

A Performance-Based Approach to Licensing Lawyers: The New Hampshire “Two-Year Bar Examination”

Five years ago, effective July 1, 2005, the New Hampshire Supreme Court amended its rule on admission to the bar to authorize a performance-based variant of the bar examination “to consist of rigorous, repeated and comprehensive evaluation of legal skills and abilities.” [See attached Rule 42(13).] To be eligible, a candidate must pass the Multistate Professional Responsibility Examination, meet standard character and fitness criteria, and have “successfully completed to the satisfaction of the board of bar examiners the Daniel Webster Scholars Honors Program at the Franklin Pierce Law Center.”

This “rigorous, repeated and comprehensive evaluation” occurs during the second and third years of law school for students participating in the Daniel Webster Scholars (DWS) program at the Franklin Pierce Law Center and is thus sometimes referred to as a “two year bar examination,” which takes the place of the conventional two day paper-and-pencil bar exam. Students in the DWS program are required to maintain a high law school GPA and to complete an intensive curriculum that includes a number of specially designed practice courses as well as at least 6 credits of externship and/or clinical experience. Through their work in this curriculum, students develop an extensive portfolio, including videos of the student conducting simulated interviews, negotiations and components of trial practice. Over the span of these two years, members of the New Hampshire Board of Bar Examiners repeatedly review these portfolios and meet personally with the students to evaluate their progress.

This bar exam alternative, including the DWS program, was designed through a collaborative effort of the New Hampshire Supreme Court, the New Hampshire State Bar, the New Hampshire Board of Bar Examiners, and the Franklin Pierce Law Center. The history and an overview of this initiative is found in the attached article from the November 2005 issue of the *Bar Examiner* by New Hampshire Supreme Court Justice Linda S. Dalianis and Pierce Law Professor Sophie M. Sparrow. Further detail is available on the web site of the DWS program: www.piercelaw.edu/websterscholar and in the recent law review article by Professor John B. Garvey, who directs the DWS program, and Anne F. Zinkin, permanent law clerk to Justice Dalianis: “Making Law Students Client-Ready: A New Model in Legal Education,” 1 *Duke Forum for Law & Social Change* 101 (2009), which can be downloaded at: www.piercelaw.edu/assets/pdf/johngarvey-article-newmodel.pdf

On Friday, April 23, 2010, the New Hampshire Supreme Court, the New Hampshire State Bar, the New Hampshire Board of Bar Examiners, and the Franklin Pierce Law Center are hosting a one-day conference for supreme court justices, bar leaders, and legal academics from other states interested in learning more about the New Hampshire initiative. This conference is supported by a grant to the Society of American Law Teachers (SALT) from the Charles Evans Hughes Memorial Foundation. This is an invitation-only conference and registration is now closed. To request a place on the waiting list, contact Elizabeth Webber at Pierce Law School, ewebber@piercelaw.edu

**A Performance-Based Approach to Licensing Lawyers:
The New Hampshire "Two-Year Bar Examination"**

Friday, April 23, 2010
Franklin Pierce Law Center
Two White Street
Concord, New Hampshire 03301

Conference Agenda

8:00 – 8:30 – Continental Breakfast (Board Room)

8:30 – 9:00 –Introduction (Room 200)

Welcome and Dean's perspective, *Dean John D. Hutson, Pierce Law*

The Court's perspective, *Chief Justice John T. Broderick, New Hampshire Supreme Court*

An expert assessment perspective, *Dr. Lloyd Bond, Ph.D., Co-Author, Educating Lawyers: Preparation for the Practice of Law (Carnegie Foundation for the Advancement of Teaching 2007) [by pre-recorded video]*

9:00 – 10:00 – Why and How the Bar Exam Alternative Licensing Program Developed

Senior Associate Justice Linda S. Dalianis, New Hampshire Supreme Court and Professor Sophie Sparrow, Pierce Law

Justice Dalianis and Professor Sparrow will explain why the alternative licensing program came into being and how the various stakeholders worked together to create what became known as the Daniel Webster Scholar Honors ("DWS") Program.

10:00 – 10:20 – Break

10:20 – 11:20 – The Daniel Webster Scholar Honors Program in the 3rd and 4th Semesters of Law School

Professor John Garvey, Pierce Law, DWS Program Director

Professor Garvey will facilitate a presentation of the first year of this "two year bar exam" from the perspective of the various stakeholders: students, teachers, and bar examiners. The presentation will include video clips and demonstrations to illustrate how law students learn and are assessed. Ample time will be reserved for questions and discussion.

11:20 – 11:45 – Break

11:45 - 12:45– The Daniel Webster Scholar Program in the 5th and 6th Semesters of Law School
Professor John Garvey, Pierce Law, DWS Program Director

Professor Garvey will facilitate a presentation of the second year of this “two year bar exam” from the perspective of the various stakeholders: students, teachers, and bar examiners. The presentation will include video clips and demonstrations to illustrate how law students learn and are assessed. Ample time will be reserved for questions and discussion.

12:45- 1:45 – Lunch (Board Room)

Participants will be seated with members of the New Hampshire Supreme Court, New Hampshire Bar Examiners, New Hampshire bar leaders, DWS alumni and students currently in the program to discuss in an informal setting what has been presented in the morning sessions.

2:00– 3:00 – How the New Hampshire Program Has Adapted a Required Element of Medical Licensing By Creating “Standardized Client” Assessments (Room 200)

Clark D. Cunningham, W. Lee Burge Professor of Law & Ethics, Georgia State University College of Law

Participants will learn about, and see video clips of, the newest component of the “two year bar exam,” an assessment that DWS scholars take before graduation that must be passed for licensure. This is a “standardized client assessment” based on a similar testing method now required for medical licensing. The presentation will include data from a study authorized by the New Hampshire Supreme Court to compare client interviewing skills of DWS Graduates with other newly licensed New Hampshire lawyers.

3:00 – 3:20 – After passing the alternative bar exam

Employers, judges, DWS graduates and others will report on the effectiveness of the program in its goal of preparing new lawyers who are “client ready.”

3:20 – 3:40 – Break

3:40 – 4:30 - Open Discussion

Justice Dalianis, Professor Sparrow and Professor Garvey will moderate

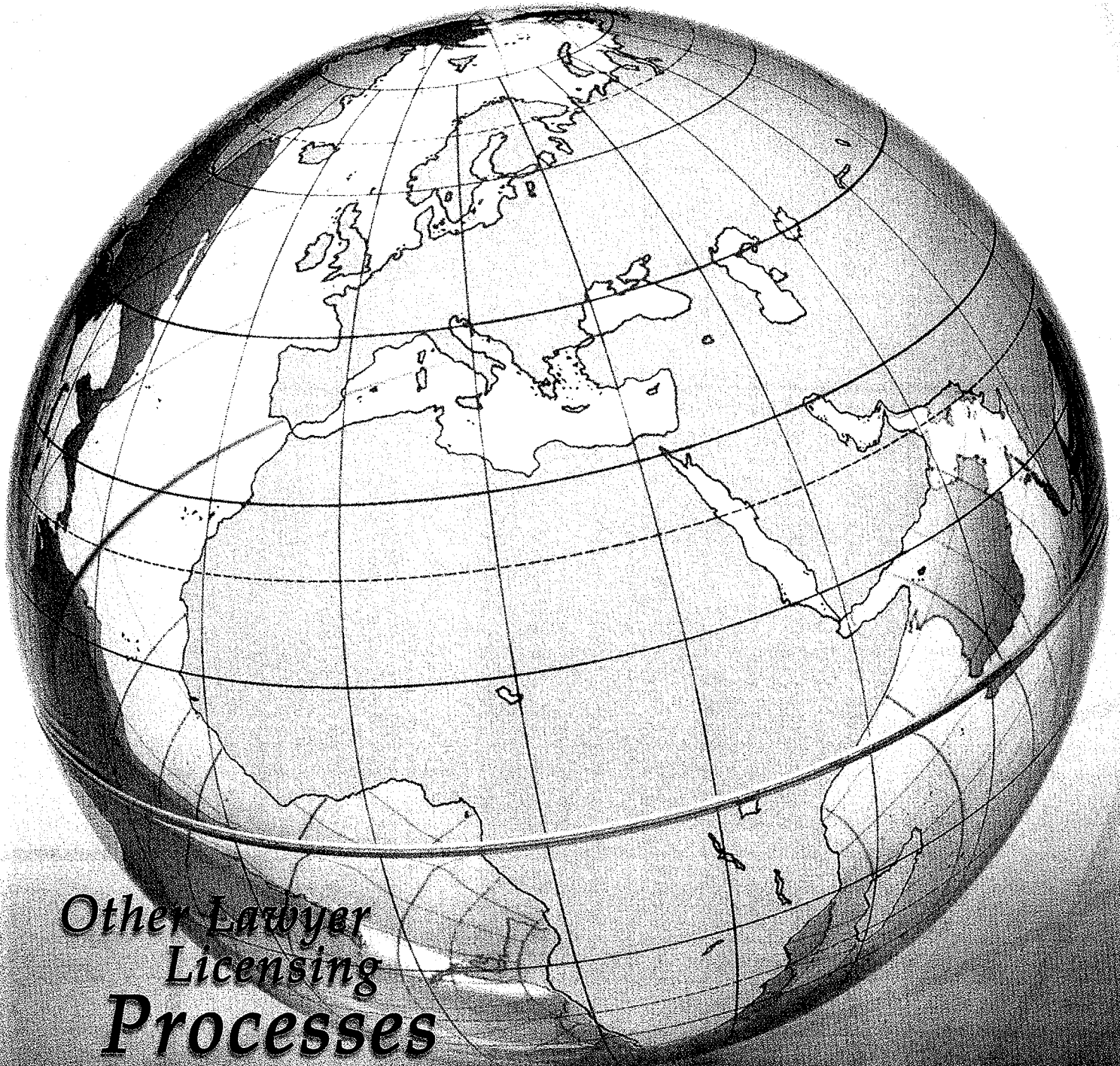
In this session, participants are invited to ask the questions they feel have not yet been fully addressed, to offer commentary from the perspective of their own jurisdictions and to brainstorm about possible further discussion and collaboration.

6:30 – Optional Dinner (Common Man Restaurant)

Four New Hampshire Supreme Court justices, Dean Hutson, Associate Dean Susan Richey, State Bar members, and State Bar Examiners will also attend the dinner. Round trip transportation from the hotel will be provided. Dinner will provide another opportunity for conference participants to discuss what they learned.

THE BAR EXAMINER

Volume 74, Number 4, November 2005



*Other Lawyer
Licensing
Processes
and Alternatives
to the Bar Examination*

ESSAYS ON OTHER LAWYER LICENSING PROCESSES AND ALTERNATIVES TO THE BAR EXAMINATION

The bar examination, as it is administered in the various U.S. jurisdictions, continues to evolve. Most jurisdictions have had, over their histories, a number of versions of the examination; for example, at different times, examinations have included oral questions, mathematics items, or performance tests.

In this issue, we have invited essays describing the lawyer licensing processes in a handful of foreign countries and essays on alternatives to or suggestions for improving the bar examination. While there are many criticisms of the bar examination as it is currently adminis-

tered, there are fewer proposals for other feasible assessment methods, and we are happy to present the views of a number of authors to our readers. The views expressed by each of the authors are not necessarily endorsed by the National Conference of Bar Examiners, as our intent was merely to provide a forum for the exchange of ideas.

The magazine welcomes reader reactions to the essays included in this group. The bar admission process will continue to evolve, as it has for many years, and ideas for ways to help shape its evolution are important for bar examiners to consider and discuss.

THE PROFESSIONALISM CRISIS: HOW BAR EXAMINERS CAN MAKE A DIFFERENCE

by Clark D. Cunningham

New Hampshire's pilot project of a performance-based variant of the bar examination, described elsewhere in this issue by Justice Linda Dalianis and Professor Sophie Sparrow,¹ is a remarkable and exciting initiative by state officials responsible for regulating admission to the bar. In particular, it is a very promising response to what is widely known as "the professionalism crisis."

In August 1996, the Conference of Chief Justices (the CCJ) passed a resolution for a National Study and Action Plan regarding Lawyer Conduct and Professionalism. In that resolution, the CCJ noted a significant decline in professionalism in the bar, and a consequent drop in public confidence in the profession and in the justice system generally. The CCJ determined that a strong, coordinated effort by state supreme courts to enhance their oversight of the profession was needed.² In 1999, the CCJ adopted a National Action Plan on Lawyer Conduct and Professionalism. The CCJ concluded that "Successful efforts to improve lawyer conduct and enhance professionalism cannot be accomplished unilaterally.

The objective of such efforts is a change in the very culture of the legal profession. . . . Success requires a sustained commitment from all segments of the bench, the bar, and the academy.”³

The chief justices issued an urgent challenge to law schools:

Most lawyers get their first introduction to the basic concepts of legal ethics and professionalism during law school, but few students fully appreciate their importance or receive a sufficient grounding in practical legal skills for competent legal practice before being admitted to the profession. In addition to providing law students with substantive legal knowledge, law schools should ensure that students understand the importance of professionalism and have an adequate grasp of basic legal skills.⁴

The chief justices also expressed concern about the current format of the bar examination:

State bar examinations traditionally test bar applicants’ knowledge of substantive legal principles, but rarely require more than a superficial demonstration of the applicants’ understanding of legal ethics, professionalism, or basic practical skills. Thus, they fail to provide an effective measure of basic competence of new lawyers.⁵

The New Hampshire initiative, which allows selected law students (the “Webster Scholars”) to take an alternative route to bar admission, recognizes that bar examiners cannot contribute to solving the professionalism crisis simply by tinkering with the current bar admission system—not only because professionalism cannot be adequately assessed in a one-time paper-and-pencil test,⁶ but more important-



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sionalism), and Director of the Effective Lawyer-Client Communication Project. He can be reached at cdcunningham@gsu.edu, and his home page can be found at <http://law.gsu.edu/ccunningham/>.

ly because the current path to the bar examination inadequately prepares applicants to become professionals. Bar examiners, and the state supreme courts that authorize them, however, do have unique power to alter the path that applicants walk before bar admission.⁷

The United States is virtually the only major country in world that gives an unlimited license to practice law to persons whose only preparation has been to sit in classrooms, take blue book exams, and write a few research papers. The essays in this issue by Paul Maharg⁸ and Nigel Duncan⁹ describe the bar admission systems in Scotland and England, which are good examples of what is required elsewhere in the world, systems in which law school graduates must complete a two- to three-year program that combines intensive simulation-based education with supervised on-the-job training.¹⁰ The New Hampshire pilot program in many ways will resemble the Scottish and English systems.

Simply by offering an alternative to the traditional bar examination, New Hampshire has provided a powerful incentive to the only law school in its

state to enrich its three-year curriculum to combine existing classroom, clinic, and externship courses with new “practice courses” taught by practicing attorneys, which focus on integrating substantive knowledge, skills, and ethical judgment in the context of fields of practice.¹¹ The Webster Scholars will also be assessed repeatedly during their second and third years of law school, as well as upon graduation, by a committee that includes judges and bar examiners, not just law professors. This committee will review portfolios of written work and performance in situations simulating law practice; the committee will also conduct in-person reviews at which the students will be required to show comprehension of the many legal and ethical issues presented in the real and simulated legal practice situations and explain the decisions they made. These future lawyers will be expected to show that they know how to:

- listen
- creatively solve problems
- make informed judgments
- recognize and resolve ethical problems
- negotiate and
- counsel people effectively.¹²

The New Hampshire program has adopted two key features of the Scottish and English systems of bar admission, which are set out in the Duncan and Maharg essays. First, ethical issues and professional values are learned and reinforced in the recurring context of realistic—and real—situations of practice, rather than simply taught as a set of rules. Second, prospective lawyers are continually assessed over an extended period with detailed feedback on their professional performance,¹³ so they are encouraged to internalize “habits of justice, candor and courage.”¹⁴

Can there be any doubt that such a program will do more to improve the professionalism of future lawyers than our current system of demanding only knowledge of black-letter law and demonstrable test-taking ability? ■

ENDNOTES

1. See Hon. Linda S. Dalianis & Sophie M. Sparrow, p. 23.
2. IMPLEMENTATION PLAN FOR THE CONFERENCE OF CHIEF JUSTICES’ NATIONAL ACTION PLAN ON LAWYER CONDUCT AND PROFESSIONALISM 1 (adopted August 2, 2001, by the Conference of Chief Justices).
3. A NATIONAL ACTION PLAN ON LAWYER CONDUCT AND PROFESSIONALISM 17 (adopted January 21, 1999, by the Conference of Chief Justices).
4. *Id.* at 31.
5. *Id.* at 32. This critique included the the Multistate Professional Responsibility Examination, which, though it “tests the bar applicant’s substantive knowledge of the rules of professional and judicial conduct . . . does not require applicants to demonstrate their commitment to professional values or even to engage in extended analysis of questions that are legally uncertain under the professional codes.” *Id.* at 32 n.7.
6. The addition of character and fitness screening does not really address the central problem of professionalism either. As pointed out in THE MACCRATE REPORT, this “process is not intended to ensure an applicant’s familiarity with or adherence to professional values, but simply to weed out the exceedingly small number of candidates whose past misconduct is viewed as a portent of future wrongdoing.” LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM 283 (REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP), American Bar Association Section of Legal Education and Admissions to the Bar (July 1992) (“THE MACCRATE REPORT”).
7. Two other promising alternatives to the conventional bar examination are under consideration in Arizona and New York. See Sally Simpson & Toni M. Massaro, *Students with “CLAS”: An Alternative to Traditional Bar Examinations*, 20 GA. ST. L. REV. 813i (2004); Lawrence M. Grosberg, *Standardized Clients: A Possible Improvement for the Bar Exam*, 20 GA. ST. L. REV. 841 (2004); and Kristin Booth Glen, *In Defense of the PSABE, and Other Alternative Thoughts*, 20 GA. ST. L. REV. 1029 (2004). The Committee on the Standards of the Profession of the State Bar of Georgia, originally charged to consider possible imposition of an apprenticeship requirement, has developed a post-bar admission transition to practice program that includes an enhanced bridge-the-gap course and one year of mandatory mentoring. See *Transition Into Law Practice Program Moves Forward* at <http://www.gabar.org> and Sally Evans Winkler, C. Ronald Ellington & John T. Marshall,

Learning to be a Lawyer: Transition into Practice Pilot Project, 6 GA. B. J. 8 (2001).

8. See Paul Maharg, p. 9.
9. See Nigel Duncan, p. 16.
10. Paul Maharg and his colleagues at the Glasgow Graduate School of Law are currently collaborating with the Effective Lawyer-Client Communication Project to develop an even more sophisticated system of teaching and assessing professional competence, following models being used in medical education. See Karen Burton, Clark D. Cunningham, Gregory Todd Jones & Paul Maharg, *Do We Value What Clients Think About Their Lawyers? If So, Why Don't We Measure It?* at <http://law.gsu.edu/Communication/>.
11. The Franklin Pierce Law Center has gone so far as to hire a full-time director for this program using its funds.
12. Dalianis & Sparrow at 24.
13. "To be effective, the teaching of lawyering skills and professional values should [include the] . . . opportunity for students to perform lawyering tasks with appropriate feedback and self-evaluation; [and] reflective evaluation of the students' performance by a qualified assessor." MACCRATE REPORT at 331.
14. Thanks to Paul Maharg for this felicitous quote. See Clark Cunningham, *Rethinking the Licensing of New Attorneys—An Exploration of Alternatives to the Bar Exam*, 20 GA. ST. L. REV. vii, xxvi (2004).

TRANSACTIONAL LEARNING ENVIRONMENTS AND PROFESSIONAL LEGAL EDUCATION IN SCOTLAND

by Paul Maharg

*Learners need instructional conditions that stress the interconnections between knowledge within cases as well as different perspectives of viewpoints on those cases. . . . Learners need flexible representations of the knowledge domains that they are studying, representations that reflect the uncertainties and inconsistencies of the real world.*¹


Scotland is a small jurisdiction. With a legal profession of 10,000 solicitors and over 400 practising advocates (the equivalent of barristers in England) serving a population of under five million, it is in size smaller than the legal bar of many states in the U.S.



PAUL MAHARG is co-director of Legal Practice Courses in the Glasgow Graduate School of Law (www.ggsllstrath.ac.uk), and director of the innovative Learning Technologies Development Unit in the GGSL. He is in charge of all curriculum design and implementations on the Diploma in Legal Practice and Professional Competence Course, which includes developments in information and communi-

cations technologies (video-based virtual learning environments, online simulations, etc.), and skills-based learning, teaching, and assessment. He is currently involved in a number of legal educational projects, including the Standardised Client Initiative and the Virtual Learning Environments Project (under the auspices of the UK Centre for Legal Education). His research areas lie largely in legal education. He is currently Chair of the British and Irish Law Education and Technology Association (BILETA—www.bileta.ac.uk).

The training of both advocates and solicitors takes nearly the same route at the initial stages. All lawyers in Scotland must qualify with an undergraduate law degree from an institution recognised by the Law Society of Scotland, or they must pass the Society's examinations following a period of self-study. (The great majority of students take the degree route into the profession.) Students who wish to enter the legal profession then begin the three-year course of professional training and education. They first enter a 28-week course called the Diploma in Legal Practice. Equivalent in many ways to the Legal Practice Course in England and Wales, the Diploma sets out to train law students in practice skills, knowledge, and values, and to equip them for the two-year traineeship that follows the Diploma. Currently there are five Diploma providers, all attached to university law departments or schools. The course is taught predominantly by tutor-practitioners working in specific areas of the law, and designed and administered by the university.

achieving that goal should be actively supported by the bar. The gap between what the medical profession does and what the legal profession is doing is enormous. While there may be practical or financial justifications or rationales for these differences, our inability to adequately satisfy those duties and responsibilities to the public constitutes a continuing shortcoming of the bar.⁹ 

ENDNOTES

1. The Joint Working Group on Legal Education and Bar Admissions was a panel of experts in these areas that was co-sponsored by the Association of American Law Schools, the ABA's Section of Legal Education and Admissions to the Bar, and the National Conference of Bar Examiners, with participation by the Conference of Chief Justices. The Joint Working Group put on an invitational seminar in September of 2004.
2. Lawrence Grosberg, *Standardized Clients: A Possible Improvement in the Bar Exam*, 20 GA. ST. U. L. REV. 841 (2004).
3. See, e.g., Jayne W. Barnard, *Assessment of Clinical Skills in Medicine and Law*, 18 BAR EXAMINER 3:18 (2004); Andrea A. Curcio, *A Better Bar: Why and How the Existing Bar Exam Should Change*, 81 NEB. L. REV. 363, 394-98 (2002).
4. See, e.g., M.H. Swartz, et al., *Global Ratings of Videotaped Performance Versus Global Ratings of Actions Recorded on Checklists: A Criterion for Performance Assessment with Standardized Patients*, 74 ACAD. MED. 1028 (1999).
5. *Id.*
6. See www.usmle.org/Orientation/menu/htm, describing the Step 2 Clinical Skills part of the medical licensing examination. (Visited June 1, 2005).
7. Ten percent of the student's grade in our first-year two-credit Lawyering course was based on the average of the two highest evaluations of the three standardized client assessments that each student received. The faculty videotaped a randomly selected sample of exercises and then reviewed the tapes for the purpose of assessing the quality of the standardized clients' role-playing performance and their evaluation of the students' skills.
8. Jerome Groopman, *A Model Patient*, THE NEW YORKER, May 2, 2005, at 48.
9. Kristin Booth Glen, *Thinking Out of the Bar Exam Box: A Proposal to "MacCrate" Entry to the Profession*, 23 PACE L. REV. 343, 375-8 (2003).

NEW HAMPSHIRE'S PERFORMANCE-BASED VARIANT OF THE BAR EXAMINATION: THE DANIEL WEBSTER SCHOLAR PROGRAM

by Hon. Linda S. Dalianis and Sophie M. Sparrow

As of July 1, 2005, New Hampshire officially launched the Daniel Webster¹ Scholar Program, a variant form of the bar examination. Initiated by the New Hampshire Supreme Court, this practice-based teaching and licensing program is a collaborative effort of the New Hampshire Supreme Court, the New Hampshire Board of Bar Examiners, the New Hampshire Bar Association, and Franklin Pierce Law Center, New Hampshire's only law school.

WHAT IS THE NEW HAMPSHIRE DANIEL WEBSTER SCHOLAR PROGRAM?

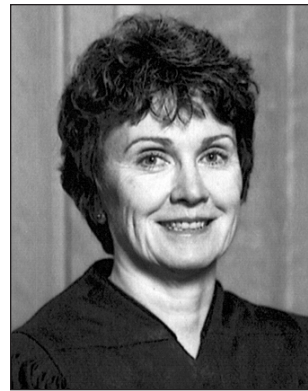
To successfully pass this variant of the New Hampshire bar examination, Webster Scholars must demonstrate that they are "practice ready." To do this, second- and third-year Pierce Law students enrolled in the Webster Scholar Program will complete a range of courses, demonstrate their developing professional skills and judgment, and compile a portfolio of work. Several times during their participation in the program, the Webster Scholars will be required to demonstrate their ability to practice law before a committee of judges, New Hampshire bar examiners, classmates, and faculty. By the end of their final law school semester, Webster Scholars must have shown competence in the MacCrate lawyering skills and values and knowledge of doctrinal foundations. And they must know what they don't know. In short, to pass this variant of the bar examination, students will need to do more than

pass a “paper and pencil” test; they must show that they know how to listen, creatively solve problems, make informed judgments, recognize and resolve ethical problems, negotiate with and counsel people effectively, and be committed to continuing their legal education and contributing to the profession.

To ensure quality in the program, during the first three years, enrollment will be limited to 25 students each year. Starting in the spring of 2006, first-year students will be eligible to apply to this two-year honors program. Second-year students who wish to enroll in the program will be required to have a minimum GPA; waivers for those with GPAs just below the minimum may be granted to students whose applications demonstrate a likelihood of success. To ensure rigor, students will be engaged in comprehensive assessments during their second and third years; those who do not successfully complete these assessments or whose GPAs fall below a given level will be required to leave the program.

Once admitted, the Webster Scholars will be required to enroll in a number of fundamental law school courses, a law school clinic or internship where they will receive live-client training, and several “practice courses.” The Webster Scholar Committee envisions that while Webster Scholars will still have room for electives, they will also have more required courses than other J.D. students, and will have “distribution requirements.” For example, a Webster Scholar could fulfill a family law distribution requirement by completing any of the following four courses: a traditional family law class, a family law clinic, a family practice course, or a family law externship.

Among the program’s curricular innovations are the practice courses, which will be designed by the Webster Scholar Program Director and taught by



HON. LINDA S. DALIANIS has been an associate justice of the New Hampshire Supreme Court since 2000. Before being nominated to the Supreme Court, Dalianis served for almost 20 years on the superior court bench both as an associate justice and as the chief justice.

Dalianis served on the New Hampshire Supreme Court’s Education Committee for many years and is the court’s liaison justice to both the Board of Bar Examiners and the Professional Conduct Committee. She is a longtime member of the New Hampshire Bar Association Committee on Cooperation with the Courts.



SOPHIE M. SPARROW is a professor of law and the director of the Legal Skills Program at Franklin Pierce Law Center in Concord, New Hampshire. Before joining the Law Center in 1991, she worked as a staff attorney for New Hampshire Legal Assistance, and as an associate with a New Hampshire law firm. In January, 2004, she won the Inaugural Award for Innovation and Excellence in Teaching Pro-

fessionalism, sponsored by the American Bar Association and the Conference of Chief Justices.

practicing lawyers. To ensure that students will acquire an increasingly complex and integrated range of skills and knowledge, the director will coordinate course goals and objectives. The aim is to integrate these courses so that students build upon and apply their learning from one course to the next. For example, rather than enroll in different stand-alone practice courses, Webster Scholars could be expected to draft and negotiate incorporation documents in a business practice course and then engage in more sophisticated negotiations in a criminal practice course.

Webster Scholars will have their practice skills assessed through a series of three cumulative interdisciplinary assessments conducted in their second and third years. In contrast to traditional law school examinations, where students are usually evaluated on their ability to understand and apply the law in only one area, such as family law, the Webster Scholars will have to know how to analyze and begin to resolve the many legal problems that accompany clients. For example, in working through a simulation with a family facing divorce, students would show how issues of child support, alimony, tax, property, pensions and retirement benefits, insurance, and inheritance could arise and be resolved. Students would then explain their decisions and recommendations to an evaluation committee.

Webster Scholar evaluation committees will be composed of representatives from the New Hampshire courts, the New Hampshire Board of Bar Examiners, the practicing bar, Pierce Law faculty, and Webster Scholar peers. These representatives from the bench, bar, and academy will evaluate students based upon their portfolios of written and multimedia work, their performances in situations simulating law practice, and their in-person interviews. In addition to assessing students' developing skills, professionalism, specialized knowledge, and values, the evaluation committee will also look at the students' ability to evaluate their own learning, and to reflect upon their development as future lawyers.

HOW WAS THE NEW HAMPSHIRE WEBSTER SCHOLAR PROGRAM CREATED?

The genesis for the idea is not new. More than a decade ago, a number of lawyers and judges started discussing ways to improve the performance of newly admitted New Hampshire lawyers, many of whom began their legal careers as sole practitioners.

These lawyers had graduated from ABA-accredited law schools and passed the bar examination, but they often lacked the skills and knowledge necessary to practice law effectively. In an effort to remedy this problem, a committee was formed of New Hampshire lawyers and judges and Pierce Law faculty, which has been chaired by New Hampshire Supreme Court Justice Linda Dalianis since its inception; this committee spent the last two years working to design a "better bar exam," one that would "bridge the gap" between what students do in their three years in law school and what they will do as practicing lawyers. As Justice Dalianis, who served as a trial court judge for more than 20 years, has remarked in her presentations to the New Hampshire Bar Association Board of Governors and Pierce Law faculty, "our goal has always been to make lawyers better."

Achieving that goal, however, is not easy. Those of us on the Webster Scholar Committee spent two years researching and brainstorming ways to implement such a program. During our monthly committee meetings, we collectively tackled three major questions, "What is it that law students should be able to do to practice law?" "How would we assess them and know that these students were qualified?" "How will we fund and administer this kind of labor-intensive program?"


In working through these questions, the committee determined that it would be essential to have a program director—a practicing lawyer who could guide and supervise the attorneys teaching the practice courses, counsel and coach students, design the curriculum, engage practicing lawyers as mentors and evaluators, and serve as the spokesperson for the program. Pierce Law agreed to fund the program, and recently appointed attorney John B.

Garvey, a highly experienced New Hampshire lawyer and chair of his firm's trial department, as a professor of law and director of the Daniel Webster Scholar Program. Garvey is now charged with working with members of the Webster Scholar Committee and Pierce Law faculty to design and implement the program, including the practice courses and logistics of the comprehensive evaluations.

In addition to hiring a director, one other task has already been completed. After going through its required rulemaking process, the New Hampshire Supreme Court amended its rules to allow for bar applicants to be admitted to the practice of law after they have successfully completed the Webster Scholar Program. The Webster Scholar bar applicants will still be required to pass the MPRE and the New Hampshire character and fitness requirements. The court's rule amendment took effect on July 1, 2005.

Recognizing the difficulties of launching a project of this scope, the Webster Scholar Committee decided to implement the program as a three-year pilot program, with the hope that Pierce Law Center would fully fund and make the program available to many law students at the end of the three-year pilot period. During the pilot phase, the Webster Scholar Committee plans to continue meeting monthly with the director, providing guidance and feedback about the program's development.

There is an advantage of creating this variant to the bar examination in a state like New Hampshire, a state with relatively few attorneys and only one law school. Under these circumstances, it is much easier to regularly engage in conversations with judges, lawyers, and licensing officials. As David Leach, M.D., noted during his presentation at the October 2004 Joint Working Group Conference co-sponsored by the AALS, NCBE, and the ABA, the quality of

what we do "is directly related to the quality of the conversations in our lives." Here in New Hampshire, we have had monthly, documented conversations, enabling us to build upon and improve the quality of those conversations.^{2,3} 

ENDNOTES

1. The program is named after Daniel Webster, one of New Hampshire's most distinguished lawyers.
2. We also recognize that a number of other factors have enabled us to move from idea to implementation. Members of the committee know and respect each other; each is committed to make this program successful. Our chair, Justice Dalianis, has led the process, setting rigorous agendas and marshalling resources. Her colleague, Justice James E. Duggan, is a former law professor and acting dean at Pierce Law; he understands the issues involved in creating such a program from many angles. The chair of the New Hampshire Board of Bar Examiners, Frederick J. Coolbroth, is interested in other ways to examine lawyers. Former New Hampshire Bar Presidents Bruce W. Felmly and Martha Van Oot are leading attorneys in the state, and knowledgeable about legal education. Attorney Lawrence A. Vogelmann is a member of the New Hampshire Board of Bar Examiners and is a former clinical professor. Pierce Law Dean John D. Hutson is interested in trying and promoting new initiatives that make lawyers better. Professor Sophie M. Sparrow brings teaching and assessment experience.
3. More information about the Webster Scholar program can be found at <http://www.students.piercelaw.edu/webster.pdf>, <http://www.piercelaw.edu/news/mediainfo/clippings/websterschol.htm>, or by contacting Program Director John Garvey at jgarvey@piercelaw.edu, 603-228-1541, or either of the authors.

LICENSURE IN MY IDEAL WORLD

by Susan M. Case, Ph.D.

The discussions about ways to improve licensure examinations are exciting discussions that we welcome within the testing unit at NCBE. While I have spent the past few years deeply entrenched in working with existing examinations, I appreciate being able to step back and think about my ideal