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Nina W. Tarr
University of the Pacific; McGeorge School of Law

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The Skill of Evaluation as an Explicit Goal of Clinical Training*

Nina W. Tarr**

An implicit goal of clinical and skills training is to teach students to assess their own work and to observe with a critical eye the work of those around them. This Article explains the advantages of making this implicit goal explicit to the students, discusses what constitutes effective evaluation skills, and suggests some techniques for teaching the skill of evaluation in a variety of settings.

Whatever form the “skills” training takes at the various law schools around the country, most would identify their objectives as teaching the students to perform lawyering functions in pretrial and trial settings through some combination of the following non-exclusive laundry list of skills: Interviewing, counseling, negotiating, drafting, fact investigation, mediating, voir dire, opening statements, direct examination, cross-examination, and closing arguments.¹ Some programs articulate a goal of helping the students with role identification, including developing personal and professional value systems, as the

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** Associate Professor of Law and Clinic Director, Washburn School of Law.

transition is made from student to a lawyer. Still other programs have specific substantive legal information that plays an important part of the stated curriculum. The concept of teaching the students to be effective evaluators of themselves and others is consistent with and enhances all of these explicit goals.

In order to move self-assessment from the implicit to the explicit, the clinical professor must develop a theory of what constitutes effective evaluation skills. At the beginning of the course when the curricular goals are explained, the skill of evaluation should be included and its elements discussed. Thereafter, the skill should be treated like all other skills being developed in the course: the professor must make a conscientious effort to model the skill and evaluate the students' development in its use.

The steps of effective evaluation include:
1. **Focus the evaluation** on a few specific areas because students can absorb only a limited amount of information aimed at changing behavior;
2. **Identify the goals** of the activity being evaluated because the goals affect the chosen approach;
3. **Identify responsibility** for cause and effect;
4. **Articulate specific components of the theory** of what was attempted;

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2. Doyel, *The Clinical Lawyer School: Has Jerome Frank Prevailed?*, 18 NEw Eng. L. REV. 577, 596 (1982-83) [hereinafter Doyel], (showing the effectiveness of clinical programs at teaching professional responsibility). In his article describing the methodology of clinic, David Barnhizer argues that:
   
   effective use of the clinical method is the only presently available means of consistently facilitating learning of "professional responsibility" in a meaningful, internalized way sufficient to form an affirmative structure capable of guiding behavior in a manner consistent with the stated public norms of the legal profession.


The goals should be:
1. To assist the law student in developing a coherent and personalized system of professional responsibility;
2. to integrate and synthesize the diverse components of legal education;
3. to develop in the student the ability to make judgments; and
4. to learn basic technical skills.

Barnhizer, *Clinical Method* at 73. He further argues that teaching professional responsibility should be given priority in legal education. Barnhizer's argument is an excellent argument for clinical methodology, but it does not go far enough because without the skill of evaluation, the training will be lost.

3. See, e.g., Barnhizer, *Clinical Method, supra* note 2, at 76-79 (listing potential educational goals for a clinic methodology, including elements of professional responsibility, judgment and analysis, substantive law, and technical lawyering skills).
5. Articulate a new theory of what will be rejected or repeated in the future.

I. THE PURPOSES FOR MAKING THE SKILL OF EVALUATION AN EXPLICIT GOAL

The advantages of making the skill of evaluation an explicit goal are numerous. At the outset, assessment is a critical skill for the students’ growth after they have left law school. Assessment provides insurance that lawyering standards are not compromised by unrecognized, outside pressures. Second, becoming skilled at self-evaluation forces the students to be more responsible for their own education during the period that they participate in the skills program. Third, the students frequently think the theory or planning that is discussed in law school has no application in the “real world,” and teaching them to assess themselves and others in terms of the theory is the follow-through that helps them apply theory to reality. Finally, the supervisors in the skills programs will be able to give more effective feedback to the students if evaluation is seen as part of the overall program. The assessment process can facilitate grading the students who have a wide range of performances and a wide variety of cases.

A. The Skill of Evaluation Insures Long-term Learning and Will Preserve the Learning That Has Already Taken Place

What happens in law school and in the skills program is only the beginning of the students’ development as lawyers.4 Historically, law schools have claimed that they teach people how to “think like a lawyer.”5 The traditional classroom courses train the students to critique cases and apply the previous case’s analysis to the next case.6 In the traditional classroom, we pose hypotheticals so that the

4. See, e.g., Doyel, supra note 2, at 588 (empirical data available indicates that the majority of lawyers feel that their law school training in practical skills, not just trial advocacy, was inadequate). The mere existence of continuing legal education programs is a recognition of the need for ongoing learning.
5. See, e.g., Doyel, supra note 2, at 578-83 (discussing law schools’ goals of teaching students to “think like a lawyer”).
students can apply the analyses to a variety of situations. The students become legal problem solvers with skills to find the law they will need in the future.

In the skills setting, we teach students a broader range of a lawyer’s functions.

For example, we discuss the goals of an initial client interview and how to most effectively accomplish those goals. Unless the student is able to look back at his or her own performance and evaluate whether he or she effectively executed the desired skills, the learning has stopped. The student will only develop to a certain level while in the program. In order to facilitate continued growth when a supervisor is no longer available to critique their work, students must learn to constantly examine their own work. What makes lawyers improve rather than stagnate is the ability to examine and learn: to learn how to learn in the skills context as well as the substantive or procedural context. We owe it to our students to train them to learn for the future in this arena.

New lawyers will neither be trained in the skill of evaluation nor even necessarily be critiqued in an effective manner once they are out of law school. Training usually occurs in the various settings in which our students will work, but the dynamics of time and money control the training programs. Further, the training that will take place usually focuses on the particular type of practice the lawyer has entered. Consequently, the student/lawyer will learn the skill of evaluation only in a skills program.  

7. See generally, Barnhizer, Clinical Method supra note 2, at 71 (distinguishing clinic teaching from traditional teaching by the source of the information with which the student is working: in clinical setting, the student receives information from a third person and in traditional classrooms, the student receives information from a casebook).

8. Kreiling, Clinical Education and Lawyer Competency: The Process of Learning to Learn from Experience through Properly Structured Clinical Supervision, 40 Md. L. Rev. 284 (1981) [hereinafter Kreiling] (description of the learning and evaluation process are extremely valuable). See also, Klare, The Law School Curriculum in the 1980’s: What’s Left?, 32 J. Legal Educ. 336, 341 (1982), (“Omitted is systematic training in how to learn from others; in how to criticize one's own work and the work of others; in how to learn about lawyering from practice, that is, in how to acquire the capacity for continuing self-development over the span of a career; . . .”).

9. See Doyel, supra note 2, at 594. See also Barnhizer, Clinical Method, supra note 2, at 75. Barnhizer explains:

It is the teacher’s function . . . to structure each student’s learning experience and to participate in it at critical junctures to open up to the student implications of the experiences that might not otherwise occur to him . . . The one-to-one relationship enables the teacher to see the attitudes, values, sense of professional responsibility, skills, needs and strengths of each student. In non-individualized teaching situations, the student may easily “turn-off” his involvement and the teacher may be unaware or unable to respond. The teaching essence of the clinical method is that the teacher
The research of social scientists who have examined professional competence indicate that, even if professionals become aware of the ineffectiveness of their behavior, they are resistant to change because of existing behavior patterns and values.  

[The mode of professional] social interaction orients interpersonal relationships towards specific goals: maximizing winning and minimizing losing; acting in a rational manner; and minimizing the open expression of feelings. “Theories of action” based upon these goals result in “minimal learning, defensive and mistrustful relationships, ineffectiveness of relationships and human systems, and long-term deterioration of problem-solving processes.”

Because law school relationships among students and between students and their teachers “are characterized by persuasion, intellectualizing, competition, information suppression, manipulation, and outward conformity with limited internal commitment,” they particularly feed into the students’ resistance to self-evaluation for the purpose of ongoing learning. Recognizing that the traditional classroom courses and methodologies undermine inclinations to self-evaluation, the skills program must undertake the responsibility to explicitly teach this skill.

Everything we teach in the skills course is a microcosm or specimen to be examined and from which to be learned. We teach such cerebral areas as how to develop a theory of a case and such mundane areas as how to compute time for billing purposes. Our hope is that every time our student, who has now become a lawyer, is faced with a new client’s case, he or she will routinely develop a theory of the case that will guide their work. We also expect that our well-trained graduates will routinely keep accurate time records so they can bill their clients or document their time for their public sector employer.

We should also expect that our students will routinely pause and examine their own performances and those around them to continue...
to develop their skills. When they walk out of a trial and return to their office, they should stop and consider what happened and why. Most lawyers go home at the end of the day and say “I did well in that negotiation today” or “that other attorney really ruined my client’s case,” but the excellent lawyers ask themselves what they can learn from what happened.

The first step is to develop the habit of reflection. However, the absolutely critical aspect of this continued learning process is the ability to realistically and critically examine activities and occurrences so the lawyer can use the experience to learn. Simply stopping after the trial and saying, “I did a great closing argument,” is insufficient. The question must always be, “Why?” The skill that we should explicitly be teaching the student in the skills courses is how to answer that question. We must teach them to “think like a behavioral scientist” about all of the dynamics of what happened. For example, did the closing argument go well because he or she established good eye contact with the judge so it felt like the judge was really listening? Is this something the lawyer can replicate, or is it a peculiarity of this particular judge? Was the ability to establish eye contact because the lawyer was unusually familiar with the law and facts so felt comfortable and spontaneous? If so, more preparation on cases in the future might pay off.

Was it because the argument was the first thing in the morning and the lawyer was alert and awake? Is sleep more critical to performance than the lawyer realized? Since a lawyer cannot always control the time of day a part of a case is heard, how can he or she compensate?

These are examples of the student/lawyer beginning to distinguish between that for which he or she is responsible and can control versus that which is outside his or her control. Many interns will return from a hearing and complain their client surprised them with unknown facts on the stand. Why? The student will want to shift the responsibility to the client, which is sometimes justifiable. However, more commonly, the trial preparation was superficial and the student must figure out what to do differently in the future. Alternatively, the student claims he or she lost the case because the lawyer on the other side did a great job or that the judge hates law students. These responses are evidence of classic projection and the student

must learn to realistically distinguish between what is circumstantial and what is related to their lawyering abilities.\(^{15}\)

The limits of time and money not only affect the quantity and quality of training the students will get, but also put pressure on them to conform to the "normal" behavior which may not be consistent with the behavior they want.\(^{16}\) Moreover, the desire to conform undermines the student/lawyer’s inclination to reflect. Without being taught evaluation, many students will begin to compromise their standards without even realizing it.\(^{17}\) Only if the students are skilled and in the habit of evaluating themselves and others will they realize what is happening.

B. Evaluation Skills Help the Student Become More Independent

The skill of evaluation should be explicitly taught for another reason; because it enhances learning for the future and preserves the learning that exists. More immediately, teaching the students to be skilled at evaluation can be valuable while they are still in school because it gives them more independent responsibility for learning. This independence reinforces the concept that they are responsible for their own actions, shows them respect for the new role they have taken on as lawyers rather than students, capitalizes on the students’ insights into their own personalities, and is a more efficient use of supervisors’ time.

Supervisors in skills settings often complain that the students rely too heavily on the supervisor, prepared forms, or other paths of least resistance to do their work. Supervisors complain that the students are accustomed to being “spoon fed” information and do not want to learn how to either learn or perform on their own.\(^{18}\) Frequently, skills teachers are not aware that they foster the students’ dependence by giving the students mixed messages. Part of the dynamics of the students’ reliance on the supervisors is the either stated or unstated discomfort the supervisors have in letting the

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\(^{15}\) The students must learn to ask themselves "why" the other lawyer was so good and whether the student bears any responsibility for the judge’s reaction.

\(^{16}\) Barnhizer, *Clinical Method,* supra note 2, at 74. Law graduates must develop a workable system of responsibility because of the effect of outside pressures.

\(^{17}\) Kreiling, *supra* note 8, at 305.

\(^{18}\) As Kreiling notes, “some dependence is implicit in professional fieldwork learning...” Kreiling, *supra* note 8, at 301 n.51.
students be responsible for their own work.\textsuperscript{19} Even supervisors who have the goal of giving the students a great deal of independence frequently find themselves in very controlling situations where their lack of trust or respect toward the students becomes apparent. Supervisors tell the students that they are adults and are becoming lawyers and then treat them like children. In the vernacular of today's helping professions, some skills teachers and their students have "co-dependent" relationships. The instructors perceive the need for the students to be independent and intend for the students to be independent, but the instructors also need the students to "need them" so unintentionally they create a dependency on the part of the students. For example, the supervisors might subconsciously manipulate the amount of information given to the students so the student must come back to them.

Professor Kreiling has effectively applied Carl Rogers' five components of the effective therapeutic relationship to the supervisor/student relationship.\textsuperscript{20} The five components are: (1) Genuineness of congruence; (2) empathy; (3) positive regard; (4) unconditionality of the positive regard; and (5) effective communication and understanding of the above.\textsuperscript{21} Professor Kreiling explains that "empathy or empathetic understanding" requires the supervisor to look beyond his or her own subjective perceptions in order to understand and appreciate the affect of the context within which the student is working. Unless the supervisor is able to comprehend the concerns of the student as a novice lawyer, the supervisor is unable to give effective feedback.

The need for "positive regard" is simply defined as a "nonjudgmental" acceptance of the student's behavior. Supervisors must be able to maintain a positive attitude toward the student, as a person, so that the student sees consistency and feels safe. A supervisor should be able to be critical of a student's performance within the framework of this positive regard. The positive regard should be "unconditional." "... the more the supervisor is able to value the student in a total rather than in a conditional way, the greater the potential for learning from the experience."\textsuperscript{22}

Finally, Kreiling explains that the supervisor must communicate these five components to the student and the student must understand

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the relationship the supervisor is attempting to create.\textsuperscript{23} "Genuineness or congruence" means that the supervisor does not give mixed messages: there must be a realness and sincerity.\textsuperscript{24}

For example, the supervisor says to the students that they are responsible for the case and then takes over, the supervisor is giving incongruent messages. The classic example of inconsistent behavior is the supervisor who spends the weekend rewriting the brief rather than pushing the student to do it. In the language of co-dependency, the supervisor's behavior is called "enabling." The supervisor enables the student to be irresponsible. In response, the supervisor can have an array of personal reactions ranging from feeling like a martyr to anger. These feelings can cause unpredictable effects on the student/teacher relationship and early "burn out" of the supervisor. An outside observer can see how the supervisor has created his or her own dilemma. However, the supervisor frequently rationalizes with the classic explanation of necessity. The supervisor should examine whether his conduct really is a "necessity." If so, the supervisor must determine whether the way he or she works or the way the program operates creates the "necessity."\textsuperscript{25}

Robert J. Condlin examines incongruence in the skills supervisor's intent and ultimate behavior.\textsuperscript{26} In his article contrasting teaching techniques, he refers to the "persuasion mode" and the "learning mode."\textsuperscript{27} Skills supervisors articulate an intention to use the "learning mode," but examination of their behavior indicates a heavy use of the "persuasion mode."\textsuperscript{28} In defining his terms, Condlin explains

\textsuperscript{23} Kreiling goes on to say that the final aspect of the supervisor's role is to encourage the student to set his or her own high standard of work and to critically reflect on whether he or she is meeting that standard. Kreiling, supra note 8, at 305.

\textsuperscript{24} \textit{Id.} at 305.

\textsuperscript{25} The supervisor completing the student's brief illustrates that the supervisor is not meeting Kreiling's conditions of effectiveness. There is a lack of understanding or empathy about how long or how much work it would have taken the novice lawyer to complete the task. If the supervisor had empathy, the problem of timing would have been avoided. Realistic, short term goals would have been set and the brief completed on time.

It evidences a judgment that the student cannot perform in a timely way which shows a negative regard of the student's abilities. After the supervisor has spent the weekend writing the brief, it is doubtful he or she will continue to have a "warm, positive, and acceptant attitude" toward the student and the "unconditional positive regard" will be diminished. Kreiling, supra note 8, at 304.

Even if the supervisor has effectively communicated the goal of creating the relationship Kreiling advocates, taking over the student's work brings them back to point one which is the incongruence of messages. \textit{Id.} at 303-04.


\textsuperscript{27} \textit{Id.}

\textsuperscript{28} \textit{Id.} at 248-74.
that there is inherent ambiguity in communication. He explains that:
There are two pure types of response, here designated the persuasion
mode and the learning mode. The persuasion mode is a response
to ambiguity in which a person is concerned primarily with asserting
or developing his own conception of the meaning of the ambiguity.
The learning mode is a response in which a person is concerned
more with investigating, understanding, and clarifying the ambiguity
in an interdependent fashion. 29

The three distinct aspects of the persuasion mode are: (1) The
listener attributes meaning to the statement; (2) the listener privately
and unilaterally evaluates the communication; and (3) the listener
publicly responds. 30 The persuasion mode is competitive, private, self-
protective, self-sealing and rational. It cuts off discussion which
could create emotional insights causing intensifying of emotional
issues, limits learning, and models behavior that can make a practic-
ing lawyer less effective. In the right setting, such as a courtroom
before a judge, a persuasive mode of communicating can be extremely
effective. 31

In contrast, the learning mode response to ambiguity involves
asking the other person to clarify by providing more information,
"owning up," or sharing intellectual and emotional reactions, and
"testing" by asking for and responding to reactions to one's own
views. 32 Contrasted to the persuasion mode, the learning mode is
additive, public, self-reflective, and involves addressing feelings. 33

Condlin examined transcripts of students' and teachers' discussions
in a clinical setting after having the participants write comments on
their thoughts during the encounters. He concluded that:

In all of the foregoing examples the teachers' behavior was replete
with private diagnoses of what the students should learn, and
unilaterally chosen strategies for having the students acquire that
learning. These teachers often were coercive in their gratuitous
repetition of pre-selected themes and self-protective in their reluc-
tance to discuss those themes other than diplomatically and indi-
rectly. Little data were given to support conclusions and little open-
ended, candid testing of analyses was encouraged. Strong feeling,
when present, was sidestepped, transmogrified, or suppressed. While
the histrionics and exaggeration of courtroom discourse rarely were

29. Id. at 231.
30. Id. at 231.
31. Id. at 238-48.
32. Id. at 235.
33. Id. at 238-48.
present, the substance of the discussions tracked the persuasion mode. In a subtle and thus hard to confront manner, the teachers in these excerpts dominated and manipulated their students and taught their students how to do the same to others. The irony is that these teachers were interested in establishing bilateral relationships with their students in which understanding was publicly and collaboratively pursued. They were surprised to discover the patterns that emerged as their behavior was examined. They were unaware of the contradictions between their intended and actual methodologies and unaware that they were unaware.  

Condlin speculates about what causes the incongruence between clinic instructors’ intentions and execution of teaching models. Historically, clinicians had high case loads that prevented them from taking time to examine their teaching and develop theory or scholarship about effective models. He suggests that the teachers may be self conscious about revealing their own values and failing to look neutral to the students. He speculates that some clinicians fail to see themselves as “teachers” because they still see themselves as practitioners. Finally, from the examples, the teachers evidently are simply afraid to deal with either their own feelings or the students’ feelings.

A problem appears to exist whether the problem is diagnosed as “co-dependency,” “incongruence,” or use of a “persuasive mode.” The teaching of evaluation skills can begin to eliminate some of the problem because it would force the incorporation of what Condlin calls the “learning mode.” The evaluation process requires clarification and information gathering about the performers’ behavior or statements, allows owning up about both intellectual and emotional issues, and fosters testing where the performer can elicit and assess reactions. Rather than the unproductive and sometimes unhealthy co-dependence, the evaluation process fosters healthy interdependence between the teacher and the performer because the performer is given responsibility for examining his or her own work. Self evaluation is information gathering or additive because it relies on the performer’s insights rather than the dictates of the teacher. The evaluation process can become less competitive when the performer participates and the student is taught to be more self-reflective rather than “self-sealing.” When the skills teacher has chosen to teach the skill of evaluation,

34. Id. at 273-74.  
35. Id. at 280.  
36. Id. at 281.  
37. Id. at 277.
the components of the skill must be examined and articulated so some of the dynamics of hidden agendas, which Condlin identified, would be eliminated. Finally, the independent learning process can be fostered by eliminating the incongruence between what the teachers say and what they do as illustrated by respecting the students ability to evaluate and critique.

Professor Barnhizer suggests that a critical component of the clinical methodology is to create "the clear assumption by the individual student of 'primary' professional responsibility for the process and outcome of that representation." The students can confront their "own professional behavior and reaction to responsibility" only if they are primarily responsible. One way supervisors can reinforce our expectations of responsibility is to allow students to critique themselves and others. This is an excellent forum for respecting the concept that they are mature and responsible, because the students have access to information about their own performances that a supervisor or outside observer will never have.

Educators have recognized that adults learn differently than children. Malcolm S. Knowles first applied the term "andragogy" to the study of helping adults to learn. Frank S. Bloch examined the application of the basic assumptions of andragogy to the clinical education in his article. He explained the four basic assumptions about andragogy:

1. Adult's self concept: Adults view themselves differently than children because they expect to make their own decisions, control their own lives, and live with the results of their actions. Children expect to have an adult's will imposed on them.
2. The role of experience: Adults get more from each experience than children because they have had more experiences that are more diverse than children's. Their experiences become a part of them and are incorporated into their information base more quickly than

38. Id. at 283.
41. Kreiling, supra note 8, at 297 n.42 (explaining why students should not be left entirely alone in this process).
children.
3. Readiness to learn: People have a heightened readiness to learn if they are in a developmental state where they will use the information. As roles develop, the person is more receptive to learning the useful information. For adults, the learning must be timed to the role development.
4. Orientation to learning: Adults want to apply learning immediately, while children see information as useful in the future. Adults learn because of current pressures.44

Bloch summarizes the implication of andragogical assumptions in declining order of importance as:
1. Learning should be through mutual inquiry by teacher and student (adults' self-concept as self-directing);
2. emphasis should be on active, experiential learning (role of experience in adult learning);
3. learning should relate to concurrent changes in the students social roles (readiness to learn); and
4. learning should be presented in the context of problems that students are likely to face (orientation to learning).45

Bloch’s interpretation of the implications of andragogy provide insight into why it is important to make explicit that we are teaching the skill of evaluation. First, as adult learners, the students should be ready for “mutual inquiry” into whether their theories of action are appropriate and effectively executed. Students’ resistance to supervisor-only feedback is a reflection of this need to be treated like an adult learner who has insights into their own activities. Second, the students will learn more if they are involved in doing evaluation of themselves and others. If they only listen to a supervisor giving feedback, we do not take advantage of the role part experience plays for their learning. Third, the students in the skills program clearly are ready to learn this skill as they adopt the roles of practicing lawyers. Finally, the skills program provides an immediate environment for the student to apply the newly learned skill.46

44. Id. at 328-29.
45. Id. at 333-34.
46. One clinician notes that when responsibility is shifted to the students, the unfamiliarity with responsibility may result in confusion, anger, resistance and hostility, but the amount of learning is heightened. Id at 339-40. Obviously students are at various stages of maturity and some seem to want to learn like children. When a young college graduate enters law school, their confidence is shattered by the newness of the material and the learning style so they become like children again. Their resistance to adult learning methods may be a product of the law schools own making.
Even if supervisors reject the behavioralist analysis as being too “touchy-feely,” the demands of time and clinic dollars require that the students become more independent. In his talk at the AALS Clinical Section Meeting in Boulder, Colorado, in May 1986, Professor Anthony Amsterdam called upon the skills teachers to reevaluate, on an individual basis, how they spend their time with students.\textsuperscript{47} He challenged teachers to ask whether they use their time as efficiently and as effectively as possible. Do they spend time critiquing students’ performances when they are capable of doing some of the self-evaluation themselves? Obviously, students have insights we do not have. An experienced supervisor can assist the student in learning to critique in the same way supervisors teach other skills.\textsuperscript{48} However, an admission that supervisors want the students to be independent and a recognition of their individual insights mandate that supervisors give students this skill and responsibility. The question becomes what is the role of the supervisor.

C. The Skill of Evaluation Will Reinforce the Applicability of the Theories of Lawyering Skills and Lawyering Process

Skills training has developed far beyond the early days when students were thrown into situations and expected to learn by survival. Supervisors in most settings articulate expectations, theories, techniques, etc. that they expect the students to incorporate.\textsuperscript{49} In simulated skills courses and the classroom components of live client clinics, supervisors and faculty members are teaching students how to effectively execute various professional functions.\textsuperscript{50} Books and articles have been written on these subjects.\textsuperscript{51} Videotapes have been produced illustrating how experts would actually perform.\textsuperscript{52} In sum, numerous

\begin{itemize}
  \item 47. A. Amsterdam, Comments to AALS Clinical Section Workshop, May 1986, Boulder, Colorado. See also Kreiling, supra note 8, at 306 (noting limitations on resources and advocates can be overcome by “utilizing pedagogically sound and efficient practices”).
  \item 48. See infra notes 55-74 and accompanying text (discussing methods to assist the student to learn to critique).
  \item 49. Barnhizer, Clinical Method, supra note 39, at 70 (discussing development of clinical education or methodology).
  \item 50. See Descriptions of Professional Skills Courses and Programs, supra note 1, at 18, n.3.
  \item 52. See Hullverson & Wagner, Art of Advocacy Skill in Action Series: Jury Selection (Matthew Bender & Co., 1981); Carlson, Expert Witness and Opinion Testimony
\end{itemize}
resources exist on which supervisors can rely and the students understand the components of a certain, lawyering function. Yet the students see much of what is taught as pure cerebral theory that has no application to what they will do when they are out of the school setting.

Barnhizer describes how he divided his clinical program into the initial phase of non-clinical academic learning and then the clinical stage. The division gives the students a preview of what is to come: participation in the introductory course is intended to develop in the students a cognitive structure or framework for the experiences they will have in the actual clinical quarters. This cognitive framework enables them more readily to perceive the relevance of the experiences they are having and to fit each of these experiences into a conception of the overall process, rather than see them as a series of isolated or unrelated events. This ‘learned sense of the significant’ permits the student to gain the greatest amount of understanding... 53

Whether the program is formally divided as described by Barnhizer, designed so that the theory and practice are taught in a concurrent seminar, or structured with individualized tutoring and no classroom component, Barnhizer’s theory of learning is taking place. The students are thinking and planning with some theory in mind to facilitate the purpose and direction of the work. Barnhizer does not go far enough, however, because the “learned sense of the significant” should be reinforced in the follow up activity that constitutes evaluation. If the students are learning the skill of evaluation and understand how it incorporates the theory they have learned, the significance is heightened even further.

For example, in the classroom component of a live client clinic, or in the simulation course that is the prerequisite for the live client clinic, the students read and discuss Binder and Price’s three steps for an initial client interview. 54 The students may be involved in some in-class simulated exercises which illustrate how to apply Binder and Price’s techniques. The student then faces his or her first “client,” either real or simulated, and conducts an interview. Unless the student is asked for a self-critique or evaluation that uses the language of the Binder and Price, the theory remains an abstraction. If the

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student has read Bellow and Moulton on negotiation, the self-evaluation of him or herself and the other attorney should be in the language of the text. Even if the supervisor’s instructions to the student are based on the supervisor’s experience, certain “theory” is given that students will discount as academic or applicable only to the school based experiences. Again, if the self-evaluation and evaluation of others is based on the instructions given, the theory is absorbed as applicable and the “learned sense of the significant” is reinforced.

D. Explicitly Teaching Evaluation Skills Will Facilitate Critiquing and Grading the Students

Skills teachers sometimes find it difficult to effectively critique students because the supervisors are not entirely sure how to conduct the critique, because the students may be unreceptive to the critique, because the students’ defense mechanisms make critiquing a struggle, or because time constrains the critiquing process. For example, after the judge rules that custody is given to the opposing party, supervisors sometimes find it hard to explain to the heartbroken student the strengths and weaknesses. The student who views himself or herself as a compassionate person who has conducted his or her first mock interview may not be receptive to the news that controlling, paternalistic behavior is inappropriate in an attorney/client relationship. Finally, when the negotiations break down the day before the hearing, the supervisor may not take the time to analyze the student’s performance.

If the skill of evaluation is an explicit goal of the course, evaluation takes on a different light and the critiquing job of the supervisor becomes easier. At the outset, if the supervisor had laid out a system of how critiques will be conducted, even the student who is in an emotionally delicate condition will expect the critique. A system should be in place, and the process should be routine. Moreover, if the student is responsible for conducting the self-evaluation and

56. See, e.g., Barnhizer, Clinical Method, supra note 39, at 104-07 (discussing the development and complexities of the clinical student and teacher relationship). Id. at 133 (discussing the problems of the critiquing supervisor).
57. Kreiling explains that the success of feedback is dependent upon “the quality of the feedback provided and the receptiveness of the student to the feedback.” Kreiling, supra note 8, at 297.
evaluation of the others involved, the process can be very healing.

The student who is hostile to being supervised or at a lesser extreme, disinterested in feedback, should find a self-evaluation process easier to accept.\textsuperscript{58} If the students are told at the outset of the course that evaluation is one of the skills they will be expected to master as part of the course and the reasons they are expected to master this skill, these students will recognize the process as part of the bigger picture. Evaluation will be the students’ job and the supervisor will be training them in how to effectively execute this function just like the supervisors are training them to do an effective closing argument. The evaluation process will become more relevant to the student.\textsuperscript{59}

Because the value of feedback is affected by timing, the evaluation system that is created should be simple enough so that it may be used even in rushed or stressful times. Even if a hearing is pending, a client has immediate needs, or a simulated exercise is turned in minutes before class, the idea that the skill of evaluation is an articulated part of the program will help insure the important step in the learning process is not lost.

In addition to helping supervisors give feedback, teaching the skill of evaluation will help supervisors in grading. Whether to grade skills courses or not continues to be an issue. Evaluation skills can help in determining grades and provide a vehicle for equalizing some of the imbalances when quantities of cases, qualities of performance, and various levels of student commitment make grading so difficult. For example, the student who neglects to prepare for the case but somehow blunders through and “wins” feels they deserve a high grade. The supervisor may feel exasperated at the student’s lack of preparation and not want to reinforce the simplistic, lazy approach the student took by giving him or her a high grade. In contrast, the student who works hard but cannot quite execute the good planning may also deserve some positive reinforcement by the grading system. A follow-up evaluation that reflects that the student understood what happened creates another dimension to the experience which could facilitate a “fair” result. An inability to articulate what was learned could reduce the grade and vice-versa.

\textsuperscript{58} \textit{See} Burg, \textit{Clinic in the Classroom}, 37 J. LEGAL EDUC. 232, 248 (1987) ("majority of students I have supervised over the years have come to their clinical work with only the barest understanding of what lawyering entails, little inclination toward self-reflection . . .").

\textsuperscript{59} \textit{Kreiling, supra} note 8, at 297.
II. WHAT CONSTITUTES GOOD EVALUATION SKILLS?

The reasons for making evaluation an explicit goal suggest what constitute the components of the skill. Most experienced teachers will recognize the steps that constitute an effective critique, but it is necessary to articulate them in order to teach them to the students. The steps must be articulated because, as Kreiling points out, "[a] related problem for the clinical education supervisor is that his ability to teach is severely and hopelessly impaired until he, too, has made his 'theories of action' explicit."60 As with other skills that supervisors teach, written out with rationales, the steps and the process begin to look complex. Nevertheless, as with other skills, the more the process is used, the more natural it becomes.

At the beginning of the skills class, the students should be told that every time they execute a task, they will be asked to complete a self-evaluation. If another lawyer was present, the student will be asked to assess the other lawyer's performance. Students should understand that the skill of evaluation is one of the skills they are learning in the course. Rather than simply critiquing and evaluating the students, the students must understand that evaluation is something that they need to be learning. Consequently, the instructor must make clear what the steps of the critique will be.61

For this section of the article, the term "performer" will be used for the student or lawyer who executes the skill. "Critiquer" will be used for the supervisor, student, or lawyer who is doing the evaluation. Obviously, in self-evaluation situations, the "performer" and "critiquer" are one in the same person.

A. Step 1: Focus the Evaluation

Performers can absorb a limited amount of information and change a small part of their behavior after a performance. Consequently, the critiquer should focus on only a small number of issues for each evaluation. The supervisor's introduction to evaluation for the students should make clear that although numerous activities and dynamics make up everything they will be learning, a focused evaluation

60. Kreiling, supra note 8, at 291 n.26.
process is most effective. Therefore, the first step of the critique is to identify what the focus will be. To illustrate, after an initial interview, the performer could assess probing skills, developing rapport, problem identification, body language, or any other number of areas. The evaluation should focus on one or two areas.

B. Step 2: Identify Goals

The next step is to find out what the performer intended to accomplish. Otherwise, the critiquer may base the evaluation on faulty assumptions about what the performer was trying to do. For example, after observing a negotiation, the critiquer may intend to criticize the performer for being too conciliatory with the opponent. However, the performer may have intended to use the negotiation as a form of discovery so the criticism would be misplaced.

Kreiling gives an excellent explanation of how students can learn from the gap between what they planned to do and what happened. He explains:

By systematically articulating his proposed "theory of actions" in a given situation, taking action, and then comparing the actual results with the expected results, he will be faced with the ineffectiveness of his professional behavior. This juxtaposition of theory and fact and the identification of inconsistencies among components of the theory should under appropriate circumstances, provide motivation to modify one's 'theories of action' and promote more effective professional behavior.63

62. Usually this will be a very specific skill or goal. Cf. Cahn & Sammons, Clinical Legal Education from a System's Perspective, 29 CLEV. ST. L. REV. 451 (1980); Cort, AALS Clinical Legal Education Panel: Evaluation and Assessment of Student Performance in a Clinical Setting, 29 CLEV. ST. L. REV. 603 (1980). H. Russell Cort describes the process the Competency-Based Task Force went through in developing the "lawyers functions" which became the basis for the program at Antioch Law School. Rather than looking at the students' activities through a task orientation, they decided to categorize the activities as "functions" which they called "general competencies": oral communication, written communication, legal analysis, problem solving, professional responsibility and practice management. They delineated "specific competencies" which were the skills or abilities needed to perform the general competencies. Jack L. Sammon's description of the "diagnosis" which incorporates the system described by Cahn might provide an alternative approach to the task system described here. Cahn & Sammonds, supra at 606-10. Regardless of what "tasks" or "goals" are used, the point of this article is it should be made explicit to the students and include them in the process.

63. Kreiling, supra note 8, at 291-95. Kreiling's article is an excellent description of the process advocated here. He lays out a diagram that shows the process of learning from experience where the actor goes through the following steps: (1) Articulates the espoused theory which is followed by (2) action which leads to (3) concrete behavior which is subjected to (4) observation, recordation, and reflection which reveals (5) the theory in use which exposes (6)
C. Step 3: Identify Responsibility

The next two steps are to determine what happened and why: what was the cause and effect? Here, the critiquer must be able to distinguish between that for which the performer was responsible and that which was the consequence of forces outside the performer's control. An obvious example is the eviction hearing for which the student dutifully planned and prepared the client. The client arrives drunk and behaves confused on the stand. The client's drunkenness is clearly outside the performer's control; whereas the decisions on whether and how to proceed were within the performer's discretion. An inexperienced student doing a self-evaluation will focus on the client's behavior rather than on his or her own response.

In the hypothetical of the performer who chose to be a conciliatory negotiator to gather information, if the critiquer suggests a successful performance simply because the performer found out information "xyz," the critiquer has failed. Was the performer responsible for getting the information? Were there any dynamics in the situation that allowed the performer to accomplish the goal without being the one responsible for its accomplishment? For example, was the opponent also attempting discovery and therefore volunteered information in an attempt to create a cooperative atmosphere? The performer can take credit for not cutting off the volunteering of information, but should recognize what made his or her task easier. In contrast, the performer who turned a confrontational, hostile opponent into a cooperative provider of information should examine what in his or her performance caused success.

44. See, e.g., Vetri, Educating the Lawyer: Clinical Experience as an Integral Part of Legal Education, 50 OR. L. REV. 57, 68 (1970) (law students must learn to be objective in relationship with client).

45. See Burg, Clinic in the Classroom, 37 J. LEGAL EDUC. 232, 248 (1987) ("majority of students I have supervised over the years have come to their clinical work with only the barest understanding of what lawyering entails, little inclination toward self-reflection... ").

46. Most supervisors are aware of the obvious situation where expectations of control of a situation are obvious, such as telling a 5'1" person they should be taller in order to have more presence in the courtroom. Where they stand, how they dress, etc., can be controlled and therefore modified. In teaching the skills of evaluation, supervisors must be sensitive to the times when the situation is analogous to expecting someone to be taller. Are supervisors trying to train the students to be a reflection of themselves that is not necessary? Are supervisors forcing students to try and change behavior which is really unchangeable and maybe even valuable to that student?
D. **Step 4: Articulate Specific Components of Theory**

Once the goals have been identified, and the cause and effect clarified, the next step is to articulate the components of the lawyering function in terms of the theory which was taught in the program. To illustrate: The performer conducting the initial interview states a goal of wanting to find out the detail of the client's story. Observation and discussion have revealed that the performer failed to get dates. The client had trouble remembering dates so it was partly the client's initial response that prevented the performer from accomplishing the stated goal. Assuming the performer had been introduced to the Binder and Price concept of the T-funnel questioning pattern and facilitators, the critiquer would discuss in what ways the performer either effectively or ineffectively asked probing questions with specific reference to the theory. As discussed above, using the terminology of the theory reinforces its usefulness.

This reference to theory facilitates a critically important component of good feedback which is referring to specific, observable behavior rather than just giving judgments. This is crucial because it makes the performer more receptive to the feedback, limits the control of the critiquer, and minimizes the dependence of the performer. The performer and the critiquer can both agree on the behavior that has occurred so the performer reacts in a less hostile way.

During some critiques, the order of determining the components of the skill and the responsibility for results may be switched around. Supervisors must remember to specifically articulate responsibility because otherwise the performer who is learning the skill of evaluation will slip back into rationalizing. Natural defense mechanisms cause people to place blame on outside forces. Honesty in assignment of responsibility is critical in learning evaluation.

E. **Step 5: Articulate a New "Theory of Action"**

The closure of the effective assessment should be a statement of specific behaviors or activities that the performer wants to discard
The performer must evaluate whether the theory that was learned which provided the basis for the plan of action was useful. At this stage, the value of teaching evaluation as a means to reinforce assimilation of skills theory becomes apparent. It is not enough that the student can articulate the "facilitators" that Binder and Price identify in their book. The performer should be able to use facilitators and recognize them. Further, by evaluation, the student can see whether they make sense under certain circumstances to this particular performer.

F. Step 6: Confirmation

Finally, if the performer and the critiquer are not the same person, the performer should be asked to repeat the conclusion to confirm there has been effective communication.

The process of focusing the evaluation, determining the goals, assigning responsibility, applying the components of the theory, and closing with specific behavior modification depends on the simplicity or complexity of the situation. Like the other skills that are taught, evaluation is a matter of recognizing the process and practicing it. The final section of this Article will suggest some techniques for teaching the skill of evaluation under a variety of settings.

III. Techniques for Teaching the Skill of Evaluation

The techniques used by teachers to teach other skills can be applied to teaching evaluation skills: reading, observing, discussion, simulated practice and live practice, etc. The skill of evaluation should be

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72. *Id.* at 293 n.33.
73. *See* Binder & Price *Interviewing and Counseling* 14-19 (1977) (Students must employ "facilitators" to encourage clients to communicate). The facilitators identified by Binder & Price are empathy, understanding, judgment of expectations, recognition, altruistic appeals and extrinsic rewards. *Id.*
74. Kreiling notes that supervisors want to teach our students a certain degree of skepticism when they expose students to various theories. See, Kreiling, *supra* note 8, at 310. The skill of evaluation will reinforce this goal of teaching the students to critically examine the theory we teach.
75. *Kreiling, supra* note 8, at 299.
76. *See, e.g.*, Redlich, *Lawyer Skills Can Be Taught*, 3 Learning and the Law, No. 2,
used throughout the program by both the supervisors and the students. Consequently, teachers are continuously called upon to act as role models who have mastered the art of evaluation.

A wide range of teaching techniques are available in the skills setting. As a way of illustrating techniques for teaching self-evaluation, I will describe a curriculum I developed at Northern Illinois University College of Law. The program included a one semester, graded simulation pretrial skills course that had a limited enrollment of twenty-four students. The students who had participated in the simulation course were eligible to enroll in a live client externship during the spring semester. The enrollment in the externship was limited to twelve students.

The goals of simulated pretrial skills course at Northern were to teach the components of the skills involved in self-evaluation, interviewing, counseling, fact development, theory of the case development and negotiation. The students were also given an introduction to alternative dispute resolution mechanisms, but no skills were taught in these areas. Sensitizing the students to developing a personal and professional set of values was also an underlying theme in the course. The students were told at the outset that they were going to be learning to evaluate themselves and those around them for the purpose of being able to continue to grow and learn after they left law school.

The general pattern throughout the semester was to read some literature on a particular skill. For example, the students were assigned to read Binder & Price, Legal Interviewing and Counseling before the section on interviewing. We would have a class discussion on the techniques the literature suggested. The next class would be used for either watching videotapes which elicited more discussion on the theory or, depending on time and the complexity of the skills, we would move right into short in-class simulated exercises. The students would then do simulated exercises outside of class that they videotaped for individual critique.

During the in-class simulations, several students would be told that they would be expected to do the evaluation before I gave feedback. I would frequently open the discussion to other students who wanted

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77. See, e.g., Barnhizer, Clinical Method, supra note 39, at 109.
to participate in the evaluation, but the designation of a few students ensured a better critique. The performers were first asked to articulate what they were trying to accomplish and explain whether they thought they were successful and why. Then, the designated students were each allowed to give feedback on one or two areas. Depending on time and the quality of the initial evaluations, other students would be allowed to voice their views. Finally, I would try to synthesize what the students had said and would add other areas only if it seemed crucial. The performer would be asked to discuss whether he or she would change their “theory of action” for future planning.78

Another step in the process that could have been added, but was consciously omitted, would have been to have the students evaluate the evaluations. Partially because of limited class time, and partially because I did not want to lose the main thread of the class, I did not specifically critique their evaluations after the in-class simulations. I did ask them follow-up questions after their comments that forced them to think about detail and the application of theory. For example, if the comment was the student did a good job getting the details, I would ask them why? Could they recognize any facilitators that Binder and Price articulate in the book? Which ones? Give specific examples, etc.

The next opportunity to work with the students on evaluation arose as the students did their simulated videotaping exercises. The students were asked to prepare a short written plan for each project. This helped them identify what they were trying to accomplish and served as the first step of the evaluation as laid out above.

The form of the post-tape evaluation evolved over the semester with the goal of making the students more independent. For the first exercise, I developed a form evaluation that each student was expected to complete immediately after reviewing their tape. The form asked questions that reflected our discussion of Binder and Price; it asked them the general question of whether they were successful at performing a specific function, why or why not, and asked for specific examples. The implication was they should replicate what they perceived to be effective. An improvement on the form would be to ask them to specifically state a new theory of action.79

78. I had not read Kreiling’s piece when I taught this course but I now realize the questions I posed to the students were to accomplish what Kreiling calls redeveloping the “theory of action.” Kreiling, supra note 8, at 298-300.

79. This is clearly a controlling way to perform the evaluation process and it could be
For each of these videotaped exercises, I gave very detailed, written instructions with the steps to follow summarized at the end. For example, students were told that immediately after completing the negotiation exercise, they should first review their self-evaluation form. They should then watch the videotape and complete the self-evaluation. The form was turned in to me for review before I met with the students to have an individualized critique of their tapes.

I would then meet with the students individually and the first part of my critique would be on the quality of their evaluation. This course was graded, rather than pass/fail, and the students knew that a portion of their grade would be based on the quality of their self-evaluation. More detail and insight would raise the grade and superficiality could lower it. Since evaluation was a specific agenda in the course, I could adjust grades of students who performed well but who had no idea why and would not therefore be able to necessarily replicate the performance. In contrast, the student who was really struggling in the performance but clearly working hard on trying to understand the concepts and their own behavior could be rewarded.

As the semester progressed, I tried to give the students more responsibility for forming their own evaluations. For the negotiation exercise, students were asked to create their own evaluation that reflected our class discussion. They then evaluated themselves and their opponent. I met with each pair for my review of their tapes and their evaluations.

One year, and I think this was a good exercise, the final project was a taped exercise, a part of which was to create and complete a self-evaluation. I did not meet with them after the final exercise because of the school's schedule, but I graded the videotape and their evaluation. The final exercise grade was heavily weighted in the overall grade of the course and the quality of the evaluation was a critical component of the final exercise grade.

The simulation course was offered in the fall semester and a number of the students followed through with the externship program during the spring semester. The externs were all placed under the supervision of individual supervisors in various legal services offices.

criticized for having the failings of the "persuasion mode." Condlin, Socrates' New Clothes: Substituting Persuasion for Learning in Clinical Practice Instruction, 40 Md. L. Rev. 223, 223 (1981) Yet, Condlin explains that these are not necessarily mutually exclusive modes of teaching and there are times that either the persuasion mode or the learning mode are most appropriate. Id.

80. See Condlin, supra note 26, at 235 (discussing the "Learning Mode").
The students were expected to attend the classroom component that I taught which met for two hours once a week. I also met with the student on an individual basis periodically throughout the semester and got written evaluations from the field supervisors in the middle and at the end of the semester.

I tried to follow up the evaluation training that had occurred in the simulation course during the externship. The students who took the externship became more adept at the skill and integrated evaluation into their routine lawyering behavior. I asked the students to submit a weekly journal where they isolated some aspect of their experience and went through the evaluation steps we had practiced during the first semester. The students' willingness and thoroughness at this task varied greatly. Unlike the simulation course, the externship was pass/fail and I had little leverage to force a higher level of work. The students correctly guessed that I would not flunk someone for failing to be conscientious about their journal.

In any event, during the individual conferences, I conducted discussions along the same evaluation lines as I had during the fall semester. A student would say they had a hearing and the other side did a great closing argument. Why was it great? She was able to make it sound simple and clear so the judge could understand? Why was she able to make it simple and clear? I don't really know. In the opening she told the judge she would prove 1, 2, 3 and in her closing she showed how she had provided 1, 2, and 3. What else did she do . . . ? Another example is the student who has seen his first "real" client and feels like he developed rapport. How? Why? Did he or she use any of the techniques from first semester? Which? Give me examples? Would you do it again?

The classroom component covered a variety of topics but we periodically did "case rounds." I would be responsive if a student had an immediate need to discuss a particular event, but generally the case rounds had a focus. I made clear that I expected the evaluations and self-evaluations to follow the format we had previously used. This reinforced the use of the skill and made the

81. Northern Illinois University is located in DeKalb, Illinois which is a rural college town 60 miles west of Chicago. There was no legal services office in the town but we were fortunate that the regional legal services program, Prairie State Legal Services, was willing to not only cooperate with the school by providing positions and staff but also made a real commitment to the development and implementation of the program. I would like to take this opportunity to thank the people at Prairie State who made the externship so successful.

This externship focused on civil placements. An externship that focused on criminal cases was simultaneously offered by another faculty member.
discussion more useful. For example, we would focus on counseling or decision making with clients. The feedback or self-critique would focus on what options were given. What had the student tried to accomplish? How did the discussion go? For what was the student responsible and what was going on with the client or outside circumstances that affected the dynamics? Which of the techniques we discussed from *Binder and Price* did they try? Were they effective? Why or why not? What specifically would you try again or discard?

This sounds familiar to anyone who has conducted case rounds in a skills setting. The difference is the articulated goal of having the students recognize the process as a skill they should be learning rather than something someone was doing to them. Further, evaluation was something valuable they would continue to do in the future after they leave school. A good follow-up would be to use some of the class time to discuss the quality of the evaluation: as in the NITA teachers training, critiquing the critiquer.

The final attempt at continuity with the evaluation skill in the externship was to articulate to the field supervisors the components of the skill that the students had been taught and request they adopt that style. Our field supervisors were not paid and participated in the program as volunteers. Consequently, I tried to coordinate them in the most diplomatic way possible. We met before the semester to organize our efforts. Because of the training which exists within legal services, many of the supervisors were experienced in giving feedback and were happy to attempt to accommodate the students educational needs by trying to follow my suggestions. Realistically, the field supervisors first responsibility is to the client and the time pressures are even greater. There are benefits to externships, but the faculty member of the law school must be realistic about what can be expected.82

For the past year, I have taught the skill of evaluation in the context of a one semester live client clinic at Washburn School of Law. In addition to representing clients, the students participate in a two-hour class throughout the semester. In one of the first classes, I introduce the elements of the skill of evaluation and we practice the skill by assessing in class interview exercises. Thereafter, I make a conscientious effort to have the students evaluate each of their activities. I find the students expect to be asked for an assessment

and become more skilled as the semester continues. Evaluation provides me with assurance the students are "learning" and not simply surviving through the semester.

CONCLUSION

In 1977 when Binder and Price wrote their book *Legal Interviewing and Counseling*, they simply organized and articulated what many skills teachers and practicing lawyers already knew about what made up the components of effective client interviews and counseling sessions. The skills were articulated and their value became apparent. In this Article, I suggest that skills teachers should organize and make articulate the components of effective evaluation so that the information can be communicated to their students. I began this Article by explaining the value of making this implicit activity explicit to students. It makes them lifetime learners, gives them independent responsibility for their own learning, helps them apply theory to reality, and facilitates the grading and feedback process.

The evaluation system I ultimately suggest; focusing a critique, articulating goals, determining responsibility, relating the feedback to specific activities, using the previously articulated theoretical language, and concluding with well communicated theories of action is a system that has proven to work. Others use a different definition of activities and would explain their critiquing system in a different way. Whatever system is used, articulating its components will have value for the instructor who must think about what he or she is doing and for the student who will learn an important skill.