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# THE STAGES OF THE CLINICAL SUPERVISORY RELATIONSHIP

PETER TOLL HOFFMAN\*

Clinical education is an established fact in legal education today, despite continuing battles in individual schools over the size and budget of the clinical curriculum and the status of clinical teachers.<sup>1</sup> Because of increasing pressure from students, the Bar, and faculty committed to the creation and maintenance of clinical courses, law schools have responded by labeling a widely diverse body of courses as falling under that heading. Many of these courses bear only scant resemblance to the service-oriented, live, poverty law clinics that were once the model for clinical programs.<sup>2</sup> While no attempt will be made here to call for renewed purity in what will pass for clinical education, a characteristic common to those courses categorized as clinical is the experiential basis of the learning process. Students in these courses assume the role of a lawyer, and study and learn from this role.<sup>3</sup>

At a distressingly large number of schools, the process of clinical education goes largely unsupervised. But at a majority of schools, and certainly at those with programs recognized as exemplary, individualized supervision of student work is an integral part of clinical teaching.

Supervision is at the core of effective clinical teaching.<sup>4</sup> It is through

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<sup>1</sup> The last *Survey and Directory of Clinical Legal Education* (CLEPR 1979) published, the 1978-79 edition, lists an astonishing number and variety of clinical courses being offered in law schools across the country. The debates surrounding the proposed adoption of American Bar Association Accreditation Standard 405(e) recommending mandate tenure-like employment contracts for clinical teachers shows that while clinical education may be established, it is not necessarily accepted.

<sup>2</sup> See, e.g., the descriptions of clinical programs contained in Council on Legal Education for Professional Responsibility, *Newsletters*, Vol. I through Vol. XI (1969-79).

<sup>3</sup> Considerable disagreement exists as to the definition of clinical education. One view is that clinical education is a method of teaching a subject matter loosely grouped under skills training and professional responsibility. This is the definition adopted by Guideline I.A. of the Association of American Law Schools—American Bar Association Committee on Guidelines for Clinical legal Education, *Guidelines for Clinical Legal Education* (1980). This Guidelines treats clinical education as both a teaching method, placing students in the role of a lawyer, and a subject matter. The major competing view is that of clinical education as a pedagogical methodology, based on students' assumption of the role of a lawyer, available for the teaching of a variety of subject matters. Bellow, *On Teaching the Teachers: Some Preliminary Reflections on Clinical Education as Methodology*, Council on Legal Education for Professional Responsibility, *CLINICAL EDUCATION FOR THE LAW STUDENT* 374, 379 (1973). See generally, Bloch, *The Andragogical Basis of Clinical Legal Education*, 35 *VAND. L. REV.* 321, 321-25 (1982).

<sup>4</sup> See Guidelines I.O., at 14, Association of American Law Schools—American Bar Association Committee on Guidelines for Clinical Legal Education, *Guidelines for Clinical Legal Education*

supervision that the clinical teacher responds to the individualized learning needs of the students and the requirements of the cases. Despite the recognized importance of supervision in the success of clinical education, we know very little about what is effective supervision, what are the characteristics of the effective supervisor, or how the supervisory process can be improved.

The difficulty in answering these questions is that the dynamics of supervision and of the supervisory relationship elude precise definition. Supervision varies not only in the types of encounters that may take place between teacher and student, but also in the types of teaching that may occur in the encounters. The form of the encounter may range from a spontaneous, brief meeting where the teacher answers a question about a case, to a formal, structured conference where the student's cases and actions are explored in depth. During the encounter the supervisor employs a variety of teaching methods: the student and supervisor may engage in a discussion of a case (dialectic teaching); the supervisor may provide information to the student (didactic teaching); the supervisory may evaluate the student's lawyering skills (evaluation); the supervisor may demonstrate the method of performing a lawyering task (demonstration); or the supervisor may use a combination of some or all of these teaching methods. Further, the mix of teaching methods used may vary during the course of the supervisory relationship with, for instance, an emphasis on didactic teaching in the beginning of the course to dialectic teaching at the end. While wide variations in the form and content of the supervisory relationship may be desirable, they make the question of what is effective supervision very difficult to answer.<sup>5</sup>

The supervisory relationship also varies through time. What may be effective supervision at one point may result in undesirable learning consequences at a later point. A close, structured form of supervision at the beginning of the course may, for instance, become stifling and overly restrictive by the end of the semester. Similarly, while a particular teacher's supervisory style may elicit enthusiastic involvement in the learning process from some students, it may repel other students. What makes one teacher an effective agent for bringing about desirable learning and another a failure is a difficult issue to resolve.<sup>6</sup>

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(1980); Smith, *Offering Poor Clients the General Motors Treatment*, 3 LEARNING & L., Summer 1976, at 38, 78; Grossman, *Clinical Legal Education: History and Diagnosis*, 26 J. LEGAL EDUC. 162, 186 (1974).

<sup>5</sup> The author has attempted to answer the question of what is effective supervision in Hoffman, *Clinical Course Design and the Supervisory Process*, 1982 ARIZ. ST. L. J. 277. In the article it is argued that different teaching devices, e.g., lecture, discussion, have different pedagogical outcomes.

<sup>6</sup> For information on the effects of differences in cognitive learning styles and their interaction with teaching methodologies, see S. Messick, *Individuality in Learning* (1976); DeNike, *An Explora-*

Despite the barriers just erected, I will present some tentative thoughts about one aspect of these questions. How should the supervisory relationship between student and teacher change over time? A model for the progression through which the supervisor and student move during the sequence of a clinical course is offered. The model is presented in terms of learning stages through which students pass. At the outset let me note that there will be far less that unanimous agreement among clinical teachers about the correctness of the views presented. If nothing else, clinical teachers cannot be accused of conformity of thought.

The mutual nature of learning causes the relationship between student and teacher to be constantly changing. The changes in the relationship reflect not only the student's increasing knowledge and understanding of the process of learning, but also the teacher's adaptation of his or her supervisory techniques to the changing needs of the student.

### I. BEGINNING STAGE

In a typical clinical course, the beginning student is thrust into a new and bewildering experience. Even if the student has previously clerked or taken a clinical preparatory course, he or she is usually emotionally and intellectually unprepared for the entirely new role of student-lawyer. Not surprisingly, the average student feels overwhelmed by this experience.<sup>7</sup>

In the initial stages of their clinical experience, students possess only limited lawyering skills and minimal knowledge of substantive and procedural law. As a result, students are often unsure about their capabilities and are frequently intimidated by the tasks that confront them.<sup>8</sup>

Functioning as a lawyer requires not only knowledge of the substan-

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*tory Study of the Relationship of Educational Cognitive Style to Learning from Simulation Games*, 7 SIMULATION & GAMES 65 (1976); H. Knope & N. Diekelmann, *Approaches to Teaching in the Health Sciences*, Ch. 4 (1978); Tallmadge & Shearer, *Interactive Relationships Among Learner Characteristics, Types of Learning, Instructional Methods and Subject Matter Variables*, 62 J. ED. PSYCH. 31 (1971). See also Miller, *Personality Differences and Student Survival in Law School*, 19 J. LEG. EDUC. 460 (1967).

<sup>7</sup> It is often helpful to articulate for the students the anxieties they are experiencing and reassure them that these feelings are normal and to be expected.

<sup>8</sup> R. Condlin, *More Notes on a Theory of Fieldwork Instruction* 5 (unpublished LL.M. thesis, Harvard Law School); Rosenblatt & Mayer, *Objectionable Supervisory Styles: Students' Views*, 20 *Social Work* 184, 185-86 (1975); Mayer & Rosenblatt, *Sources of Stress Among Student Practitioners in Social Work: A Sociological View*, 10 J. OF ED. FOR SOCIAL WORK, No. 3, 56 (1974). Anxiety may also serve as an incentive to learning. Bellow, *supra* note 3; L. Austin, *Supervision in Social Work*, in *Social Work Yearbook* 579, 582 (R. Kurtz ed. 1960); DeBell, *A Critical Digest of the Literature on Psychoanalytic Supervision*, 11 J. OF AMER. PSYCHOANALYTIC ASSOC. 545, 547-48 (1963). However, when anxiety becomes too great, the student becomes emotionally immobilized and energy

tive and procedural rules applicable in the legal system and in the particular type of practice in which the lawyer is operating, but also knowledge of how to apply these rules. In addition, the lawyer must possess a panoply of lawyering skills, such as the ability to interview and counsel clients, engage in factual investigation, negotiate, draft pleadings and documents, develop case strategies, and present cases in court. While traditional legal education ably teaches rules and analysis, most courses ignore the practical application of the rules.<sup>9</sup>

As a result, in the initial stages of a clinical course, most students do not possess the knowledge necessary to make appropriate decisions about what course of action to follow in a case, or how to implement a plan of action. If forced to make decisions beyond their capabilities, students often become overwhelmed with anxiety and frustration. Every task, no matter how simple to the experienced lawyer, assumes insurmountable proportions to the neophyte. With no base to build on, the student may, not even be able to recognize which questions need to be addressed.

An example most clinical teachers are familiar with is the initial assignment of cases to the students at the beginning of the semester. Inevitably, there is a grim silence as the students receive the cases and an almost palpable sense of unease and panic as they began leafing through the files. During the first case review with the students, these initial impressions are confirmed by student reports of feelings of total helplessness, of having no idea what to do or where to go with a case and of being lost. One student put it aptly when describing her first day in clinic:

I felt lost and overwhelmed, but challenged at the same time. I was afraid of the responsibility and all of the things I had never done before. I was very excited, but extremely nervous. I have always considered myself to be quite capable of accomplishing my goals given enough time. However, I felt submerged by the thought of trying to be a competent conscientious attorney under the gun of a tight schedule. I kept asking myself how I was going to find answers to all of the questions running through my head.

In this initial stage of developing skills and knowledge, students need vast amounts of specific information, e.g., whether there is an applicable statute, what is the filing fee in district court, and what is the time limit for filing an appeal.<sup>10</sup> To force students to seek out this information

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that otherwise would go into learning is devoted to combating the tensions of the learning experience. Rosenblatt & Mayer, *id.*; *id.* at 545, 547, 570.

<sup>9</sup> Keeton, *Teaching and Testing for Competence in Law Schools*, 40 MD. L. REV. 203 (1981).

<sup>10</sup> R. Newton, *Supervisor Expectations and Behavior: Effects of Consistent-Inconsistent Supervisory Pairings on Supervisee Satisfaction with Supervision, Perceptions of Supervisory Relationships and Rated Counselor Competency* 73-75, 81-84 (December, 1976) (unpublished Ph.D. thesis, Univ. of Missouri-Columbia; Hansen & Warner, *Review of Research on Practicum Supervision*, 10 COUN-

when their knowledge is so limited will only result in wasting endless, frustrating hours in the library or on the telephone. This, in turn, can only exacerbate the students' initial feeling of inadequacy.<sup>11</sup>

To avoid these types of reactions, initial decisions in cases must be made by the supervisor, and preliminary information must be given to the students, rather than left for them to discover on their own. Specific instructions must be given by the supervisor stating explicitly what must be done in each case, and how to carry out directions given. These directions should be concrete and specific.<sup>12</sup> The directions do not have to be orally given but may be contained in practice manuals, protocols, etc.

The supervisor, as part of the process of giving instructions to the student, should also give the underlying rationale for each direction. By making explicit the reasons for a particular course of action, the supervisor is also demonstrating to the students a method of problem solving that can be emulated by the students at a later stage of their development.<sup>13</sup>

It is also during the initial stages of a clinical course that rapport building between supervisor and student occurs. Therefore, supportive behavior by the supervisor is most critical at this time.<sup>14</sup> The goal is to develop a friendly relationship, not as an end in itself, but as a method of reducing student anxiety.<sup>15</sup> A cold, aloof or hostile supervisor can only

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SELOR ED. AND SUPERVISION 261, 263 (1971); Gysbers & Johnston, *Expectations of a Practicum Supervisor's Role*, 4 COUNSELOR ED. AND SUPERVISION 68 (1965).

<sup>11</sup> W. Bennie, *Supervising Clinical Experiences in the Classroom* 63 (1972).

<sup>12</sup> See Cohen & DeBetz, *Responsive Supervision of the Psychiatric Resident and Clinical Psychology Intern*, 37 AM. J. OF PSYCHOANALYSIS 51, 56 (1977); Hansen & Warner, *supra*, note 10; Gysbers & Johnston, *supra*, note 11; W. Bennie, *supra*, note 11, at 96. Barnhizer, *The Clinical Method of Legal Instruction: Its Theory and Implementation*, 30 J. LEG. EDUC. 67, 87 (1979), a comprehensive treatment of clinical education, notes the need to relate the content of instruction to the student's stage of development.

<sup>13</sup> Learning through observing the behavior of another is a method particularly suited to the teaching of skills, the description of which is difficult to articulate. D. Blight, G. Ebrahim, D. Jacques & D. Piper, *Teaching Students* 173 (1975).

<sup>14</sup> There is considerable empirical support for the contention that a positive relationship between supervisor and student is an important factor if determining student receptivity to the supervisor's teaching efforts. A. Goldstein, K. Heller & L. Sechrest, *Psychotherapy and the Psychology of Behavior Change* 73-91 (1966); Rugg & Norris, *Student Ratings of Individualized Faculty Supervision: Description and Evaluation*, 13 AM. ED. RESEARCH J. 41 (1975); W. McKeachie, *Teaching Tips* 242 (1978). More subjective studies of the supervisory relationship also support this contention. Cohen & DeBetz, *supra*, note 12, at 51, 55-6; Miller & Oetting, *Students React to Supervision*, 6 COUNSELOR ED. AND SUPERVISION 81 (1967); L. Austin, *Supervision in Social Work in Social Work Yearbook* 579, 582 (R. Kurtz ed. 1960); Dekker, *Didactic Principles and Field Work Instruction*, 38 SOCIAL CASEWORK 350, 354 (1957); A. Kadushin, *supra*, note 8, at 148.

<sup>15</sup> Another reason for a friendly supervisory attitude concerns the natural defensiveness most individuals have toward criticism. Objective evaluation is an essential feature of the supervisory process, yet unless coming from a person the student likes and respects, there is the strong danger that the student will reject the supervisor's comments. Hansen & Warner, *supra*, note 10; Hester,

cause a student distress and insecurity. The objective is to foster a friendly, supportive atmosphere, while at the same time insisting on high levels of student performance.<sup>16</sup>

In addition to all of the other uncertainties confronting them in a clinical course, students face uncertainty surrounding the issue of how to respond to the supervisor.<sup>17</sup> Are they to ask questions? Should they obtain the supervisor's approval before taking action in a case? Answers to many of these questions can be provided through specific responses by the supervisor in the form of an orientation lecture, office manual, or both. Since students are far more likely to rely on their experiences than on what they are told, it is important that the supervisor reinforce the desired supervisory model through example and encouragement. The supervisory relationship developed in the initial stage of the course will establish the contours for the way student and teacher interact during the remainder of the course. Starting with the desired supervisory model in the beginning will avoid many problems at the later stages of the course.

In summary, the beginning stage of the clinical experience is characterized by a concern with the students' knowledge and performance of specific tasks, orientation to the supervisory relationship, and reduction of their anxiety.<sup>18</sup> How long the beginning stage lasts depends on several factors, perhaps foremost of which is the knowledge the student brings into the clinic and how quickly it can be developed. Other factors affecting the duration of this stage are the difficulty and complexity of the assigned cases; the degree of supervision provided; the intelligence and personalities of the students; the students' prior legal education; and whether the course can be structured to delay introducing students to more difficult tasks such as trying cases, until after the students have mastered simple tasks.<sup>19</sup> Students progress at different rates; individual

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*Educational Process and Supervision*, 32 SOCIAL CASEWORK 242, 243 (1951). Related to this is the need for the student to feel secure in the supervisory relationship before the student is able to present weaknesses and deficiencies in his or her performance to the supervisor for discussion and correction. This can only be done when the student knows the supervisor will not respond with a hostile, cold or demeaning attitude. Ohlsen, *Supervision of Practicum*, 46 CONTEMPORARY ED. 61, 63 (1974).

<sup>16</sup> The desirable degree of support necessarily will vary from student to student. Barnat, *Student Reactions to the First Supervisory Year: Relationship and Resolution*, 9 J. OF ED. FOR SOCIAL WORK, No. 3, 3, 6 (1973).

<sup>17</sup> Cohen & DeBetz, *supra*, note 12 at 51, 51-52.

<sup>18</sup> Mayers, *Differential Use of Group Teachings in First year Field Work*, 44 SOCIAL SERVICE REVIEW 63, 72 (1970).

<sup>19</sup> See W. Bennie, *supra*, note 11 at 86; Delaney, *A Behavioral Model for the Practicum Supervision of Counselor Candidates*, 11 COUNSELOR ED. AND SUPERVISION 46 (1972); A. Kadushin, *supra*, note 8 at 144. See also N. Henderson, *University Teaching* 16 (1968); R. Tyler, *Basic Principles of Curriculum and Instruction* 85 (1949).

students will complete particular stages of development at different times in the semester.

## II. MIDDLE STAGE

In the middle stage of the course, students become capable of taking more responsibility and initiative for their cases.<sup>20</sup> At this point, instead of merely following the supervisor's directions as to the next step to be taken, students can approach cases as a collaborative experience involving both student and supervisor. Through joint discussion, as between partners in a law firm, the two can determine the definition of the legal problem to be solved, develop procedures for solving the problem, evaluate the effectiveness of the solution, and implement it. The discussions need not be confined to the intermediate demands of the caseload, but may also extend to such matters as questions of ethics, the lawyer's role, standards of professionalism, individual and group dynamics, and the functioning of legal institutions.

In contrast to the initial stage of the course when the supervisor's role was didactic and directive, the supervisor in the middle stage serves to stimulate and guide the students in interpreting, analyzing, applying, synthesizing and evaluating the students' clinical experiences. The supervisor must still provide information and direction as needed, but this function is now subordinate to the role of serving as a sounding board and corrective for the student's efforts, and as a prod coaxing and encouraging the student to objectively and critically examine actions and purposes.<sup>21</sup>

Instead of relying on the supervisor to determine what must be done and how to do it, students begin to make these decisions themselves; instead of having the reasons for a particular strategy explained to them, students begin to analyze and develop the reasons themselves; instead of merely acquiring the rudiments of skills, students begin to improve and polish skills. The supervision process becomes progressively more an exploration of the correctness of the students' decisions and less of an imposition of the supervisor's solution on the students. The supervisor shifts from the role of senior partner working with a new associate to that of a co-equal assisting and critiquing the student's work.<sup>22</sup>

During the middle stage, greater emphasis is placed on analysis of

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<sup>20</sup> Ohlesen, *supra*, note 15; Nelsen, *Teaching Content of Early Fieldwork Conferences*, 55 SOCIAL CASEWORK 147, 149 (1974).

<sup>21</sup> Cohen & DeBetz, *supra*, note 12, at 51; Ohlesen, *supra*, note 15.

<sup>22</sup> Bloch, *supra* note 3, at 321, 338-40, 347-50; R. Newton, *supra* note 10, at 81-84; Termini & Hauser, *The Process of the Supervisory Relationship*, 3 PERSPECTIVES IN PSYCHIATRIC CARE 121, 123 (1973); Gysbers & Johnston, *supra* note 10, at 68, 73 (1965).



why things are done and how to improve the student's skills performance. There is more exploring and clarifying of issues. The interaction between student and supervisor changes from one in which the teacher provided instruction and information and the student asked question and related data, into one in which the student takes the initiative and actively participates in discussions.<sup>23</sup>

A typical supervisory encounter in this stage might run as follows:

\* \* \* \* \*

Student: I need to talk with you about the Jones personal injury case. That's the case where our client's son rear-ended the plaintiff. We got the plaintiff's amended complaint today adding our client under the family purpose doctrine and I'm not sure what to do now.

Supervisor: Well, do we have any defenses?

Student: I'm not sure. I talked with the client and he claims that his son didn't have permission to use the car.

Supervisor: Tell me what he said happened.

Student: (Recounts facts)

Supervisor: Have you talked with the son yet?

Student: Not yet.

Supervisor: Do you think we need to?

Student: Yes, but I don't think I will be able to before the answer date.

Supervisor: Are you confident enough of the father's story for us to draft an answer now?

Student: I would feel better if I check out the son's story first. Can we buy some time?

Supervisor: Sure. There are several ways to do that. We could call up the other side and ask for an extension of time. I know the attorney for the plaintiff and I am pretty sure she would give us some time. We could also make a motion for an extension of time or we could file a motion challenging the complaint which would delay things for awhile. Have you looked at the complaint to see if it is okay?

Student: I've looked at it, but I'm not sure.

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<sup>23</sup> Nelsen, *supra* note 20. Initially students are often reluctant to volunteer their opinions and analysis of problems. This is in part a carryover from attitudes developed in their traditional law school classes where peer pressures exist not to volunteer and the teacher often "punishes" an incorrect answer. Stone, *Legal Education on the Couch*, 85 HARV. L. REV. 392, 407 (1971). See also Watson, *The Quest for Professional Competence: Psychological Aspects of Legal Education*, 37 CINN. L. REV. 93 (1968). A second reason is that students frequently do not believe their opinions will be listened to or count for anything. Ramsey, *Role of the Agency Supervisor*, 2 NEW DIRECTIONS FOR HIGHER EDUCATION, 45, 47 (1974). W. McKeachie, *supra* note 14 at 41. As a result, the supervisor initially usually has to actively encourage student participation in case analysis and problem solving.

Supervisor: Well, let's take a look. Have you read the family purpose cases yet?

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And so on. As the example makes clear, the supervisor and student are engaging in a process of exchanging ideas and information. Sometimes the initiative will be with the student because the student has thought through a possible plan of action or has superior knowledge of the facts from actually interviewing witnesses or talking with opposing counsel. Other times, the supervisor will guide the decision making because of greater experience or legal knowledge such as when the supervisor suggested methods of extending the time in which to answer.

The mix of interactions between student and supervisor will vary with the situation, but the identifying feature of this middle stage of the course is the co-equal exchange of ideas and information between the two. Each has something to contribute to the lawyering process and from their interchanges, the student learns how to be an effective lawyer.

The transition from the initial stage to the middle stage is not as abrupt as the term "stage" might suggest. In fact, the process in each stage is a progression along a continuum. In the middle stage, for instance, the amount of control and direction by the supervisor will be greatest at the beginning and will slowly diminish as the student becomes more comfortable with the new responsibilities being assumed.

### III. FINAL STAGE

In the final stage, the students are sufficiently secure and competent to act, in effect, as lawyers in their own right. This does not mean they have progressed as far as they will in their careers, but it does mean that they are now capable of acting without close supervision, and that they are now, at least, minimally competent. At this stage, the supervisor should defer to the student's analyses and decisions in cases where reasonable lawyers might differ. Of course, where the student is appearing under the sponsorship of the supervisor under the applicable local student practice rule, the supervisor has an ethical obligation to prevent incompetent representation. But when, as with most decisions in a case, there is more than one correct solution to a problem, the supervisor should defer to the student's decision. The supervisor's role, in this final stage, is that of a confirmer and guider; a safeguard against serious error.

An example of a supervisory session in the last stage could go as follows:

Student: I am trying to figure out who I should call first as a witness in the Jones trial next week. That's the personal injury

case involving the family purpose doctrine. I can call either the father or son first.

Supervisor: What are your initial thoughts?

Student: Well, the son can tell about the accident and, remember, we are also claiming we weren't negligent. On the other hand, the father can tell about the lack of permission to use the car.

Supervisor: So, which one do you think we should call first?

Student: I'm leaning toward the son.

Supervisor: How come?

Student: I think we have a stronger case on the lack of negligence and also the son can give an overall picture of the entire case.

Supervisor: Sounds reasonable to me. Which one makes the better witness?

Student: I would have to go with the father. The son is kind of a punk.

Supervisor: Does that change your decision?

Student: No. Neither is that good. It's just that the father is a little better. Besides, it means we can close with a stronger witness.

Supervisor: OK.

In this last stage, the supervisor should be checking the student's decisions for soundness. Has the student checked all aspects of an idea? Has the student correctly analyzed the facts and law? Is the student missing a step in the proper procedure? The supervisor has become more like a safety net preventing error on the part of the student, but the initiative and the decisions are now coming from the student.

The clinical supervisor must adapt his or her teaching techniques and styles to the students' rate of development, or the result will be frustration for both student and teacher, and a failed learning experience. This is particularly true of the amount of supervisory control exerted over the students actions. Several studies have indicated that students' perceived need for freedom in the supervisory relationship increases during the course of the relationship.<sup>24</sup> As students progress toward the goals of competence and professionalism, they expect to be treated as professionals. They expect and require more freedom and less structure in the later stages of the course. If the supervisor persists in holding the reins too tightly, the result will be dependency and rebellion among the students.<sup>25</sup> Under such conditions, a more serious consequence is that students may fail to internalize the standards of conduct being taught.

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<sup>24</sup> R. Newton, *supra* note 10 at 14; Gysbers & Johnston, *supra* note 10, at 68, 73.

<sup>25</sup> Orchard, *The Use of Authority in Supervision*, 23 PUBLIC WELFARE 32, 38 (1965); Hester, *supra* note 15, at 242; A. Kadushin, *supra* note 8, at 135-6.

On the other hand, too little control by the supervisor in the relationship to the students' development can be damaging.<sup>26</sup> As has previously been pointed out, students' lack of confidence and inadequate knowledge necessitates greater control in the beginning of the supervisory relationship. While the need for control diminishes as time passes, some degree of control must be exerted, even toward the end of the relationship. Too little control can leave the student anxious and floundering.

Whether too much or too little, an incorrect amount of control destroys effective teaching and learning. The supervisor must seek a degree of control appropriate to the student's development; a control which is neither overly passive nor authoritatively directive.<sup>27</sup> Judging the student's level of development and determining the required degree of control appropriate to that level are difficult tasks. The supervisor must evaluate the student's ability to complete assigned tasks, evaluate their difficulty, the degree of initiative, assumption of responsibility and the level of understanding required. From these criteria, the supervisor must draw a conclusion as to what amount of control to exert. These are delicate and difficult decisions.<sup>28</sup>

Another difficulty arises in assisting students to make the transition from one stage to the next. If students are not made aware of the progression of the course through the several stages, they will develop the expectation that the beginning stage represents the expected student-supervisor relationship for the entire course. While student resentment might develop because of the restrictions the first stage places on the students, few students will do anything to change the relationship because of the inherently authoritarian nature of the relationship between student and supervisor.<sup>29</sup> The problem, then, is how to move students into subsequent stages and how to make them aware of the progression they are expected to follow.

The best approach is to make the sequence of expected student development explicit at the outset of the course.<sup>30</sup> In the orientation process, students should be told what will be expected of them at each stage of the course. Similarly, when a student is judged ready to move into the

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<sup>26</sup> Hester, *id.*

<sup>27</sup> Johnston & Gysbers, *Practicum Supervisory Relationships: A Majority Report*, 6 *Counselor Ed. and Supervision* 3, 9 (1966); Goin & Kline, *Supervision Observed*, 158 *J. OF NERVOUS AND MENTAL DISEASE* 208 (1974).

<sup>28</sup> W. Bennie, *supra* note 11, at 88.

<sup>29</sup> W. McKeachie, *supra* note 14, at 42; Zander, *The Discussion Period in a College Classroom*, in *Center for Research on Learning and Teaching*, University of Michigan, Memo to the Faculty, Mar. 1979, at 2.

<sup>30</sup> Cohen & DeBetz, *supra* note 12, at 51-2.

next stage, the student should be told this, and informed of the expectations that he or she will encounter.

The supervisor is presented with special problems when a student demands independence before reaching the stage where he or she is able to assume that independence or, conversely, when a student refuses to progress and to take responsibility for case decisions at a time when all factors indicate the student is ready to do so. Honest communication to the student of the supervisor's assessment is necessary in both instances to avoid student resistance and potential conflict with the supervisor.

When the student wants greater independence, the supervisor can defer when possible to the student's judgment, as long as this does not interfere with effective representation of the client. As students progress in ability and their judgment matures, deference to the students' decisions should become part of the regular supervisory practice. This process can be hastened if the student wants greater independence, so long as the client's interests are not adversely affected.

With the hesitant student, the supervisor must consciously place the student in situations where he or she will be forced to develop solutions independently. Such an approach must be used with caution to avoid placing the student in situations beyond his or her own capabilities. However, by confronting the student with problems within his or her abilities and progressively moving the student to more difficult problems, the supervisor can lead the student to gain the confidence to assume responsibility.

Several techniques may be utilized to help the student build confidence. Among these are: giving supportive feedback on the student's efforts; carefully rehearsing the student for performances; anticipating possible variations in anticipated performance; forcing the student in the preparation process to the initiative through the supervisor's questions and guidance; and being available as a fallback or safeguard for the student.

#### IV. CONCLUSION

The task of the clinical supervisor is to help students through the process of experiential learning, in acquiring the knowledge and skills necessary to become capable and effective lawyers. Students will pass through several predictable stages while engaging in this process. The challenge to the supervisor is to maximize the opportunities presented by this progression so as to make the students' learning as efficient and beneficial as possible. What has been presented is a model for accomplishing these ends.