes over the conversation prematurely as if the lawyer already knows all the answers.</p>	<p>Lawyer limits your opportunity to talk by interrupting, cutting you off, etc. You are allowed to answer specific questions but are not allowed to expand on topics.</p>	<p>Lawyer rarely interrupts or cuts off or rushes you. The lawyer reacts to your responses appropriately in order to allow you to tell your story. More interested in notes taken than in eye-contact with you.</p>	<p>The lawyer is clearly listening closely to you. If the lawyer interrupts, it is only to assist you in telling the story more effectively. Lawyer provides opportunities for you to lead the discussion where appropriate. Good eye contact and non-verbal clues.</p>	<p>The lawyer is an excellent listener and speaks only when it is clearly helpful to your telling your story. Lawyer uses silence and other non-verbal facilitators to give you an opportunity to expand. Excellent eye contact and non-verbal cues.</p>

1	2	3	4	5
<p>Lawyer prevents you from talking by interrupting, cutting off, talking over, rushing you. Takes over the conversation prematurely as if the lawyer already knows all the answers.</p> <p>12</p>	<p>Lawyer limits your opportunity to talk by interrupting, cutting you off, etc. You are allowed to answer specific questions but are not allowed to expand on topics.</p>	<p>Lawyer rarely interrupts or cuts off or rushes you. The lawyer reacts to your responses appropriately in order to allow you to tell your story. More interested in notes taken than in eye-contact with you.</p>	<p>The lawyer is clearly listening closely to you. If the lawyer interrupts, it is only to assist you in telling the story more effectively. Lawyer provides opportunities for you to lead the discussion where appropriate. Good eye contact and non-verbal clues.</p>	<p>The lawyer is an excellent listener and speaks only when it is clearly helpful to your telling your story. Lawyer uses silence and other non-verbal facilitators to give you an opportunity to expand. Excellent eye contact and non-verbal cues.</p>

Sim Client Assessment Part B

The client also completes a checklist of facts the lawyer should have learned during the meeting.

Part B

The lawyer learned that

If Yes, enter 1 If No, enter 0

- | | |
|--|----------|
| 1. My brother died without a will. | <u>1</u> |
| 2. My brother and I were never formally adopted. | <u>1</u> |
| 3. The equity in my brother's house is \$60,000. | <u>0</u> |
| 4. My brother had \$5000 in savings account | <u>1</u> |
| 5. My brother owned Coke stock worth \$40,000. | <u>1</u> |
| 6. I receive \$50,000 from life insurance. | <u>1</u> |
| 7. I paid funeral costs of \$5000. | <u>0</u> |
| 8. My brother died with \$10,000 of outstanding debts. | <u>0</u> |

In the original Scotland pilot
and many later uses of
simulated clients there is also a
3rd assessment component:
a note to file graded by a lawyer

University of Strathclyde Law School (Glasgow, Scotland) Diploma in Legal Practice	WS (Writers to the Signet Society) (Edinburgh, Scotland) Signet Accreditation
State of New Hampshire (USA) Alternative to the Bar Exam (Webster Scholars Honors Program Univ of New Hampshire Law School)	The Australian National University College of Law (Canberra, ACT, AUS)
Northumbria University Law School (Newcastle, England)	Kwansei Gakuin University Law School (Osaka, Japan)
Hong Kong University Faculty of Law (Hong Kong)	The Chinese University of Hong Kong (Hong Kong)
Nottingham Trent University Law School (Nottingham, England)	Newcastle University Law School (Newcastle, England)
Osgoode Hall Law School/ OPD (Toronto, Ontario, Canada)	University of Windsor Faculty of Law (Windsor, ON, CA)
Flinders Law School (Adelaide, S. Australia, AUS)	Solicitors Regulation Authority (England & Wales) Solicitors Qualifying Examination Pt2
Canadian Centre for Professional Legal Education (CPLED, Provinces of Alberta, Manitoba, Nova Scotia, Saskatchewan)	Law Society of Ireland (Dublin, Ireland)
National Centre for Skills in Social Care (London, England)	

Alternative bar exam in State of New Hampshire (USA)



New Hampshire Judicial Branch

- The Daniel Webster Scholar Honors Program is a program of the University of New Hampshire School of Law.
- It is designed to prepare law school graduates for practice through "practice courses" and evaluations designed to develop and test fundamental skills of legal practice, including **communication**, negotiation, organization, work management **and legal ethics**.
- Students in the Daniel Webster Scholar Honors Program are required to undergo evaluations periodically throughout the two-year program, and before graduating, are required to undergo **a two-day assessment process**, consisting of interviews, testing and simulations.
- Supreme Court Rule 42(XII) makes graduates of the Daniel Webster Scholar Honors Program **eligible for admission to the New Hampshire bar upon completion of the program without further examination**

Ahead of the Curve: the Unique Daniel Webster Scholar Honors Program New Hampshire Bar Association

www.nhbar.org/ahead-of-the-curve-a-150-year-retrospective-on-the-unique-daniel-webster-scholar-honors-program/

- “New Hampshire is full of history and firsts in the nation
- One of the most unique and recent firsts was the implementation of the UNH Franklin Pierce School of Law’s (UNH Law) Daniel Webster Scholar (DWS) Honors Program – the first bar alternative program in the nation – in 2005.
- A collaborative effort of the New Hampshire Supreme Court (NHSC), the New Hampshire Bar Association (NHBA), the New Hampshire Board of Bar Examiners, and UNH Law
- “It’s the first and still the only competency-based bar admission program,” DWS program director Courtney Brooks says.
- “It’s the only program like it in the country that couples practice-readiness training with bar admission.
- Students gain practical skills and simulations for essentially a two-year bar exam, and along the way, their skills are assessed by bar examiners.
- At the end, they are admitted to the bar.”



Overview of the SQE2 assessment

- The legal skills assessments in SQE2 are:
 - client interview and attendance note/legal analysis ...
- Professionalism and ethics will be core parts of SQE2. Questions on ethics will be pervasive throughout SQE2.
- Ethical issues will not be flagged and candidates will need to identify any ethical and professional conduct issues and exercise judgment to resolve them honestly and with integrity.

Marking SQE2

- The interviewing station will be marked by the assessor playing the role of the client and will be marked on skills only. The attendance note and all other stations will be marked by a solicitor who will assess candidates on both skills and application of law.



- The Canadian Centre for Professional Legal Education (CPLED) is a non-profit organization that provides the training needed before being called to the Bars of Alberta, Manitoba, Nova Scotia and Saskatchewan.
- Before becoming a lawyer, students must complete
 - their articling requirement
 - and the Bar admission program, the [Practice Readiness Education Program \(PREP\)](#).

Practice Readiness Education Program (PREP)

Simulated clients are used throughout the 4 phases of PREP

- Phase 1: Foundation Modules. Students watch real lawyers interview simulated clients (good/bad performances) and are shown excerpts of the sim client feedback to the good and poor performances
- Phase 2: Foundation Workshops: Students are introduced to Assessment Criteria / Rubrics
- Phase 3:
 - Virtual Firm Business Law Client interview;
 - Family Law Client Interview
- Phase 4: Capstone. This comprises in-person simulated client interviews and summative assessment.

Transitioning Simulated Client Interviews from Face-to-Face to Online

Paul Maharg & Angela Yenssen

13 European Journal of Law and
Technology No. 3 (2022)



Brief timetable for Sim Client project development

<https://simclient.osgoode.yorku.ca/workshop-resources/>

The lead-in span is three months, very much part-time but the development cycle could be compressed quite easily – it depends how much time you have to give to development work

⊕ in addition to research, teaching and admin duties.

Week	Item
1-2	Identify course; plan implementation of skills interventions (how many interviews, whether formative or summative, determine the extent of high-stakes activities for students, numbers of sim clients involved, etc).
2	Write learning outcomes for interview skills, blending with Global Assessment Criteria
3	Plan learning & teaching to support SC use in course
4-10	Create learning resources (eg videos of good/poor performances, handouts, training scenarios)
5	Write feedback criteria and design feedback forms for students, SCs admins
5	Design final format of skills / knowledge assessments
6-7	Write scenarios for both formative and summative assessment
6	Begin to recruit sim clients
7-9	Compile training handbook for SCs; copy for SC numbers
10	Train SCs (four days)
11	Upload learning resources for students
12	Course begins

Paul Maharg Blog

Resources for July 20 workshop

Sim client workshop: programme and resources

One of the initiatives I've been working on in the last 20 years is the Simulated Client Initiative. I've worked with a range of partners to establish SC projects internationally. I've also organised international workshops in London (Gray's Inn), Canberra (ANU College of Law) and [Toronto](#), which were liveblogged in this blog

This month, people attending back-to-back international conferences in Amsterdam on legal ethics and clinical education have the opportunity to attend an afternoon workshop on SCs, entitled 'Improving Client Relationship Skills', held on Saturday 20 July – draft agenda below. [Clark Cunningham](#) and I are hosting and, as part of the workshop, there will be a live demonstration of the use of SCs in helping students to learn client-facing skills, and helping academics to assess lawyer-client communication skills. There will also be discussion of the research literature, and the use of sims across a range of disciplines and professions.



Paul Maharg Blog

More detailed information on SimClients

A warm welcome to the Simulated Client Initiative (SCI), an international collaboration to develop a research base and resources for the use of simulated clients in legal education. This public blog has been assembled as a resource for all academics, practitioners, students and interested in the use of SCs at any stage of legal education.



Osgoode Hall Law School York University, Toronto



SIMULATED CLIENTS:
INTERDISCIPLINARY LEARNING & TEACHING IN LEGAL EDUCATION

Virtual Workshop

Friday, April 29, 2022

Introduction to the Sim Client Initiative (SCI)

Programme

Presenters

Workshop resources

Osgoode Workshop Website



Download this presentation

PPT

PDF

