

TRANSFORMING TEACHING THROUGH THEATRE

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“I regard the theatre as the greatest of all art forms, the most immediate way in which a human being can share with another the sense of what it is to be a human being.” Thornton Wilder

Law school curricula are often criticized for over-emphasizing the development of analytical skills at the expense of other indicia of professional competence. Effective legal practice requires more than legal acumen; it demands emotional intelligence, skilled communication, and creative problem-solving. To produce “practice-ready lawyers” legal education should develop and nurture creativity, compassion, and empathy. Recognizing that law students need to practice legal skills, it is now the norm to infuse experiential elements into law school classrooms. Clinical programs continue to shoulder responsibility for molding law students into competent lawyers. While clinicians utilize a variety of useful and imaginative exercises to enhance student confidence and skills, there are still students paralyzed by fear as they contemplate meeting their first real client. Educators are constantly evolving to find innovative ways to support, nurture, and buoy students to ease their stress and anxiety.

This article offers a new pedagogical tool—theatrical performance—as a reflective opportunity for students to contemplate, prepare, and envision themselves as effective, empathetic lawyers. Theatre encourages us to view the world through the perspective of someone else. As audience members we are shown humanity, conflict, compassion, and resolution and experience those feelings alongside the actors. The foundation for

* Prior to law school, I obtained my master’s in social work which greatly influences my legal practice. I am deeply grateful to award-winning playwright, lawyer, adjunct, and all-around lovely person, Bryan Harnetiaux, who generously shared his wonderful play, *Lily*, with me for this project. We spent many hours discussing how to talk to clients and law students about planning for end-of-life. This project would have been less realistic without the talented acting duo, and real-life married actors, Peter and Susan Hardie. They brought family members Lily and Joe to life with compassion and empathy. I am thankful to my research assistant Carigan Pereiro who provided early research for this project. I am grateful to Gonzaga University Professor Emerita Mary Pat Treuthart who provided critical editing and advice, and Professor Kim Hai Pearson who offered important guidance. Lastly, I dedicate this article to my mother, Janet C. Mann, who died unexpectedly while I was writing it. From an early age, she instilled in me a love of theatre. More importantly, she instilled in me a desire to understand and appreciate the journey of each individual and to show compassion to everyone.

this article is a project that required law students at the beginning of their clinical experience to view the short play titled “Lily,” about end-of-life planning. This piece proposes that using theatre—or the arts generally—in legal education allows students to vicariously participate in the lives of their future clients and facilitates a better understanding of their challenges, values, and wishes. The emotional impact of theatrical performance emphasizes the human aspect of lawyering and stimulates student engagement, deepens learning of substantive material, and facilitates creative thinking. This article concludes that theatre cultivates empathy and creativity to nurture student confidence, self-awareness, and resilience.

INTRODUCTION

As law schools continue to evolve and find new and innovative ways to infuse experiential elements into curricula, the stranglehold on traditional methods of instruction is loosening.¹ Since students process information in various and unique ways, utilizing innovative methods may allow students to connect to the material and substantive law much more profoundly.² Effective lawyering demands more than static legal analysis; possessing substantive knowledge is not enough. Lawyers also need the ability to communicate with complex clients and to engage in creative problem-solving to find useful solutions. To prepare law students for today’s practice world, legal education can benefit from introducing innovative tools to enhance student learning, emotional intelligence, and professional competence.

This article suggests that exposing law students to artistic practices enhances their understanding of legal concepts, builds and nurtures empathy, and encourages creative problem-solving. Using theatrical performance encourages students to use their imaginations to engage, to wonder, and to improve their problem-solving ability.³ Legal education has long used narrative, drama, and storytelling to teach advocacy skills; and clinicians have infused art, creativity, and stories into their

¹ The suggestion that legal education loosen its rigidity and expand its narrow vision is not novel. Janet Weinstein, *Coming of Age: Recognizing the Importance of Interdisciplinary Education of Law Practice*, 74 WASH. L. REV. 319, 322 (1999), quoting James M. Cooper, *Towards a New Architecture: Creative Problem Solving and the Evolution of Law*, 34 CAL. W. L. REV. 297, 314 (1998). See also, Katharine Rosenberry, *Organizational Barriers to Creativity in Law Schools and the Legal Profession*, 41 CAL. W. L. REV. 423, 24 (2005).

² Becky L. Jacobs, *Cultivating Purposeful Curiosity in a Clinical Setting: Extrapolating form Case to Social Justice*, 21 CLIN. L. REV. 371, 385 (2015).

³ Bernard P. Perlmutter & Xavier Cortada, “Communities That Care”: Incorporating Socially Engaged Artistic Practices into Clinical Legal Education,” 29 CLIN. L. REV. 307, 309 (2023).

clinics.⁴ The client-centered grounding and well-established experiential methodologies make clinical education an ideal laboratory for bringing theatre into teaching.⁵

The project at the foundation of this article exposed students to a theatrical performance in preparation for their work with clients. The play was then performed for client audiences at several facilities followed by a presentation by clinic students on legal issues. The project was born from a desire to give high-anxiety students a greater opportunity to stop and reflect before jumping into case work. It was designed as a respite from the intensity of law school and intimidation many students feel upon meeting their first client. In creating space to sit, learn, and reflect as audience members, it was intended that students would feel more confident and experience less trepidation. Instead of solely focusing on their legal responsibilities, the students could view their professional role in a more holistic way.

One scholar of drama studies has noted, “When we watch a play in the theatre, we enter an imaginary world, a realm of illusion . . .”⁶ Theatre allows us to be present and immerse ourselves in a story with real people experiencing that story along with us.⁷ As we watch, we get to put ourselves in the role of the character and wonder what they are feeling. Inclusion in the narrative creates a sense of belonging among the actors and audience alike. This shared space and proximity to the action creates a moving experience, one that encourages and cultivates our empathy and care for other people.⁸

Legal practice requires more than astute legal analysis and substantive knowledge. As educators, we must strive to teach students to understand the “rich complexity of actual situations that involve full-dimensional people,” to encourage “thinking through social consequences of ethical aspects of cases,” and to respond to students’ “desire for justice . . . moral concerns [and] compassion.”⁹ Effective lawyers recognize that practice requires a deep understanding of

⁴ See e.g., *Id.*, Michael Millemann, et al., *Teaching Professional Responsibility Through Theater*, 17 HASTINGS RACE & POVERTY L.J. 399, 436 (2020); Jo A. Tyler & Faith Mullen, *Telling Tales in School: Storytelling for Self-Reflection and Pedagogical Improvement in Clinical Legal Education*, 18 CLIN. L.REV. 283 (2011).

⁵ JoNel Newman et al., *Theatre and Revolution in Clinical Legal Education*, 26 CLIN. L. REV. 465, 473 (2020).

⁶ Cecily O’Neill, *Imagined Worlds in Theatre and Drama*, THEORY INTO PRACTICE, EDUCATING THROUGH DRAMA, 158, 158 (VOL. 24, NO. 3 SUMMER 1985).

⁷ #THEATREAPPRECIATION, loc. 1.2.1. (Kiara Pipino ed., 2022)(ebook), [https://human.libretexts.org/Bookshelves/Theater_and_Film/Theatre_Appreciation_\(Pipino\)/01%3A_Theatre_-_The_Basics/1.02%3A_Why_Theatre](https://human.libretexts.org/Bookshelves/Theater_and_Film/Theatre_Appreciation_(Pipino)/01%3A_Theatre_-_The_Basics/1.02%3A_Why_Theatre) (last visited August 29, 2025).

⁸ *Id.*

⁹ Millemann, *supra* note 4, at 438 citing WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 187 (2007) [hereinafter CARNEGIE REPORT].

client lives and experiences, the ability to connect on a personal level, and strong interpersonal and communication skills. Problem-solving involves the requisite legal analysis but also imagination and innovation. Students are acutely aware of this host of necessary skills and enter their clinical experience often anxious and terrified. For many, this stress creates a roadblock that prevents students from engaging in meaningful client work.

This article offers an innovative, artistic method to prepare students to develop critical professionalism skills to more effectively understand clients and represent their needs. It uses theatre as a pedagogical tool to give students the opportunity to engage and reflect on their future role. The first section posits that legal education fails to train students to fully understand client situations and to communicate effectively with them. It argues that building and nurturing empathy and creativity are vital components of lawyering. The second section highlights the inherent power of theatre to move people, foster empathy, and build connection. It discusses other uses of drama and theatre as teaching methodologies, in particular medical training's success using theatre to educate future doctors. Lastly, this article outlines how theatre can enhance student learning and better prepare students for effective lawyer practice.

I. WHAT LEGAL EDUCATION LACKS

Law School effectively prepares students to understand, analyze, and synthesize legal knowledge. Critics have long argued this is only part of the equation for creating competent lawyers.¹⁰ Like other professions, legal education is dominated by the technical substance “at the expense of neglecting ‘professional artistry’—dealing with complexity, subjectivity, and uncertainty.”¹¹ To be fair, many podium professors must impart substantial amounts of doctrine while also ensuring their students grasp complicated concepts and acquire a daunting new legal language.¹² The evolution in law school education now includes experiential opportunities that provide students with concrete application of knowledge needed to practice law. It is a nearly universal belief that educating students only on abstract theory and doctrine is incomplete, but schools vary in their attempt to educate students to be practice-ready.¹³

¹⁰ *Id.*

¹¹ Louise Younie, *Introducing Arts-based Inquiry into Medical Education: ‘Exploring Creative Arts in Health and Illness’*, CREATIVITY IN THE CLASSROOM 28 (Paul McIntosh and Digby Warren eds., 2013).

¹² Kathleen Magone & Steven I. Friedland, *The Paradox of Creative Legal Analysis: Venturing into the Wilderness*, 79 U. DET. MERCY L. REV. 571, 576-77 (2002).

¹³ CARNEGIE REPORT, *supra* note 9, at 95.

Certainly, knowledge and legal analysis are practice-ready components. Equally important, however, is the ability to communicate that knowledge and understanding, especially in the face of clients with complicated legal issues and chaotic lives.¹⁴ Legal theory is only as useful as the lawyer's skill to apply it to actual clients.¹⁵ Real-world problem solving requires lawyers to bring legal acumen but also to understand the larger context and range of client interests, experiences, and emotions.¹⁶ To prepare students to effectively understand and communicate with clients, legal educators must develop and foster not only knowledge and initiative but also emotional resilience, creativity, and empathy.¹⁷

A. *Why Future Lawyers Need Empathy*

The now renowned authors of the Carnegie Report posited that law school's consuming focus of legal reasoning over compassion is misguided. This emphasis assumes "that law school can flip off the switch of ethical and human concerns, teach legal analysis, and later, when students have mastered the central intellectual skill of thinking like a lawyer, flip the switch back on."¹⁸ This led one academic to quip that "the empathetic response is systematically trained out of them."¹⁹ The current approach to legal education is limiting and "to the extent we succeed in making our students think only as lawyers, we make it difficult, if not impossible, for them to think like nonlawyers."²⁰

Much of legal education could be described as "operat[ing] at a safe neutral level without the space for emotional engagement . . ."²¹ In other fields, it is well established that emotional engagement in a task contributes to learning and retention. In particular, psychology and neuroscience researchers found that when experiencing strong emotions, the underlying events are also more accurately and easily recalled.²² Even though much of lawyering involves communicating

¹⁴ ALLI GERKMAN & LOGAN CORNETT, FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT, 133-34 (2016), available at https://iaals.du.edu/sites/default/files/documents/publications/foundations_for_practice_whole_lawyer_character_quotient.pdf (last visited September 3, 2025).

¹⁵ *Id.*, at 134.

¹⁶ Raymond H. Brescia, *Creative Lawyering for Social Change*, 35 GA. ST. L. REV. 529, 538 (2019).

¹⁷ GERKMAN & CORNETT, *supra* note 14, at 134-35.

¹⁸ CARNEGIE REPORT, *supra* note 9, at 141.

¹⁹ Ian Gallagher, *Thinking Like Nonlawyers: Why Empathy is a Core Lawyering Skill and Why Legal Education Should Change to Reflect its Importance*, 8 LEGAL COMM. & RHETORIC: JALWD (2011).

²⁰ *Id.*, at 117.

²¹ Paul Heyward, *Emotional Engagement Through Drama: Strategies to Assist Learning through Role Play*, INTL J. OF TEACHING AND LEARNING IN HIGHER ED., 2010, Vol 22, No. 2, 197-203, 197.

²² *Id.*, at 197.

with nonlawyers, law school continues to ignore the critical role of empathy.²³

Professional competency requires empathetic understanding of the interests of others, in addition to legal aptitude.”²⁴ Empathy—defined as the ability to place yourself in the shoes or thoughts of another²⁵—is a necessary component to persuade, convince, or connect with non-lawyers, or clients.²⁶ An empathetic lawyer seeks to see a situation the way her client sees it. This demands an understanding of the client’s important relationships, goals, fears, and needs.²⁷ The opposite is also true: lawyers without empathy are less effective at communicating with nonlawyers. It is an essential lawyer skill to fully understand the client and their goals, as well as to facilitate client decision making.²⁸

Lawyers, mediators, judges alike advise that law students need to recognize the complexity of their clients’ stories, lives, and desired outcomes. Things are often messy, with difficult-to-determine facts, significant nonlegal issues, conflicting goals and multiple potential outcomes.²⁹ Generations of lawyers have been told that “thinking like a lawyer” demands putting emotion aside.³⁰ Emotion is often dismissed as the “opposite of reason” and to be avoided.³¹ This antiquated view of emotion is now dismissed as a narrow simplification. Instead, recent scholars are highlighting the benefits of emotion to legal reasoning and decision-making recognizing that emotions connect human beings to each other and are part of our cognitive functioning.³² A mechanical approach to lawyering is the “law forgetting its essence—the balancing of human values, with the goal of justice, fairness. A legal system or a legal analysis that is devoid of emotional analysis ... is deeply estranged

²³ Gallagher, *supra* note 19, at 109.

²⁴ Thomas W. Mayo, *Twyla Tharp Goes to Law School: On the Use of the Visual and Performing Arts in Professional Education*, in *THE MORAL IMAGINATION AND THE LEGAL LIFE* 169-187, 181 (Zenon Bankowski & Maksymilian Del Mar, eds., 2013).

²⁵ The Oxford English Dictionary defines “empathy” as “the ability to imagine and understand the thoughts, perspective, and emotions of another person.” *Empathy*, OXFORD ENGLISH DICTIONARY (3rd ed., 2023). Joshua D. Rosenberg, *Teaching Empathy in Law School*, 36 U.S.F. L. REV. 621, 632 (2002) (“Empathy ... is simply the sense, emotional and cognitive, of knowing what it is like to be the other at a particular point in time.”) Carl Rogers declared that empathy is “the most effective agent we know” for creating growth and “improving a person’s relationships and communication with others.” CARL ROGERS, *ON BECOMING A PERSON* 332 (1961).

²⁶ Gallagher, *supra* note 19, at 112.

²⁷ Mayo, *supra* note 24, at 180.

²⁸ Dr. Chasul Phogat and Dr. Garima Tiwari, *Using Drama as a Pedagogical Tool for Law Students*, 2 INTL. ACAD. J OF LAW, no. 2, at 1-2 (2021).

²⁹ Kristen Holmquist, *Challenging Carnegie*, 61 J. OF LEGAL ED 353, 353-4 (2012).

³⁰ Susan A Bandes, *Feeling and Thinking Like a Lawyer: Cognition, Emotion, and the Practice and Progress of Law*, 89 FORDHAM L. REV. 2427, 2427 (2021).

³¹ *Id.*, at 2428.

³² *Id.*, at 2429.

from the only thing which makes it relevant—humans and human values.”³³

Empathy is teachable but requires more than the traditional classroom instruction. Instead, empathy must be modeled, practiced, and discussed.³⁴ At the very least, we must alert students to the importance of client connection to their future work as lawyers.³⁵ Other academics have suggested ways to infuse or at least not eliminate humanity from the law school curriculum. This includes classroom courses designed to develop student empathy, as well as courses intentionally incorporating more human aspects into lessons.³⁶ However, teaching empathy is no easy task, if it is even possible in a classroom setting.³⁷ It requires more than lecturing on morality or empathic behavior. Instead, it involves the opportunity to see and practice it just like any other skill.³⁸

B. Why Future Lawyers Need Creativity

Practitioners and academics alike call for an infusion of creativity into legal education as an essential component to modern practice.³⁹ Unfortunately, much of law school teaching is antithetical to creativity. Despite the evolution of legal teaching to be more inclusive of varied learning styles and an increased emphasis on student learning, legal curricula remain stodgy and bereft of imagination.⁴⁰ Some of the traits associated with creativity—non-conformity, playfulness, and innovation—are not nurtured or celebrated in law school.⁴¹

Law students learn of the “art form” of stellar advocacy of Learned Hand, Thurgood Marshall, or Ruth Bader Ginsburg, but that is where

³³ Jeremy M. Miller, *Essay and Play: Law's Estrangement From Drama*, 18 WESTERN ST U L REV 265-311, 266 (1990).

³⁴ Mayo, *supra* note 24, at 180. at 181.

³⁵ Gallagher, *supra* note 19, at 147-48.

³⁶ See e.g. Charles A. Cox, Sr. & Maury S. Landsman, *Learning the Law by Avoiding It in the Process: And Learning from the Students What They Don't Get in Law School*, 58 J. LEG. EDUC. 341 (2008); Martha C. Nussbaum, *Cultivating Humanity in Legal Education*, 70 U. CHI. L. REV. 265 (2003); Rosenberg, *supra* note 25, at 622; Mayo, *supra* note 24, at 169-70.

³⁷ Rosenberg, *supra* note 25, at 623 (“The notion that one can teach values merely by explaining what is right and wrong assumes that reason and logic are the starting point for our values and our actions.”)

³⁸ *Id.*, at 637.

³⁹ Brescia, *supra* note 16, at 538; Samantha Moppett, *Lawyering Outside the Box: Confronting the Creativity Crisis*, 37 S. ILL. U. L.J. 253, 255 (2013), citing Kyung Hee Kim, *The Creativity Crisis: The Decrease in Creative Thinking Scores on the Torrance Tests of Creative Thinking*, 23 CREATIVITY RES. J. 285, 292-93 (2011).

⁴⁰ Magone & Friedland, *supra* note 12, at 579-80.

⁴¹ Carrie Menkel-Meadow, *Aha? Is Creativity Possible in Legal Problem Solving and Teachable in Legal Education?*, 6 HARV. NEGOT. L. REV. 97, 112 (2001); Janet Weinstein & Linda Morton, *Stuck in a Rut: The Role of Creative Thinking in Problem Solving and Legal Education*, 9 CLIN. L. REV. 835, 836 (2003).

it often ends.⁴² Students aspire to become creative, inspirational, and persuasive advocates one day but often first must deal with the Socratic method in their classes. Legal analysis remains formulaic; students are expected to learn rules and laws and apply them to known facts and then reach a specific conclusion. Law school does not train students to bring ingenuity to solving client problems.⁴³

As legal practice evolves, so does the need for traditional practice to think differently about finding solutions to complex legal issues.⁴⁴ As society's problem solvers, lawyers are tasked with avoiding as well as resolving disputes.⁴⁵ Conventional problem-solving focuses on narrowing issues and limiting relevant factors. Students are taught to remove seemingly irrelevant options that are considered a waste of time.⁴⁶ But optimal outcomes demand abandoning binary thinking and instead considering a multitude of possibilities.⁴⁷ Effective lawyers do not restrict their thinking with cramped legal rationalization and instead offer imagination, common sense, and judgment to help clients consider and solve problems.⁴⁸

Despite the dearth of creativity in the law school curriculum, effective legal practice is enhanced by inspired solutions.⁴⁹ If you ask many lawyers whether creativity or imagination adds to their legal prowess, most say it does. Good lawyers use the law and facts in inspired ways, infusing style, creativity, and flare.⁵⁰ Client problems are often more than just legal in nature and require novel solutions. Many clients, in particular those served by civil legal aid agencies and legal clinics, present with multiple legal problems with tentacles spreading into a

⁴² Magone & Friedland, *supra* note 12, at 572-74, suggesting that law school on the one hand presents a conundrum of conflicting messages that law is a science to be analyzed but, on the other hand, it is an art form requiring creativity. Despite this paradox, legal education ultimately rewards technical and analytical ability over innovation.

⁴³ David R. Culp, *Law School: A Mortuary for Poets and Moral Reason*, 16 CAMP. L. REV. 61, 61 (1994).

⁴⁴ Weinstein, *supra* note 1, at 323-328 (suggesting the shortcomings of traditional law school and lawyering is an inability to see and address the multidisciplinary nature of client problems and solutions.). *See also* Rosenberry, *supra* note 1, at 423-24 ("Even when admissions decisions place a higher value on students from a creative background, those students quickly realize their creative ability has no place in their legal education."); Magone & Friedland, *supra* note 12, at 580.

⁴⁵ Andrea M. Seielstad, *Community Building as a Means of Teaching Creative, Cooperative, and Complex Problem Solving in Clinical Legal Education*, 8 CLIN. L. REV. 445, 482-83 (2002).

⁴⁶ Weinstein & Morton, *supra* note 41, at 842.

⁴⁷ Jason G. Dykstra, *Teasing the Arc of Electric Spark: Fostering and Teaching Creativity in the Law School Curriculum*, 20 WYO. L. REV. 1, 35 (2020).

⁴⁸ Seielstad, *supra* note 45, at 492-83, quoting Paul Brest & Linda Krieger, *On Teaching Professional Judgment*, 69 WASH. L. REV. 527, 529 (1994).

⁴⁹ Dykstra, *supra* note 47, at 27.

⁵⁰ Magone & Friedland, *supra* note 12, at 572.

variety of realms.⁵¹ In order to best serve clients, lawyers need to have a variety of tools and resources, as well as the ability to think outside of traditional solutions.⁵² Creative problem solving focuses on the client's specific underlying needs and interests.⁵³ Lawyers must understand the legal issues facing a client, the client themselves, and the interaction between the two.⁵⁴

C. Enhancing Experiential Education

One of the primary goals of clinical legal education is to teach students how to transfer the doctrine they learned in the classroom to their future legal practice.⁵⁵ Clinics integrate the various elements of legal education, as students draw on their doctrinal reasoning, lawyering skills, and ethical foundation.⁵⁶ Clinical pedagogy was designed to maximize the opportunities for students to think, feel, react, and behave as a practicing lawyer.⁵⁷ Clinical teachers are constantly challenged by how to better understand and assist law students develop judgment and practice skills and to adequately prepare them for ethical practice. In essence, the goal is to move law students from novice to expert (or at least on the path in that direction).⁵⁸

The primary task for developing lawyers is to gain a basic understanding of lawyer work. With coaching, teaching, and supervision, the student gradually increases in ability and moves toward competence.⁵⁹ The key shift that happens from the classroom to the clinic is the move from the hypothetical to real-life. Students are suddenly faced with real clients and real legal problems for which they share responsibility.⁶⁰ Engaging in this work with possible severe consequences and

⁵¹ Weinstein, *supra* note 1, at 323-24.

⁵² Brescia, *supra* note 16, at 539. *See also* Weinstein, *supra* note 1 at 324-26 (viewing problems as requiring both a multidisciplinary approach and an opportunity to collaborate with other professionals.)

⁵³ Linda Morton, *Teaching Creative Problem Solving: A Paradigmatic Approach*, 34 CAL. W. L. REV. 375, 378 (1998) ("Given the complexity of the problems and the need for creative solutions to address them, it will not be just any lawyers at the center of this change but rather creative ones.") *See also* Brescia, *supra* note 16, at 532.

⁵⁴ Younie, *supra* note 11, at 28 (positing that medical education should teach students to understand the disease and understand the patient.)

⁵⁵ Stefan H. Krieger, *Domain Knowledge and the Teaching of Creative Legal Problem Solving*, 11 CLIN. L. REV. 149, 152 (2004).

⁵⁶ CARNEGIE REPORT, *supra* note 9, at 121.

⁵⁷ Anna E. Carpenter, *The Project Model of Clinical Education: Eight Principles to Maximize Student Learning and Social Justice Impact*, 20 CLIN. L. REV. 39, 65 (2013).

⁵⁸ CARNEGIE REPORT, *supra* note 9, at 116 ("Over time, the learner gradually develops the ability to see analogies, to recognize new situations as similar to whole remembered patterns, and, finally, as an expert intuition or judgment, such ability is the goal of professional training.")

⁵⁹ *Id.*, at 116-117.

⁶⁰ *Id.*, at 121.

accountability to clients is part of what enables students to move from novice to practitioner. The experience of lived responsibility allows students to grasp the importance of ethical legal work.⁶¹

It is now well-settled that students must encounter hypothetical or real-world legal contexts to build their problem-solving muscle.⁶² Experiential education often begins with role plays or simulations. Certainly, these are useful tools that give students legal training and an understanding of the human side of lawyering.⁶³ Role-playing permits students to practice lawyering and recognize that their job is more than knowing the law and facts. Real-world exercises unlock student awareness of their own value systems and of the effect of their values on their professional roles and client interactions.⁶⁴ The most notable drawback to simulated work is the lack of real consequences inherent in working with actual clients.⁶⁵ But the safety of simulation enables students to experiment and test their skills without the stress of working with clients. Some students can absorb more information and take more risks when some of the stress is removed.

Client-centered lawyering is now the accepted approach taught in clinical legal education. Positioning the client as decision-maker requires lawyers to listen deeply to clients, their stories, and their emotions.⁶⁶ At the heart of client-centered lawyering is respecting and allowing the client as primary decider.⁶⁷ In response, clinical teaching shifts responsibility from solely that of an attorney to a shared responsibility of lawyer and client. This goes beyond theory and requires clinicians to give concrete instruction to students in how to place clients in the center in a meaningful and real way.⁶⁸ To allow for consequential client participation students must understand and practice reflective listening and explore with clients their goals and values.⁶⁹ In many clinics, client-centered lawyering is taught in the context of practicing client interviewing and counseling. Some critics argue this basic mold does not account for the

⁶¹ *Id.*, at 116-117.

⁶² *Id.*, at 95, citing STUCKEY ET AL. BEST PRACTICES FOR LEGAL EDUCATION 109 (2007). Some clinicians question whether it is ethical to put future law students in front of real clients without practicing the full array of lawyering skills. Peggy Cooper Davis & James Webb, *Learning from Dramatized Outcomes*, 38 WILLIAM MITCHELL L. REV. 1146, 1146 (2012).

⁶³ Ross Hyams, *The Teaching of Skills: Rebuilding – Not Just Tinkering Around the Edges*, 13 J. Prof. Legal Educ., 63, 69 (1995).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Ann Shalleck, *Constructions of the Client Within Legal Education*, 45 STAN. L. REV. 1731, 1742 (1993).

⁶⁷ *Id.*

⁶⁸ *Id.*, at 1743.

⁶⁹ *Id.*

diversity of client experiences.⁷⁰ Students cannot rely solely on applying learned rules and content; instead, they must fully understand the context and be able to think critically about all of the possible outcomes and solutions.⁷¹ This deeper level of comprehension and critical thought enables creativity, innovation, growth, and professional progress.⁷² Many clinical instructors focus on harnessing students' inherent curiosity, as well as improving the "situational" curiosity of students who do not come by it naturally.⁷³ This task is sometimes herculean, but also delightful. It involves encouraging students to see their clinical semester as more than legal work but "about responsibility to and for another human being."⁷⁴

While building problem-solving capability is always a goal of clinical instructors, the how-to is more difficult. One scholar suggests using exercises that encourage students to think outside the box or engage in creative problem solving can effectively teach problem-solving skills.⁷⁵ This includes assisting students in developing awareness of the various perceptual, cultural, emotional, and other kinds of barriers to problem-solving.⁷⁶ By using innovative exercises, students are encouraged to transcend conventional modes of thinking and expand upon their typical approaches.⁷⁷

D. Meeting The Needs Of Today's Law Students

In addition to the lack of creativity and empathy, legal educators today encounter more students struggling with anxiety and depression.⁷⁸ It is not news that law school is stressful or that law students feel this stress more than graduate students in other disciplines.⁷⁹ Legal education

⁷⁰ *Id.*, at 1743-44. "There is no sense that these situations pose different issues for the lawyer. The model neglects to recognize the importance of the context of each case in the decisionmaking process." *Id.*, at 1747.

⁷¹ Davis & Webb, *supra* note 62, at 1149.

⁷² *Id.*, at 1149.

⁷³ Jacobs, *supra* note 2, at 378.

⁷⁴ *Id.*, at 378, quoting Ian Weinstein, *Teaching Reflective Lawyering in a Small Case Litigation Clinic: A Love Letter to My Clinic*, 13 CLIN. L. REV. 573, 576 (2006).

⁷⁵ Seielstad, *supra* note 45, at 503.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Abigail A. Patthoff, *This is Your Brain on Law School: The Impact of Fear-Based Narratives on Law Students*, 2015 UTAH L. REV. 391, 424 (2015).

⁷⁹ Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. LEGAL EDUC. 75, 77 (2002) ("Law students regularly top the charts as among the most dissatisfied, demoralized, and depressed of graduate-student programs."); Patthoff, *supra* note 78, at 424. In one recent study, 37% of law students reported anxiety compared to 15% of students in other graduate programs, and 17% of law students reported experiencing depression compared to 14% of non-law students. Jerome M. Organ *et al.*, *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Abuse and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 136-37 (2016).

was designed to teach that “tough-minded analysis, hard facts, and cold logic are the tools of a good lawyer, and it has little room for emotion, imagination, and morality.”⁸⁰ Students quickly absorb that learning “to think like a lawyer” requires “abandoning their ideals, ethical values, and sense of self.”⁸¹ The law school environment—filled with stress, competition, and hostility—leads to law students feeling alienated, depressed, and lacking in self-esteem and confidence.⁸²

Compared to their predecessor Millennials who some described as “confident and optimistic,”⁸³ current Gen Z students seek more guidance in how to engage with clients. Enduring stress affects the process of maturing and may cause students to regress developmentally.⁸⁴ High levels of stress, not surprisingly, decrease the academic performance of students, limit their capacity to learn, and interferes with their ability to process and retain information.⁸⁵ While some anxiety can be useful, overly anxious students can fall deeply into negative thinking cycles that weaken executive functioning and prevent productivity.⁸⁶

Often law students enter law school motivated by “justice” or “making their community better,” but these desires diminish as legal education fails to nurture them.⁸⁷ Countless students experience a shift from intrinsic to external motivation with an accompanying decline in well-being.⁸⁸

As a starting point, most students enter their clinical experiences eager to transfer their learned doctrinal material to real-world experiences.⁸⁹ They are both excited and terrified to see if they have what it takes to succeed as practicing lawyers. Facing clients for the first time, some students struggle with the inherent contradictions and ambiguities, client misperceptions, alternative truths, and varied world views.⁹⁰ Without significant life experience to uncover the multi-layered aspects of client lives, students can become stuck or paralyzed by their

See also Debra S. Austin, *Positive Legal Education: Flourishing Law Students and Thriving Law Schools*, 77 MD. L. REV. 649, 657 (2018).

⁸⁰ Hess, *supra* note 79, at 78-79.

⁸¹ *Id.*

⁸² *Id.* at 77. In fact, large numbers of law students reported that they were more articulate and intelligent before entering law school. Joan M. Krauskopf, *Touching the Elephant: Perceptions of Gender Issues in Nine Law Schools*, 44 J. LEGAL EDUC. 311, 328 (1994).

⁸³ Emily A. Benfer & Colleen F. Shanahan, *Educating the Invincibles: Strategies for Teaching the Millennial Generation in Law School*, 20 CLIN. L. REV. 1, 8 (2013).

⁸⁴ Judith L. Ritter, *Growin' Up: An Assessment of Adult Self-Image in Clinical Law Students*, 44 AKRON L. REV. 137, 152 (2011).

⁸⁵ Hess, *supra* note 79, at 80.

⁸⁶ Austin, *supra* note 79, at 667.

⁸⁷ Younie, *supra* note 11, at 37.

⁸⁸ Note, *Alienation in Law School*, 137 HARVARD L. REV. 958, 966 (2024).

⁸⁹ Jacobs, *supra* note 2, at 378.

⁹⁰ Helen H. Kang, *Use of Role Play and Interview Modes in Law Clinic Case Rounds to Teach Essential Legal Skills and to Maximize Meaningful Participation*, 19 CLIN. L. REV.

fear of inability.⁹¹ They can struggle to think about, understand, connect to, and work with clients who may be different from them with respect to race, culture, class, or age.⁹²

It makes sense that law students are anxious, unprepared, and generally unable to “present” themselves as lawyers.⁹³ That is the reason clinics exist: to give students support, confidence, and experience. As my students start practicing client interviewing and counseling, I see their minds whirring with all they have to “do”: develop a trusting client relationship, demonstrate strong communication skills, listen empathetically, as well as gather important factual information, determine client goals, and provide sound legal counseling. It is a lot.

Whether due to increasing anxiety, feeling out of place in law school, or the continuing effects of Covid isolation, recent law students seem more hesitant and less sure of themselves; they had a greater need to engage in simulations before they felt ready to deal with actual clients.⁹⁴ Many expressed uncertainty in meeting a client alone and struggled with what to say to form a connection. Students seemed to retain less substantive material, to spend more time preparing for initial client interviews, and to require more supervisor support. In response, I increased the time we spent preparing for interviews, added more role plays, and allowed more time for students to settle into their clinical experience. Still, they struggled. I searched for tools to ease their anxiety, bolster their foundation, and build their confidence. Ultimately, I realized my students needed a way to stop thinking about what they would *do* as lawyers and instead focus solely on their client needs. I needed a new way to provide space for reflection and discovery. The theatre project outlined in section III was the impetus of this article and designed to fill this gap in student learning and confidence.

II. THEATRE AS A PEDAGOGICAL TOOL

It is not uncommon for a moving theatrical performance to leave audience members “feeling buoyed, transported to fantastical places, and dreaming of [themselves] in the role.”⁹⁵ Those who are watching can be confronted with pain, loss, joy, laughter, all conveyed by passionate

207, 237 (2012); Sharan B. Meriam, *The Role of Cognitive Development in Mezirow's Transformational Learning Theory*, 55 ADULT EDUC. Q. 60, 64 (2004).

⁹¹ Kang, *supra* note 90, at 237-38.

⁹² Millemann, *supra* note 4, at 439.

⁹³ Joy Kanwar, *Avatars, Acting and Imagination: Bringing New Techniques into the Legal Classroom*, 43 J. LEGAL PROF. 1, 10 (2018).

⁹⁴ Ritter, *supra* note 84, at 150.

⁹⁵ Carol M. Kaplan, *Voices Rising, An Essay on Gender, Justice, and Theater in South Africa*, 3 SEATTLE J. SOC. JUST. 711, 713 (2004).

actors who excel due to both practice and lived experience.⁹⁶ Spectators can “learn, see, hear, experience, realize and internalize” powerful realities such as bias and discrimination.⁹⁷ Theater provides the ability to “transform, to educate, to create change.”⁹⁸ Other graduate programs effectively use theatre to enhance student learning, self-awareness and critical thinking. Bringing theatre to legal education provides space and opportunity for students to better understand the lives of clients and ultimately solve problems more effectively.

A. *Power of Theatrical Performance*

The transformative power of theatre to engage the audience dates back thousands of years. For example, Aristotle suggested that audience members “would emotionally participate in the drama through their empathy.”⁹⁹ Watching a dramatic performance has the capacity for transformation for the audience, causing its members to examine their values and beliefs, while teaching them how to empathize and to understand their connections to others.¹⁰⁰ The experience of art requires an appreciation of the experience of others.¹⁰¹ Most people have been affected by a theatrical performance and the compelling “ability to engage its audience mentally, physically, and emotionally.”¹⁰² The audience responds to the performance on three levels: the subject matter, experience of the action, and the characters.¹⁰³ The music, the characters, or the script draws people into the story and wraps them in a new world.¹⁰⁴

Theatre fosters and nurtures a sense of purposeful and intentional community. There is a oneness between the performers and the audience as they witness the same action and emotion at the same time and in the same space.¹⁰⁵ We are reminded that we are not alone and that human connection is necessary.¹⁰⁶ Theater provides more than

⁹⁶ *Id.*

⁹⁷ *Id.*, at 714.

⁹⁸ *Id.*, at 714.

⁹⁹ Heyward, *supra* note 21, at 198.

¹⁰⁰ Leigh Ann Howard, *Speaking Theatre/Doing Pedagogy: Re-Visiting Theatre of the Oppressed*, 53 COMMUN. EDUC. 217, 219 (2004).

¹⁰¹ Mayo, *supra* note 24, at 184.

¹⁰² James G. Boggs et al., *Experiential Learning Through Interactive Drama: An Alternative to Student Role Plays*, 31 J. OF MGMT. ED., 832, 833 (2007)

¹⁰³ RICHARD COURTNEY, *PLAY, DRAMA & THOUGHT: THE INTELLECTUAL BACKGROUND TO DRAMA IN EDUCATION*, 201 (3rd ed. 1974).

¹⁰⁴ Boggs et al., *supra* note 102, at 833-34.

¹⁰⁵ Pipino, *supra* note 7, at 1.2.1.

¹⁰⁶ ACTING STUDIO CHICAGO, 5 REASONS THEATRE IS STILL IMPORTANT, <https://www.actingstudiochicago.com/5-reasons-why-theatre-is-still-important-blog/> (last visited August 28, 2025).

entertainment value: it builds psychological skills—our ability to recognize and understand the emotions of others. It develops and fortifies our “emotional muscle of empathy.”¹⁰⁷ Theatre teaches us how to behave and react by giving us examples and the opportunity to learn from them.¹⁰⁸ We are shown a different perspective from our own and invited to consider situations from the viewpoint of the actors. We are challenged to take risks, think differently, and maybe appreciate diverse voices. Such experiences are valuable for making us think as individuals, but they demand that we also examine larger societal issues.¹⁰⁹

A recent study conducted by academic researchers examined the question, “Can attending live theatre improve empathy by immersing audience members in the stories of others?”¹¹⁰ They conducted three studies with two large regional theatre companies in New York City and Portland, Oregon.¹¹¹ Theatre goers were invited to fill out a survey immediately before or after seeing one of three plays depicting current socio-political issues.¹¹² The results demonstrated that viewing live theatre increased audience members’ empathy for the groups depicted, changed their belief in socio-political issues discussed, and even increased their donations to related organizations.¹¹³ As this article will later discuss, effective lawyering demands an understanding of the unique experiences, values, backgrounds, and life choices of each individual client and their place in larger society.

B. Theory Behind Theatre-Based Education

Educators in elementary through college and even some graduate programs have recognized drama’s emotional power to enhance student learning and understanding.¹¹⁴ The use of drama and performance are well-established pedagogical tools used in K-12 and undergraduate

¹⁰⁷ Steve Rathje, Leor Hackel and Jamil Zaki, *Why Theatre Makes Us Better People: Bring it Back*, L.A. TIMES (May 2, 2021) <https://www.latimes.com/opinion/story/2021-05-02/theater-empathy-live-performance-psychology> (last visited August 28, 2025).

¹⁰⁸ Pipino, *supra* note 7, at 1.2.1.

¹⁰⁹ ACTING STUDIO CHICAGO, *supra* n. 106.

¹¹⁰ Steve Rathje, Leor Hackel and Jamil Zaki, *Attending live theatre improves empathy, changes attitudes, and leads to pro-social behavior*, 95 J. Exper. Soc. Psych. 1, 1 (2021).

¹¹¹ *Id.*, at 2.

¹¹² *Id.*, at 2-8 (the plays were “Skelton Crew”—a play about auto workers in Detroit during the 2008 recession, “Sweat”—a play about factory workers in Pennsylvania, and “Wolf Play”—a play about a same-sex couple trying to adopt a child).

¹¹³ *Id.*, at 9.

¹¹⁴ Heyward, *supra* note 21, at 199.

education.¹¹⁵ While much of the literature specifies the use of “drama”¹¹⁶ as opposed to “theatre,” this paper argues that many of the benefits of theatre-based pedagogy also apply to the ways theatre was used in this project. Many terms are used to describe these methodologies, including “theatre-in-education,”¹¹⁷ “process drama,”¹¹⁸ and “educational drama.”¹¹⁹ Regardless of terms, the pioneers of theatre-based education assert it develops skills of collaboration, critical thinking, and emotional well-being. As a discipline, it fosters creativity, self-awareness, and empathy for others.¹²⁰ Education occurs through theatre “when it initiates or extends a questioning process in its audience.”¹²¹

The use of theatre is a compelling tool because “it contextualizes learning so that students ‘think from within a dilemma instead of talking about the dilemma.’”¹²² Educator Dorothy Heathcote, who taught both children and teachers for over 60 years, designed the “Mantle of the Expert” technique.¹²³ This approach—which asks the student to become the expert—sought to provide a larger context that students could extrapolate to various settings.¹²⁴ Taking on this heightened responsibility elevates student learning from merely ingesting material to using the material to make well-reasoned decisions.¹²⁵ The resulting outcome is that “students are ushered into an imaginative space where

¹¹⁵ MANON VAN DE WATER ET AL., *DRAMA AND EDUCATION: PERFORMANCE METHODOLOGIES FOR TEACHING AND LEARNING* 21-26 (2015) (authors outline history of pioneers utilizing drama-based pedagogies.)

¹¹⁶ Educational theorists contrast “drama,” which means to do or act and focuses on process, with “theatre” which is described as an art form that creates a product for an audience. *Id.*, at 7. For purposes of this paper, I will use the term “theatre-based education” as it more accurately represents the project where law students were audience members rather than part of the production.

¹¹⁷ “Theatre-in-Education” (TIE) emerged in the 1960s as a child-centered approach to educating students using theatre. ROGER WOOSTER, *CONTEMPORARY THEATRE IN EDUCATION*, 1-2 (2007).

¹¹⁸ Craig Duckworth, *A Dramatic Approach to Teaching Applied Ethics*, *CREATIVITY IN THE CLASSROOM*, 75 (Paul McIntosh & Digby Warren eds., 2013).

¹¹⁹ VAN DE WATER ET AL., *supra* note 115, at 7.

¹²⁰ *Id.*, at 8.

¹²¹ Cristina Perez Valverde, *Theatre in Education (TIE) in the Context of Educational Drama*, 7 (2002), available at: https://www.researchgate.net/publication/39252871_Theatre_in_education_TIE_in_the_context_of_educational_drama.

¹²² Davis & Webb, *supra* note 62, at 1149. See DOROTHY HEATHCOTE AND GAVIN BOLTON, *DRAMA FOR LEARNING* (1995) (Authors argue that contemporary education evolved so that students learned material in fragments rather than using the knowledge to do things, leaving them ill-equipped to perform in the real world.)

¹²³ DOROTHY HEATHCOTE: *COLLECTED WRITINGS ON EDUCATION AND DRAMA*, 114 (Liz Johnson and Cecily O’Neill eds., 1984) (“[T]he arts isolate a factor of human experience. They particularize something to bring it to your attention.”).

¹²⁴ Davis & Webb, *supra* note 62, at 1149.

¹²⁵ *Id.*, at 1150.

they can venture beyond comprehension to application.”¹²⁶ Part of the power of using drama is that students can watch as the protagonist acts and then substitute themselves in the action. Then students watch as the actor doesn’t *tell* them a resolution of the conflict but *shows* them.¹²⁷

Beginning in the 1980s, research in other domains such as psychology and neuroscience reinforced the notion that theatre-based methodologies can benefit brain functioning.¹²⁸ Scholars began using brain science to support varied teaching and learning methods and connecting emotion and brain functioning.¹²⁹ Psychologist Howard Gardner’s theory and corresponding book on multiple intelligences posits that individuals possess unique abilities equating to different types of intelligence.¹³⁰ One of the multiple intelligences Gardner lays out is “The Personal Intelligences,” which he defines in part as the capacity “to read the intentions and desires—even when these have been hidden—of many other individuals and, potentially, to act upon this knowledge...”¹³¹ He advocates for educational practices to incorporate these multiple intelligences, allowing students to leverage their strengths and harness them into enhanced learning, creative ideas, and innovative solutions.¹³²

In his popular book, *Emotional Intelligence*, psychologist Daniel Goleman elaborated on Gardner’s work by highlighting the role of emotions as a key dimension of personal intelligence.¹³³ Goleman posits that highly effective people possess self-awareness of their own feelings, the ability to monitor and manage those feelings, and empathy—or attunement to the feelings of others.¹³⁴ High emotional intelligence leads to skillful interpersonal interactions, quality relationships, and effective leadership.¹³⁵ Theatre is “communication and exploration of

¹²⁶ *Id.*

¹²⁷ MADY SHUTZMAN & JAN COHEN-CRUZ, *PLAYING BOAL*, 56 (1993).

¹²⁸ VAN DE WATER, *supra* note 115, at 10.

¹²⁹ *Id.*

¹³⁰ HOWARD GARDNER, *FRAMES OF MIND: THE THEORY OF MULTIPLE INTELLIGENCES*, 6 (1983) (Use of tests like IQ “fail to come to grips with the higher levels of creativity; and all are insensitive to the range of roles highlighted in human society.”) *Id.*, at 24.

¹³¹ *Id.*, at 239. The other intelligences Gardner enumerates are: Linguistic, Logical/Mathematical, Spatial, Musical, and Bodily/Kinesthetic.

¹³² *Id.*, at 372.

¹³³ DANIEL GOLEMAN, *EMOTIONAL INTELLIGENCE*, 40, 43 (2005) (defining “Emotional Intelligence” as including: 1. Knowing one’s emotions, 2. Managing emotions, 3. Motivating oneself, 4. Recognizing emotions in others, 5. Handling relationships.)

¹³⁴ *Id.*, at 43.

¹³⁵ *Id.*, at 43-44. While what is meant by “emotional intelligence” is debated, academics John Mayer and Peter Salovey developed a widely used definition. John Mayer & Peter Salovey, *What is Emotional Intelligence?*, in *EMOTIONAL DEVELOPMENT AND EMOTIONAL INTELLIGENCE: IMPLICATIONS FOR EDUCATORS*, (Peter Salovey and David Sluyter eds., 1997). According to their theory, there are four “branches”: 1) emotional perception and expression, 2) emotional facilitation of thought, 3) emotional understanding, and

human experience”; when used as a teaching tool, it allows students to grapple with their own values in relation to others and the world.¹³⁶

Author Daniel H. Pink refutes the belief that logical and linear thinking is superior and opines that our new normal is “an economy and a society built on the inventive, empathic, big-picture capabilities ...”¹³⁷ He describes six senses that lead to successful personal and professional lives—Design, Story, Symphony, Empathy, Play, and Meaning.¹³⁸ His concept of “story” presupposes that stories are how our mind remembers by “conveying a complex idea in a more memorable and meaningful way.”¹³⁹ While pure logic “tries to generalize, to strip decision making from specific context, to remove it from subjective emotions[,] [s]tories capture the context, capture the emotions ... stories are important cognitive events, for they encapsulate, into one compact package, information knowledge, context and emotion.”¹⁴⁰ Pink asserts that “empathy” is necessary to understand someone else, create connection, and be able to care for others.¹⁴¹ “Empathy is a stunning act of imaginative derring-do, the ultimate virtual reality—climbing into another’s mind to experience the world from that person’s perspective.”¹⁴² And the notion of “play,” including humor and joy, is linked to emotional intelligence and leads to increased productivity and fulfillment.¹⁴³ Using theatre as a teaching tool cultivates all of these—play, empathy, and story—to improve professional competence.

Integrating theatre into clinical education enhances student training beyond what simulation and role play can provide. By watching the drama unfold, students are encouraged to reflect on their values, their place in the world, their notion of how the world works, what they are capable of, and their connection to others.¹⁴⁴ When students think

4) emotional management. Emotional perception requires the ability to identify, decipher and acknowledge the tone and expression expressed. This allows for the self-awareness and self-regulation of emotions as well as the emotions of others. Peter Reilly, *Teaching Law Students How to Feel: Using Negotiations Training to Increase Emotional Intelligence*, 21 NEGOT. J. 301, 303(2005). The second “branch” focuses on the impact of emotion on cognition and can “lead to more effective reasoning, decision making, problem solving, and creative expression.” *Id.* The understanding emotion branch requires the identification of emotion and relationship to other emotions. This is critical for understanding the causes and consequences of emotions. *Id.*, at 304. Lastly, emotional management is the ability to regulate and reflect on our own emotions and well as those of others. *Id.*

¹³⁶ Valverde, *supra* note 121, at 7.

¹³⁷ DANIEL H. PINK, *A WHOLE NEW MIND*, 1-2 (2006).

¹³⁸ *Id.*, at 65-67.

¹³⁹ *Id.*, at 103.

¹⁴⁰ *Id.*, quoting DON NORMAN, *THINGS THAT MAKE US SMART: DEFENDING HUMAN ATTRIBUTES IN THE AGE OF THE MACHINE*, 146 (1994).

¹⁴¹ *Id.*, at 159.

¹⁴² *Id.*, at 159.

¹⁴³ *Id.*, at 188.

¹⁴⁴ Valverde, *supra* note 121, at 7.

critically about alternative courses of action, they expand their capacity for innovation and lawyering ability.¹⁴⁵ Considering the importance of multi-dimensional thinking, employing theatre facilitates “acquiring, experiencing, and enhancing emotional intelligence leading to ... confidence, curiosity, intentionality, self control.”¹⁴⁶

C. *Practical Application of Theatre-Based Learning*

The effectiveness of theatre as a pedagogical tool is that it incorporates the learner into the educational journey.¹⁴⁷ While experiential learning is widely assimilated into legal education, theatrical performance is seldom used as a teaching device but is not completely novel. The next section outlines the prior uses of theatre in teaching and the enormous potential to be explored.

1. *Process Drama And Forum Theatre*

It is well settled that legal training should include practicing legal skills in a safe setting where students can test and refine their abilities prior to obtaining their law license.¹⁴⁸ Law professor Peggy Cooper Davis used a technique called “process drama,” that involves an experiential learning cycle of “act, reflect, and conceptualize” to teach and train students.¹⁴⁹ Unlike a typical performance, process drama is unscripted without an audience designed to be unpredictable and focus students on the process rather than a final product.¹⁵⁰ Professor Davis, in collaboration with playwright James Webb, created exercises that allow students to practice a skill, reflect on their actions, and extrapolate their actions to future practice.¹⁵¹ Students work in role as lawyers with actor-clients and the sessions are often paused for reflection and discussion.¹⁵² Professor Davis asserts that process drama not only enhances students’ interpersonal communication but also deepens their legal analysis when they see the interplay between human functioning and legal interpretation.¹⁵³

This use of process drama was designed to assist students in moving beyond applying rules to deepen their understanding of

¹⁴⁵ Davis and Webb, *supra* note 62, at 1149.

¹⁴⁶ VAN DE WATER, *supra* note 115, at 3.

¹⁴⁷ Phogat & Tiwari, *supra* note 28, at 1-5.

¹⁴⁸ Davis & Webb, *supra* note 62, at 1146.

¹⁴⁹ *Id.*, at 1147-48. Process drama, developed by educator Dorothy Heathcote, “uses theatre in nontraditional, experiential ways to encourage active learning.” *Id.*

¹⁵⁰ *Id.*, at 1148.

¹⁵¹ *Id.*, at 1147.

¹⁵² *Id.*, at 1156.

¹⁵³ *Id.*, at 1151.

possible outcomes and courses of action. This “more ambitious” type of simulation, Davis maintains, creates “intellectual versatility” necessary to solve complex human legal problems.¹⁵⁴ It is argued that as students step into the role of lawyer and carry the responsibility of accountability, their learning transcends ingesting material to more active critical thinking.¹⁵⁵

Recently, Professor JoNel Newman and her clinical colleagues experimented with using a theatrical model called “Forum Theatre” to educate students.¹⁵⁶ Forum Theatre, developed by activist and theatre director Augusto Boal, includes the audience within the performance to strategize for political change.¹⁵⁷ He famously reconceptualized political theatre by transforming a typical sit-and-watch performance into a participatory and collaborative experience for the audience called “spect-actors.”¹⁵⁸ Boal’s groundbreaking work, *Theatre of the Oppressed*, outlines this unique methodology designed to test a possible solution of empowerment by engaging the audience in collaboration.¹⁵⁹ After the actors run through the story one time without interruption, the next time the “spect-actors” are encouraged to shout “freeze” to stop the action. That person takes the place of the actor and completes the scenario by changing the outcome to remove the oppressive element.¹⁶⁰

Forum Theatre has long been used in theatrical education and, more recently, in graduate and higher education but rarely in legal training.¹⁶¹ In a 2020 law review article, Newman and colleagues contend that Forum Theatre offers prospective lawyers the opportunity to recognize and interrupt oppression, increase self-awareness of personal bias, and empower future clients.¹⁶² They argue that clinicians can use Forum Theatre-type exercises to teach legal skills and ethics to incoming clinicians. For example, clinicians can stage a lawyer-client meeting where the lawyer acts unprofessionally and students then serve as “spect-actors” and interrupt the action to dispense the correct legal advice.¹⁶³

¹⁵⁴ *Id.* at 1161.

¹⁵⁵ *Id.* at 1150.

¹⁵⁶ Newman *et al.*, *supra* note 5, at 474-77.

¹⁵⁷ Duckworth, *supra* note 118, at 75.

¹⁵⁸ Newman *et al.*, *supra* note 5, at 477-79.

¹⁵⁹ *Id.*, at 468. The goals of Forum Theatre are: 1) create a democratic space, and 2) empower the audience to engage in strategic problem-solving that brings needed social change.

¹⁶⁰ *Id.*, at 477-79.

¹⁶¹ *Id.*, at 471. See e.g., Peggy Cooper Davis, *What Does Documentary Filmmaking Have to do with Practicing Law*, 8 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 7, 14-15 (2008); Davis & Webb, *supra* note 62, at 1148-49.

¹⁶² Newman *et al.*, *supra* note 5, at 474.

¹⁶³ *Id.*, at 477-79.

While these innovative techniques provide students with in-the-moment lawyering opportunities, this article posits that students need a critical first step before serving as “spect-actors”: the theatrical benefit of being in an audience absorbing, reflecting and questioning to prepare for doing. Medical school training has long utilized a theatre-type technique designed to use the power of performance to enhance learning.

2. *Readers’ Theatre in Medical Education*

The use of theater-based pedagogical tools in medical education dates back to the 1960s.¹⁶⁴ Readers’ Theatre is a method in which participants read aloud from a script to an audience followed by a group discussion.¹⁶⁵ It is premised on the belief that a live performance delivers content “that helps learners understand the accumulated knowledge and become active participants in their own learning.”¹⁶⁶ Student engagement is high as the performance is more compelling and participants pay attention and mentally participate in the action.¹⁶⁷ The premise is that listening to a story and then reflecting in a group discussion is quite different than silently reading a story alone.¹⁶⁸

A parallel strand of scholarship advocates for the inclusion of literary fiction in the clinical curriculum to build student empathy.¹⁶⁹ Professor Carolyn Grose used realistic fiction as preparation for client interviewing to ground students in a realistic version of clients varied lived experiences.¹⁷⁰ She argued that for law students to truly understand, and believe, a client’s story, they must confront their own learned stereotypes and misperceptions.¹⁷¹ A student who reads a fictional story prior to interviewing a client will be less likely to discount the client’s experience which enables connection and empathy.¹⁷² Fiction is certainly

¹⁶⁴ Johanna Shapiro & Beverly Cho, *Medical Readers’ Theater: Relevance to Geriatrics Medical Education*, 32 GERON. & GERIAT. ED., 350 (2011).

¹⁶⁵ Khanlou *et al.*, *Readers Theatre as an art-based approach to education: A scoping review on experiences of adult learners and educators*, 116 NURSE ED. TODAY 2 (2022).

¹⁶⁶ *Id.*, at 11.

¹⁶⁷ *Id.*, at 2.

¹⁶⁸ Gretchen A. Case & Guy Micco, *Moral Imagination Takes the Stage: Readers; Theater in a Medical Context*, 2 JOURNAL FOR LEARNING THROUGH THE ARTS 2 (2006). (“When course content is delivered in meaningful ways, learners are more likely to engage as they see the implications and relevance to their professional practice.”) *See also* Khanlou *et al.*, *supra* note 165, at 2.

¹⁶⁹ Peter H. Meyers and Sara D. Schotland, *Integrating Fictional Narratives into Clinical Education Curricula, as a Pedagogical Tool for Law Students*, 31 CLIN. L. REV. 299, 300-01 (2025).

¹⁷⁰ Carolyn Grose, “A Field Trip to Benetton. . .and Beyond: Some Thoughts on ‘Outside Narrative’ in a Law School Clinic”, 4 CLIN. L. REV. 109, 123 (1997).

¹⁷¹ *Id.* at 122.

¹⁷² Meyers & Schotland, *supra* note 169 at 301.

a powerful tool and many readers have been swept away by a gripping story or immersed by a character's journey.¹⁷³ However, theater can do more than transfix an individual in a private moment. The audience as a whole is part of a dynamic communal experience. Instead of one individual's interpretation of a fictional story, actors guide an entire group on a journey of back-and-forth reaction and emotional impact. This is not done through a reader's imagination but seeing an actor's joyful expression or watching the squeeze of hands or punch of a fist.

The benefits of Readers' Theatre include: capturing audience interest, provoking dialogue from performance, developing communication skills, introducing ethical issues, enhancing ethical sensitivity, and preparing students to handle ethical issues.¹⁷⁴ It is advantageous for budding medical students because it "encourages emotional engagement and moral imagination, as well as conceptual and knowledge learning."¹⁷⁵ Readers' Theatre provides a context to better understand others and provide a "closer feel of real-world experiences."¹⁷⁶

The medical profession recognizes that being an excellent doctor requires more than acquiring essential medical and scientific knowledge. Becoming an exceptional medical provider requires being "empathic, patient-centered, compassionate, humble, and respectful."¹⁷⁷ In one 1997 study, medical students who engaged in drama as a pedagogical tool scored significantly higher than a control group on knowledge and communication skills when interviewing patients about embarrassing health conditions.¹⁷⁸ In another, students demonstrated better skill in taking patient histories after using interactive drama.¹⁷⁹ Readers' Theatre engages students on both cognitive and emotional level, which has the potential to enhance their "understanding of complex emotional, interpersonal and psychological dynamics ...which are difficult to fully convey in more traditional forms of dissemination."¹⁸⁰

¹⁷³ *Id.*, at 302 ("Anyone who cried when Beth died in *Little Women*, or cheered when Harry Potter exacted his revenge on Voldemort, has experienced the transportive power of literary fiction.") citing Jennifer L. Connell, *Reading Cases for Empathy*, 17 U. ST. THOMAS L.J. 772, 772-73 (2022).

¹⁷⁴ GERKMAN & CORNETT, *supra* note 14, at 136.

¹⁷⁵ Shapiro & Cho, *supra* note 164, at 351.

¹⁷⁶ Khanlou, *supra* note 165, at 2.

¹⁷⁷ Carlos Centeno, *Palliative Care and the Arts: Vehicles to Introduce Medical Students to Patient-Centered Decision-Making and the Art of Caring*, 17 BMC MEDICAL ED. 257(2017).

¹⁷⁸ Knowles, C. *et al.*, *A Randomised Controlled Trial of Effectiveness of Combining Video Role Play with Traditional Methods of Delivering Undergraduate Medical Education*, 77 SEXUALLY TRANSMITTED INFECTIONS, 376 (2001).

¹⁷⁹ Littlefield, J.H., *et al.*, *Evaluation of role-play learning exercise in an ambulatory clinic setting*, 4 ADVANCES IN HEAL. SCI. ED. THEORY PRACT., 167 (1999).

¹⁸⁰ GERKMAN & CORNETT, *supra* note 14, at 136-37, citing Kate Rossiter *et al.*, *Staging Data: Theatre as a Tool for Analysis and Knowledge Transfer in Health Research*, 66 Soc. Sci. & MED. 130, 145 (2008).

Law students, and lawyers as well, often feel unprepared to discuss death and dying with clients. Similarly, medical students and physicians are equally unprepared to discuss impending death with a patient. To address this shortcoming in such a critically necessary area, some schools have supplemented passive didactic models with theatrical performances to enhance student learning, empathy, and reflection.¹⁸¹ Medical schools have had success using Readers' Theatre to educate medical students on end-of-life care.¹⁸² Educators want to build empathy in students so they can work from a place of "what is it like to be my older client?"¹⁸³ Instead of being passive spectators at a lecture, in the audience students become "entangled in a dramatic scenario yet have sufficient emotional distance to simultaneously engage in critical analysis."¹⁸⁴ The students describe the play as a positive experience and reported an increase in understanding and in their confidence to discuss end-of-life issues.¹⁸⁵ Additionally, in comparing the performance to classroom teaching methods, most students described it as "much more useful" or "more useful."¹⁸⁶ Students could enter a more emotional atmosphere as the play was presented in a safe space where students could later reflect on the challenges they and their patients may face.¹⁸⁷

This deeper level of engagement allows students to contemplate and address difficult areas such as death and dying, ageism, and the general aging process.¹⁸⁸ Readers' Theatre has been used to enhance student insight into aging and bias, understand elders' views on aging, and suggestions for how to interact and communicate with older adults.¹⁸⁹ Research shows that students who participated in Medical Readers' Theatre regarding older patients held more positive views of

¹⁸¹ Anna M. Kerr *et al.*, *Confessions of a Reluctant Caregiver Palliative Educational Program: Using Readers' Theatre to Teach End-of-Life Communication in Undergraduate Medical Education*, 35 HEALTH COMMUNICATION 192 (2020).

¹⁸² *Id.*, at 194. See e.g. Wayne A. Beach *et al.*, *The Conversations About Cancer (CAC) Project: Assessing feasibility and audience impacts from viewing the cancer play*, Health Communication, 29, 462-472 (2014); Karl A. Lorenz *et al.*, *End-of-life Education Using the Dramatic Arts: The Wit Educational Initiative*, 79 ACAD. MED., 481 (2004)) (Drama-based learning programs can "promote humanism, empathy, and self-reflection in the care that medical trainees provide to dying persons."); Kerr, *supra* note 181, at 196; citing Lorenz *et al.* at 485; Khanlou *et al.*, *supra* note 165, at 10 (Readers Theatre used to teach medical students end-of-life care skills, talking to clients about illness and death, advance directives, and managing pain.)

¹⁸³ Case & Micco, *supra* note 168, at 1.

¹⁸⁴ Shapiro & Cho, *supra* note 164, at 351.

¹⁸⁵ Kerr, *supra* note 181, at 196.

¹⁸⁶ *Id.*

¹⁸⁷ Kerr, *supra* note 181, at 197.

¹⁸⁸ Khanlou, *et al.*, *supra* note 165, at 2.

¹⁸⁹ *Id.*, at 10. In particular when students who have little contact with older adults, it can help bridge "the human connection that really promotes understanding of the whole spectrum of the aging process." Shapiro & Cho, *supra* note 164, at 352.

older adults, and the experience improved their ability to interact and communicate with their older patients.¹⁹⁰

The *Wit* Educational Initiative is one example. The project delivered live productions of the play, *Wit*, in clinical medical settings to promote empathy and humanistic care of dying patients.¹⁹¹ *Wit* relates the story of a poetry professor undergoing experimental chemotherapy for metastatic ovarian cancer. The staged reading was followed by a discussion of the play's themes that allowed a "safe haven" for the audience members to express their emotions relating to end-of-life care.¹⁹² Part of its lauded success was the reported ability of audience members to learn from "the emotional safety of a theater seat compared to a dying patient's room..."¹⁹³

The educational benefits of Readers' Theatre sets the stage for similar success using theatre in legal education. A recent study measured the perceptions of law students regarding the effectiveness of Readers' Theatre as a teaching strategy.¹⁹⁴ Participants performed vignettes in which an associate attorney faces an ethical dilemma and was pressured by a senior lawyer to act improperly.¹⁹⁵ Each performance was followed by a group discussion on the ethical issues at play and on the perspectives of the characters. The discussion was followed by a survey on the effectiveness of the methodology in increasing awareness of the ethical issues.¹⁹⁶ Students rated it as an important methodology because it highlighted substantive material and it increased opportunities for discussion and analysis.¹⁹⁷ All but one participant rated Readers' Theatre as more effective than classroom lectures.¹⁹⁸ These findings demonstrate law students are eager and willing to engage in innovative teaching methods to further hone their lawyering skills. Theatre provides an excellent methodology to refine skill development, professional self-awareness, and critical thinking.

III. PROJECT

I first contemplated using theatre as a teaching tool several years ago when I attended a conference that started with a staged reading

¹⁹⁰ Shapiro & Cho, *supra* note 164, at 359.

¹⁹¹ Lorenz *et al.*, *supra* note 182, at 483-85. The initiative held 67 productions at 32 sites with 2,582 participants (1,401 were medical students) completing surveys of the program.

¹⁹² *Id.*, at 483-85.

¹⁹³ *Id.*, at 485.

¹⁹⁴ Kelly VanBuskirk & George Filliter, *An examination of the effectiveness of Readers' Theatre as a teaching strategy in legal education*, 54 THE LAW TEACHER 129, 137 (2020).

¹⁹⁵ *Id.*, at 138.

¹⁹⁶ *Id.*, at 138.

¹⁹⁷ *Id.*, at 140.

¹⁹⁸ *Id.*, at 140-41.

of a play on end-of-life planning.¹⁹⁹ Although it was a staged reading in a sterile, bland community space and the actors were wearing street clothes and not in costume, just reading at music stands, I was transported by the talented actors. I truly felt I was watching this family wrestle with end-of-life issues. I was connected to each character's role in the family dynamics and how they engaged with the patriarch who was struggling with his own mortality. I enjoyed it as an artistic performance, and I noticed throughout the remainder of the conference, I kept returning to the characters, the family, and their story.

This play stuck with me over the years and resurfaced in 2022 when I had the opportunity to bring it to my law school as part of health care decision-making day. The performance was followed by an interdisciplinary panel of professionals from law, social work, nursing, and medicine. It was targeted at students in various fields to demonstrate the importance of communicating early and often with clients or patients. Afterwards a teary law student said to me, "*End of life planning is so much more than completing estate planning documents.*"

Yes! A lightbulb went off. As Director of Gonzaga's Elder Law Clinic, I recognized that an obstacle for some emerging law students is how to genuinely connect with a client while also counseling the client on the legal elements in estate planning documents. Students feel insecure about their legal knowledge, flummoxed by complicated legal and medical terms, and anxious about the added emotional layer of death. As a clinical educator, I see my role as creating a bridge for students from the classroom to the clinical experience to future practice.²⁰⁰ To this end, it is crucial that educational experiences prepare students to see themselves as the lawyer and to practice being one. Those opportunities close the divide between formal skills of legal analysis and the more fluid dimensions of professional work.²⁰¹ I already provide experiential exercises for new students, but I noticed that recent students seem less confident to meet their new clients.

As luck would have it, the talented playwright of the earlier play and accomplished lawyer and long-time adjunct professor, Bryan Harnetiaux, had written a ten-minute play on end-of-life planning.

¹⁹⁹ BRIAN HARNETIAUX, DUSK, (Hospice Foundation of America, 2004) <https://hospicefoundation.org/?s=Dusk>. *Dusk* is a poignant and touching 70-minute story about 68-year-old Gil and his adult children exploring end-of-life treatment options. Harnetiaux has chosen not to publish the text of the play. For more information on the Hospice Foundation of America's Advance Directives Project, see Hospice Foundation of America, <https://hospicefoundation.org/hfa-product/the-ad-advance-directives-project/> (last visited August 28, 2025). See also Jim Parker, *Playwright, Foundation Teaching Hospice Through Theater*, HOSPICE NEWS (May 18, 2023) <https://hospicenews.com/2023/05/18/playwright-foundation-teaching-hospice-through-theater/> (last visited August 28, 2025).

²⁰⁰ Tyler & Mullen, *supra* note 4, at 290 (2011).

²⁰¹ CARNEGIE REPORT, *supra* note 9, at 88.

My dream of a traveling road show—a performance in an assisted living facility followed by a presentation on end-of-life planning by law students—was born. The play, *Lily*, is a thoughtful and powerful glimpse into client decision-making after a terminal diagnosis.²⁰² In just ten minutes with only two characters, the audience is immersed in loss, love, regret, and courage. It opens with Lily asleep in the hospital with a man quietly sitting next to her as she sleeps. We soon discover the man is Joe, her ex-husband, and Lily has summoned him to discuss her advance medical directive. Through thoughtful dialogue, they discuss the end of their marriage due to Joe's drinking, their remarriages, their children, and their respective feelings about Lily's impending death. At the end, Lily gently asks Joe to be her surrogate decision-maker and shares her trust in Joe to follow her wishes.

In a short ten minutes, *Lily* captures the audience as she confronts her impending death and convinces her ex-husband to bravely agree to be her health care proxy. The power of *Lily* is that it seamlessly includes moments of humor and compassion intertwined with regret and fear. The audience watches as Lily, with courage and grace, makes her end-of-life wishes known and Joe eventually agrees to support her right to terminate medical treatment.

Lily was performed by paid actors who also happened to be married to each other.²⁰³ They memorized the parts and were dressed appropriately for the roles, which included Lily in a nightgown lying on a couch to make the scene more realistic. *Lily* was performed first for my clinic students at the beginning of the semester in preparation for their client work. It was then performed at two 55 and older living facilities. At the conclusion of these two performances, audience members had a chance to reflect on the play in the presence of the playwright and ask questions. Then law students provided an overview of estate planning documents and answered legal questions about advance directives. Finally, students completed a reflection paper on their experiences watching *Lily* and how it affected them, whether it enhanced their understanding of the legal material, and whether it facilitated their connection to clients.

I had a multitude of educational goals for the students. I hoped the play would provide a pause, or respite, from the high-level of stress law students experience and the pressure they put on themselves to perform. In creating an opportunity for students to watch and learn, rather than do and learn, I wondered if the students would demonstrate

²⁰² BRIAN HARNETIAUX, *LILY* (Hospice Foundation of America, 2014). Harnetiaux has chosen not to publish the text of the play. A license to use the text of this play can be acquired at <https://hospicefoundation.org/hfa-product/play-license/>.

²⁰³ This play was made even more impactful by the heart-felt acting of wife and husband, Susan and Peter Hardie, who brought Lily and Joe to life.

a greater understanding of the substantive material. Would the break from doctrinal learning allow students to generate more creative and thoughtful solutions? Would they develop a deeper understanding of their professional role and client relationships?

Importantly, the play focused on the human aspect of lawyering. It was my hope that being in the audience would allow students to place themselves in the story and relate to the characters.²⁰⁴ They would be able to imagine how they might comfort Lily as she discusses dying or how to support her as she shares her choices with unsupportive children. Students might consider their lawyering role from the perspective of the client instead of solely from their own experience. Instead of students worrying about how they would perform in a role play, they could just listen to Lily and her expressions of needs and wishes. As audience members, instead of doers, students would have space to begin to picture themselves in future scenes with clients or family members and how they would communicate with them. Instead of focusing only on their fear or anxiety, the students could recall a more complete picture that includes compassion and empathy.

Lastly, I wanted to create a fun experience that provided an opportunity for creativity, artistic expression, and enthusiasm. I hoped to reconnect students to the reasons why they chose law school. I aspired to provide a place to nurture a sense of belonging and connection. Finally, I sought to support their confidence, self-awareness, reflection, and resilience.

While this project may seem like the result of serendipitous events, similar luck is not required for other clinicians to incorporate theater, or art generally, into their clinics. As other clinicians have noted, we “call on our creativity and imagination to engage, to question, and to solve problems.”²⁰⁵ Many of us are connected to larger universities with flourishing theater departments that would welcome collaboration. Similarly, local theater companies and playwrights often seek ways to connect with community members. The brevity of *Lily* and the no-frills production simplified my ability to incorporate the play into a clinic seminar than a typical full-length play.²⁰⁶ The “ten-minute play” is a specific genre in the theater world with separate festivals that increases

²⁰⁴ Gail J. Mitchell *et al.*, *The Experience of Engaging with Research-Based Drama: Evaluation and Explication of Synergy and Transformation*, 17 *QUALITATIVE INQUIRY* 379, 384 (2011).

²⁰⁵ Perlmutter and Cortada, *supra* note 3, at 309.

²⁰⁶ Donna Hoke, *Ten Reasons You Should be Writing Ten-Minute Plays* (May 1, 2016), <https://blog.donnahoke.com/ten-reasons-you-should-be-writing-ten-minute-plays/> (last visited August 29, 2025).

opportunities across states.²⁰⁷ The shorter form also likely makes it easier to find a playwright, actors, and bring the show to life!

IV. LEARNING OUTCOMES FOR PRACTICE-READY STUDENTS

“The function of art is to do more than to tell it like it is—it is to imagine what is possible.” bell hooks

First and foremost, showing the students *Lily* at the beginning of the semester set the stage (pun intended) for thoughtful reflection on the role of lawyers working with clients in an empathetic way. Students reflected on a variety of benefits of viewing the play for future lawyering. All students enjoyed the performance, the story, and the actors’ skill. Many commented that they were moved by the story and that they appreciated a new, engaging learning method.²⁰⁸

Some students struggle with how to incorporate lawyering skills and substantive law with compassion and empathy.²⁰⁹ As a teacher, I often saw it as a linear process, a task of arranging learning in a sequence—*what should I focus on first? What are the primary competencies students should acquire before meeting a client? Do they need to know the substantive law of estate planning? Or should I focus on communication and listening skills? How do I get students to stop thinking about what they are going to say or do and just listen to their clients?* I wanted my students to view their role more holistically. I wondered, how can I help students sit with it all—interviewing tasks, substantive law, professional development, emotional connection—and not feel overwhelmed but instead let the various dimensions of lawyering meld together? As I often say to students, *“How can I help you get out of your head and move away from yourself to focus on your client?”*

Attending a performance of *Lily* allowed students to do just that. Their focus shifted from their own task-oriented perspective to that of the client who was confronting end-of-life decision-making. During the performance, the students’ only task was to sit and listen. By removing their responsibility to act, I hoped I was alleviating some of their anxiety, which allowed them to be present and connect with the characters of

²⁰⁷ *Id.* See e.g., Bryan Harnetiaux’s annual Playwrights’ Forum Festival held for 35 years in Spokane, Washington. SPOKANE CIVIC THEATRE, *Playwrights’ Forum Festival*, <https://spokanecivictheatre.com/productions/playwrights-festival-2025/> (last visited August 29, 2025).

²⁰⁸ After watching the performance of *Lily*, students were given a handout of questions to answer regarding their reaction to the performance. Responses are on file with the author.

²⁰⁹ Eli Wald & Russell G. Pearce, *Making Good Lawyers*, 9 U. ST. THOMAS L.J. 403, 412 (2012) (contending that becoming a lawyer requires mastering a new body of knowledge, acquiring new skills, developing new ways of communicating, acting ethically, and maintain client loyalty above all. In addition, law students are expected to follow the rule of law while also striving to improve inequities and serve the public good.)

Lily and Joe. The result would be, hopefully, a better prepared, more empathetic, creative future lawyer.

The following sections identify and offer a theoretical grounding for some of the significant learning outcomes of theatre-based learning: enhancing knowledge transfer and building such critical lawyering skills as good judgment, empathy, and creative problem-solving.

A. Enhanced Knowledge Transfer

Suggestions abound as to how best assist students in transferring theoretical knowledge from the classroom to their clinical experience and beyond.²¹⁰ The transfer of translating substantive legal concepts into effective problem-solving does not happen automatically and much has been written about how to enhance this critical transference.²¹¹ Clinicians have long considered transfer “the heart of clinical pedagogy ... [and its] theoretical base.”²¹² Transfer is what happens when familiar content and skills are applied to new facts or a new situation. It is what enables students to easily and flexibly adapt their legal knowledge and ability to a novel context.²¹³ Research data supports the effectiveness of experiential education to enhance student cognitive aptitude, self-directed learning, and the ability to apply newly acquired content to real-life scenarios.²¹⁴

Adult Learning Theory, known as “andragogy,”²¹⁵ has shaped clinical teaching and explains how adults gain, retain, and understand information.²¹⁶ Adult learning generally has moved away from the

²¹⁰ April Land & Aliza Organick, *Moving Law Schools Forward by Design: Designing Law School Curricula to Transfer Learning from Classroom Theory to Clinical Practice and Beyond*, 71 J. LEGAL EDUC. 503, 505 (2022).

²¹¹ See e.g., ROBIN FOGARTY ET AL., HOW TO TEACH FOR TRANSFER, XVI (1992).

²¹² Jaime Allison Lee, *From Socrates to Selfies: Legal Education and the Metacognitive Revolution*, 12 DREXEL L. REV. 227, 265 (2020), quoting Carolyn Grose, *Beyond Skills Training, Revisited: The Clinical Education Spiral*, 19 CLIN. L. REV. 489, 494 (2013). There are many uses of the concept of “transfer” in legal teaching. For purposes of this section, transfer is used to describe when students transfer their knowledge of substantive law and apply it to legal decision-making.

²¹³ *Id.*

²¹⁴ Boggs et al., *supra* note 102, at 833.

²¹⁵ The term “Andragogy” was introduced by Malcolm Knowles in his book, *THE ADULT LEARNER: A NEGLECTED SPECIES*, 57 (4th ed. 1990) (term introduced in the first edition, 1973). Knowles outlined four traits of adult learning that differentiated it from child learners: 1. Adults are self-directed learners, 2. An adult’s personal experience can be a basis of learning, 3. Adult readiness to learn is quite high if it relates to their social role or job task, and 4. Adult learners are more likely to gain knowledge if it can be applied immediately. In his seminal article, academic Frank Bloch first examined the application of the theory of andragogy to clinical methodology and how it demonstrates the effectiveness of clinical teaching. Frank S. Bloch, *The Andragogical Basis of Clinical Legal Education*, 35 VAND. L. REV. 321, 337 (1982).

²¹⁶ “Adult Learning Theory, referred to as “Andragogy” differentiates the adult cognitive process of gaining knowledge, compared to “Pedagogy” and that of children.” Fran Quigley,

traditional transfer of knowledge in the classroom setting to a more interactive learning style.²¹⁷ This methodology is premised on creating a space where adults are accepted, respected, and supported.²¹⁸ Unlike children, who are seen as passive learners, adults are self-directed and learn through a combination of experience and reflection.²¹⁹ Adult learners are more readily able to understand and retain new information by doing and also more likely to transfer that learning to future experiences.²²⁰ As such, adult learners have a strong preference for experiential education. It follows that as “the parallels between adult learning theory and effective clinical law teaching begin with the shared reliance on experiential learning and opportunities for reflection.”²²¹

There are numerous models for effective learning environments that demonstrate the effectiveness of using drama or theater to engage students—in particular adult learners. Clinical psychologist Joseph Lowman identifies intellectual excitement and interpersonal connection as the two critical aspects of effective adult education.²²² Stimulating student emotion—whether by teacher energy or a dramatic presentation—increases student interest, motivation and self-directed learning.²²³ Influential education and leadership writer and speaker, Parker Palmer, emphasizes the importance of creating a learning space that is safe but open to exploration and grounded in an ethos of self-discovery.²²⁴ Traits of a beneficial learning space include ensuring that students can remain focused on the specific learning but remain “open to alternative paths and new discoveries that lead to deep learning.”²²⁵

A second element of andragogy is that adults place significant importance on learning from experiences.²²⁶ Both the life events and activities the student brings to their education constitute experiences along with those they will have while in the clinic. The clinical method, and andragogy theory, reinforce that both types of experiences impact student learning.²²⁷ As such, both are grounded in experiential techniques—role plays, exercises, field work, seminars, and simulations—and the

Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics, 2 CLIN. L. REV. 37, 47 (1995).

²¹⁷ Boggs *et al.*, *supra* note 102, at 832.

²¹⁸ Knowles, *supra* note 178, at 41.

²¹⁹ Carpenter, *supra* note 57, at 65. Bloch, *supra* note 215, at 330.

²²⁰ Carpenter, *supra* note 57, at 66.

²²¹ Quigley, *supra* note 216, at 49.

²²² JOSEPH LOWMAN, *MASTERING THE TECHNIQUES OF TEACHING*, 31-33 (2nd ed. San Francisco, 1995).

²²³ Hess, *supra* note 79, at 83.

²²⁴ PARKER PALMER, *THE COURAGE TO TEACH: EXPLORING THE INNER LANDSCAPE OF A TEACHER'S LIFE*, 73 (San Francisco, 1998).

²²⁵ Hess, *supra* note 79, at 83.

²²⁶ Bloch, *supra* note 215, at 331.

²²⁷ *Id.*, at 341.

connection to enhanced learning.²²⁸ The opportunities available to clinic students involve technical lawyering skills acquisition but also developing human relations skills.²²⁹

A leading scholar on effective teaching, Professor Gerald Hess, has identified eight interrelated elements to a beneficial educational environment: respect, expectation, support, collaboration, inclusion, engagement, delight, and feedback.²³⁰ But how often is delight present in law school? There are many ways a teacher can create delight—sharing enthusiasm for content, using humor, nonverbal communication, and connecting with students on a personal level.²³¹ Including theatre in the learning experience is another way to infuse delight.

Experiential education opportunities, such as theatre, provide those students who learn better by doing the chance to put the concepts of emotional intelligence into practice.²³² This “training in emotions” allows law students to recognize their own emotions and those of the client. They can consider how the emotions will impact their work, and then practice client counseling and problem solving through this new lens.²³³ As students develop their emotional intelligence, they will form more satisfying attorney/client relationships and become more effective lawyers.²³⁴ Alternative teaching methods, such as dramatization, allow students to draw upon past life experiences and relate those experiences to their current learning situation.²³⁵ Arts-based learning offers strategies that complement typical podium classroom learning and traditional forms of knowledge transfer.²³⁶ Performance allows the audience to assimilate knowledge based on watching, hearing, and feeling rather than typical transfer of information.²³⁷

In considering cognition and how we think about, approach, obtain, and process information, “[s]tories are the way humans learn best.”²³⁸ The brain is hard-wired to detect patterns; stories are a simple and moving way to convey information that encourages recognition of those

²²⁸ *Id.*, at 331.

²²⁹ *Id.*, at 341.

²³⁰ Hess, a *supra* note 79, at 87.

²³¹ *Id.*, at 105.

²³² Reilly, *supra* note 135, at 304-05.

²³³ *Id.*, at 308.

²³⁴ *Id.*, at 310.

²³⁵ Victor Whiteman & Margaret Nielsen, *An Experiment to Evaluate Drama as a Method for Teaching Social Work*, 22 J. OF SOCIAL WORK ED. 31, 34 (1986).

²³⁶ Khanlou *et al.*, *supra* note 165, at 1.

²³⁷ Angela Colantonio *et al.*, *After the Crash: Research-Based Theatre for Knowledge Transfer*, 28 J. OF CONT. ED IN THE HEALTH PROFESSIONS 180 (2008).

²³⁸ Nancy Levit, *Legal Storytelling: The Theory and the Practice – Reflective Writing Across the Curriculum*, 15 LEGAL WRITING: J LEGAL WRITING INST. 253, 276-77 (2009).

patterns.²³⁹ Stories are how we all see, understand and process the world around us.²⁴⁰ It is also how many of us remember events—they evoke emotion and engage people in a way the law alone cannot.²⁴¹ The listener is more interested, more invested and that leads to a connection that deepens thinking and understanding.²⁴² Some students may understand legal doctrine better through stories; they allow for the development of empathy, but students can also use stories “to distill analysis into succinct packages.”²⁴³

Optimal learning based in experiential methods involves a continuous four stage sequence of experience, reflection, theory, and application.²⁴⁴ This learning is divided into three domains: cognitive (legal analysis), psychomotor (lawyering activities), and the feeling domain (values attitudes and beliefs).²⁴⁵ Providing a space for silence to maximize deep student reflection allows students to both absorb substantive material and test their understanding.²⁴⁶ A safe space is one where students can be vulnerable (not the typical law school classroom) and where they can make mistakes, ask uncomfortable questions, and feel embarrassed.²⁴⁷ The arts can facilitate creativity and lead to “transformative learning.”²⁴⁸

More than 20 years ago, Professors Magone and Friedland wrote that the arts promote legal analytical ability as much as the traditional case method and—for some students—it offers a preferable method of learning.²⁴⁹ In one study, researchers evaluated the education intervention of using a play for health care providers to better understand the injury and functioning. Findings demonstrate that using theatre is a highly useful means for knowledge transfer for both reinforcing existing information and gaining new insight.²⁵⁰ Theatre is a useful pedagogical tool that communicates the experience of others allowing the audience to wrestle with challenging concepts. For example, in one study audience

²³⁹ *Id.* “Narratives ‘light up’ the areas of the brain that produce an affective response.” *Id.* at 277, quoting John Batt, *Law, Science, and Narrative: Reflections on Brain Science, Electronic Media, Story, and Law Learning*, 40 J. LEG. EDUC. 19, 25 (1990).

²⁴⁰ While outside the scope of this article, Applied Legal Storytelling “examines the use of stories – and of storytelling or narrative elements – in law practice, in law-school pedagogy, and within the law generally.” J. Christopher Rideout, *Applied Legal Storytelling: A Bibliography*, 12 LEGAL COMM. & RHETORIC: JALWD 248 (2015).

²⁴¹ Levit, *supra* note 238, at 263.

²⁴² Tyler & Mullen, *supra* note 4, at 314.

²⁴³ Levit, *supra* note 238, at 266.

²⁴⁴ Roy Stuckey, *Teaching with Purpose: Defining and Achieving Desired Outcomes in Clinical Law Courses*, 13 CLIN. L. REV. 807, 813 (2007).

²⁴⁵ *Id.*, at 813-14.

²⁴⁶ Hess, *supra* note v, at 84.

²⁴⁷ Rosenberg, *supra* note 25, at 646.

²⁴⁸ Younie, *supra* note 11, at 28-29.

²⁴⁹ Magone & Friedland, *supra* note 12, at 575-76.

²⁵⁰ Colantonio, *supra* note 237, at 183.

members who watched a play on dementia reported it positively impacted their knowledge. Viewers were emotionally impacted after a single production and felt more comfortable discussing dementia after the performance.²⁵¹

This is the sweet spot for students viewing *Lily*—it is a prolonged quiet, reflective moment where they can drop into the story and study the substantive legal material, consider the client’s emotions, and visualize themselves in the role of lawyer. For students stuck in their anxiety, creating a safer environment may unblock the stress impairing their concentration, memory, and problem-solving ability.²⁵² “Drama tends to be associated with pleasure and entertainment in the minds of adult learners and tends to reduce anxiety related to learning.”²⁵³ When ideas, even unsettling ones, are integrated into art forms, the concepts are more easily understood.²⁵⁴ Further, research demonstrates that anxiety impairs cognitive functioning and is detrimental to acquisition of complex material.²⁵⁵ The damage caused by chronic stress can be repaired when stress is controlled by healing activities such as sleep, exercise, and restorative contemplative practices.²⁵⁶ Providing a less threatening presentation technique may reduce law student anxiety and allow for a better learning experience.

Theatre creates opportunities “where nuances of lived experiences were portrayed in novel ways such that persons saw things not seen before.”²⁵⁷ For law students concerned about getting the law correct or answering client questions, watching a performance is beneficial. It showed moments of peace and love interspersed with sadness and anxiety and allowed students to see clients in a more holistic way. For example, students often worry about discussing death and see the topic as scary or anxiety-provoking. But to watch Lily interact with Joe, her ex-husband, and exhibit humor, love, and compassion shows the “ways that persons live quality moments ... [that] are often invisible to others who only see the disease, only the loss and decline, only the doom.”²⁵⁸ Students working with older clients need to see them as more than a disease, more than their life being over, more than planning for death.

²⁵¹ Nicole C. Burns *et al.*, *The Impact of Creative Arts in Alzheimer’s Disease and Dementia Public Health Education* 63 J. OF ALZHEIMER’S DISEASE, 457, 461 (2018).

²⁵² Austin, *supra* note 79, at 668.

²⁵³ Whiteman & Nielsen, *supra* note 235, at 33.

²⁵⁴ *Id.*

²⁵⁵ *Id.*

²⁵⁶ Austin, *supra* note 79, at 669.

²⁵⁷ Mitchell *et al.*, *supra* note 204, at 383.

²⁵⁸ *Id.*

Watching a play that provides one viewpoint gives students the opportunity to consider a new perspective.²⁵⁹ Students may have a certain belief about the ways family members will handle death and dying. But then observing someone who responds in a different way can lead to more flexible thinking. This may expand student understanding and allow for a wider repertoire of client counseling. It is “through bringing our mind, body and spirit to drama, we gain insight into ourselves.”²⁶⁰

After viewing *Lily*, my clinic students demonstrated a better understanding of the substantive legal concepts and legal process necessary to engage in legal problem-solving with clients. Notably, in their reflection write-ups, several students indicated that watching *Lily* enhanced their understanding of the substantive law of estate planning. All of the students found the legal comprehension and confidence to discuss the issues with clients increased after the play. One respondent astutely noted that “it is more than learning elements for an exam but learning them to better someone’s life.”²⁶¹ Another commented, “I understand [estate planning] documents a lot more and I feel comfortable explaining them to a lay person.” Lastly, a student noted that “end of life planning is so far in the future in my mind, and when we talk about it it’s always in the abstract. The play made it real.” Even a less-than enthused student who remarked “I generally don’t enjoy theater or plays” found the performance helpful in providing ideas for how to describe a health care directive to a client.

Several weeks after viewing the play, the students provided an overview of estate planning documents at two assisted living facilities for older adults. Although the semester had just started, all six students demonstrated a stronger grasp of the substantive law than is common with new clinic students. In fact, I noticed one student field a difficult audience question by relying on the story in *Lily*. The question was who to choose as your healthcare agent. The student not only provided the correct legal response as to who can serve as an agent but expanded by sharing that there may be people in a client’s life that have a better understanding of the client’s values and wishes. This demonstrated that the student grasped that a healthcare agent is not just someone who makes medical decisions but that a client wants to choose someone who aligns with, or can follow, the client’s desires.

During the course of the semester each student handles approximately 3-4 estate planning clients. In meeting with my students in weekly supervision I ask them to reflect on their legal counseling

²⁵⁹ *Id.*, at 387.

²⁶⁰ Mitchell *et al.*, *supra* note 204, at 389, quoting S. CLIFFORD ET AL., MAKING A LEAP: THEATRE OF EMPOWERMENT, . 17 (1999).

²⁶¹ Excerpted from six anonymous student evaluation narrative responses received in the Elder Law Clinic course during fall semester 2023. (Originals on file with the author).

skills. Often students can be robotic about how they present end-of-life planning options. Some students lament they feel their legal counseling presents as “box-checking” to the client—who will be the personal representative etc. The semester during the *Lily* project, I noticed an increase in many students’ confidence and willingness to be curious and comfortable with uncertainty. In one meeting, I asked a student why after he revealed he felt more comfortable counseling clients. He mentioned thinking back to the play and how he remembers the legal elements of a power of attorney better when considering the context of Lily’s life. He recalled, “It makes sense she would choose Joe as her agent when I think about the importance of that role.” The same student in his end-of-the semester self-evaluation reflected on his overall increased comfort with the substantive law and how to engage in a conversation with the client about estate planning documents.

B. Developing Critical Lawyering Skills

A primary goal of legal education is to develop student competence to effectively prepare for legal practice.²⁶² This requires expertise in legal analysis, skills acquisition, and professional identity development.²⁶³ Alternative methodologies can better engage and excite students as well as establish a connection between theory and practice.²⁶⁴ Lawyers must slide back and forth between a “detached stance of theoretical reasoning and a highly contextual understanding of client, case, and situation.”²⁶⁵ This requires judgment, astute problem-solving, and an empathic understanding of client needs.

A 2016 study by the Institute for the Advancement of the American Legal System (IAALS) surveyed 24,000 lawyers from all 50 states to determine what lawyers considered the most important characteristics and competencies needed by law school graduates.²⁶⁶ The results demonstrated that practicing lawyers valued reliability, integrity, and other interpersonal skills as the most critical, more so than substantive legal knowledge and analytical abilities.²⁶⁷ The survey resulted in a report that recommended law schools teach character traits such as humility, sensitivity, and compassion, as well as self-care and self-regulation skills such as exhibiting flexibility, adaptability and resilience.²⁶⁸

²⁶² Stuckey, *supra* note 244, at 809.

²⁶³ *Id.*, at 810.

²⁶⁴ Khanlou, *et al.*, *supra* note 165, at 1.

²⁶⁵ CARNEGIE REPORT, *supra* note 9, at 115.

²⁶⁶ GERKMAN & CORNETT, *supra* note 14, at 131.

²⁶⁷ *Id.*

²⁶⁸ Austin *supra* note 79, at 657, citing GERKMAN & CORNETT, *supra* note 14, at 30, 33.

1. *Building Good Judgment*

One of the core elements of competent legal practice is the ability to exercise good judgment. Effective judgment includes “the ability to size up a situation well, discerning the salient features relevant not just to the law but to legal practice, and most of all, knowing what general knowledge, principles, and commitments to call on in deciding on a course of action.”²⁶⁹ This is honed by experience in determining what is pertinent, assessing consequences of choices, and determining next steps.²⁷⁰ Deliberate reflection provides law students an intentional process to develop professional judgment.²⁷¹ Since many law students lack past experience to develop judgment, reflection is necessary “to de-couple the action from the thinking about the action.”²⁷²

Emotion helps us decide what is important. It makes us wonder and moves us to act. It helps us care about the consequences and outcomes of a decision.²⁷³ High emotional intelligence requires the ability to perceive and understand emotions.²⁷⁴ Research corroborates the power of drama in education as findings demonstrate a link between emotion and brain function.²⁷⁵ Researcher Mary-Helen Immordino-Yang posits that thinking and feeling do not take place in a vacuum but decisions are made based on past experiences and cultural history.²⁷⁶

The use of fictional stories, rather than the situations involving real clients, allows students as viewers to experience difficult emotions which will allow them to gain a better understanding of client emotions.²⁷⁷ To prepare students to discuss emotional topics with clients, they need opportunities to experience and reflect. Employing fictional characters removes responsibility and worry and allows students to identify and understand the complex emotions their future real clients will present.²⁷⁸

The student reflections all noted the deep emotion they felt in watching the scene between Joe and Lily unfold. Many noted how they assumed estate planning was “dry” or “detached from emotion” before viewing the play. Upon reflection, not only did students consider new ways to approach the difficult subject with clients, but each recognized and experienced the emotions themselves as audience members. In an

²⁶⁹ CARNEGIE REPORT, *supra* note 9, at 115.

²⁷⁰ Timothy Casey, *Reflective Practice in Legal Education: The Stages of Reflection*, 20 CLIN. L. REV. 317, 318 (2014).

²⁷¹ *Id.*, at 319.

²⁷² *Id.*

²⁷³ Bandes, *supra* note 30, at 2436.

²⁷⁴ Kerr, *supra* note 181, at 197.

²⁷⁵ VAN DE WATER, *supra* note 115, at 2.

²⁷⁶ M.H. Immordino-Yang, *Implications of Affective and Social Neuroscience for Educational Theory*, 43 EDUCATIONAL PHILOSOPHY AND THEORY, 98, 99 (2011).

²⁷⁷ Kerr, *supra* note 181, at 197.

²⁷⁸ *Id.*

end-of semester self-reflection, one student noticed a newfound ease and comfort talking about death with clients and sitting with their varied emotions of sadness and regret. Another student (the one disinterested in theater generally) discovered that he was not interested in emotionally fraught work inherent in estate planning. In a supervision meeting he reacted with relief when I shared that part of the clinical experience is to also decide which aspects of lawyering you do not want to do in the future.

2. *Nurturing Empathy*

Empathy is a critical trait for lawyers and one that can be nurtured and strengthened through the arts.²⁷⁹ Compassion for clients is enhanced when we can understand another's experiences and place ourselves in that context."²⁸⁰ Empathy is a source of information; it gives us a hint of what another is feeling.²⁸¹ Law students cannot just learn or consider empathy, but dramatic presentations allow students to *feel* empathy. They can develop "the ability to see the social or human implications of their work."²⁸²

"[E]mpathy is an essential part of drama, as it involves putting ourselves in the situation of others, comparing their moods, motives, and character."²⁸³ Infusing the arts into legal education situates *empathy* as part of professionalism and the practice of law; artistic endeavors develop and nurture law students' empathic capability.²⁸⁴ Dramatic performance immerses the audience in a personal journey that can challenge a student's preconceived views of clients.²⁸⁵

Specific to end-of-life care, it is critical that lawyers are able to discuss the emotional and psychological aspects of death and dying with clients. Using theatre enables students to go beyond the theoretical substance of end-of-life planning "to make room for felt emotions."²⁸⁶

²⁷⁹ Mayo, *supra* note 24, at 170.

²⁸⁰ Mitchell *et al.*, *supra* note 204, at 385.

²⁸¹ Mayo, *supra* note 24, at 179-80 ("Sympathy, by contrast, is the moral sentiment that aligns our interest with that of another in pain."), quoting R. WEST, *THE ANTI-EMPATHIC TURN* (2011).

²⁸² Anne Scully-Hill *et al.*, *Beyond Role Playing: Using Drama in Legal Education*, 60 J. OF LEGAL ED. 148, 150 (2010).

²⁸³ Elena Briones *et al.*, *Creative Drama and Forum Theatre in initial teacher education: Fostering students' empathy and awareness of professional conflicts*, 117 TEACHING AND TEACHER EDUCATION 1 (2022).

²⁸⁴ Mayo, *supra* note 24, at 179.

²⁸⁵ Burns *et al.*, *supra* note 251, at 458.

²⁸⁶ Sue Spencer, *Beyond Words: Surfacing Self in End-of-Life Care Using Image-making*, CREATIVITY IN THE CLASSROOM, 127 (2013). "End-of-life care inevitably exposes emotional layers, and, if this is not heeded, can inhibit practitioners in their work as they 'block' discussion about death and dying." *Id.*

End-of-life planning “is more than planning for the future: it is about understanding past and present selves ... it exposes layers of uncertainty and anxiety.”²⁸⁷ Conversations about future planning with clients must include the context of the person themselves and the life they have lived. To facilitate these conversations and communicate effectively, law students must acknowledge their own experiences and feelings about death and dying.²⁸⁸

Role play is an effective means of allowing law students to try on their lawyering role and practice speaking with clients about death. However, my experience is that law students are often resistant to active participation, which can curtail effective lawyering. Students can just “go through the motions” rather than truly drop into the role and engage with the client on a personal level.²⁸⁹ Instead, watching a performance, allows students to connect deeply with the character and material “that might surface feelings and emotions in a safe and supportive way.”²⁹⁰ *Lily* provided a reflective space for students to uncover hidden feelings and thoughts and begin to process and develop insight into how their own responses might impact future client interactions. This includes challenging students to reconsider bias, ageism, and their preconceived notions of older individuals.²⁹¹

As part of their post-play reflection, my law students reported strong emotional reactions to the performance that highlighted the importance of connecting with clients. Several students felt empowered to be the type of lawyer that came naturally to them but was not reinforced in law school: “personable, human, approachable.” One student in particular started her clinic experience expressing a desire to “manage her boundaries” with clients. When I asked what that looked like she responded, “knowing when I care too much or share too much.” Over many weeks in supervision, she considered this topic at times within the context of *Lily*. She pondered questions such as “I wanted to cry the whole time watching *Lily*. Will I do that with a client?” These were wonderful opportunities for her to share her life experiences and prepare for client interaction. Ultimately, she seemed empowered when she could recognize that her emotional intelligence was a strength, when harnessed with clear boundaries.

While some students have nurtured their own empathy before law school, others noticed a newfound desire to connect with clients. One student noted, “it reinforced the desire to connect with the clients rather than making them list their choices robotically.” Another wrote,

²⁸⁷ *Id.*, at 128.

²⁸⁸ *Id.*, at 127-28.

²⁸⁹ *Id.*, at 129.

²⁹⁰ *Id.*, at 129.

²⁹¹ Millemann, *supra* note 4, at 440.

“it made me think less about reciting facts about the [estate planning] documents and focus more on the human side of things.” One student said, “seeing what it really looks like and how emotional it can make people changed how I think about it when I am talking to my clients.” Lastly, one commented, “it helped me be more sympathetic to helping people decide what they would want at the end of their life.”

3. *Strengthening Creative Problem Solving*

Watching a performance can unlock creative thinking by allowing a student to see multiple perspectives since each of us processes a performance in a different way.²⁹² “Excellence in legal practice requires intellectual versatility.”²⁹³ The MacCrate Report identified problem-solving as one of ten fundamental lawyering skills.²⁹⁴ Problem solving has been defined as “complex, multi-faceted, and ambiguously-structured ... a process that requires technical expertise, creative artistry, and empathy.”²⁹⁵ For some “lawyering means problem-solving.”²⁹⁶ One author suggests that problem solving requires both technical skills and creative processes.²⁹⁷ The technical aspect includes identifying the issue that needs to be resolved and how to enact a solution.²⁹⁸ Creative thinking unlocks a deeper and more expansive analysis of the problem.²⁹⁹

The ambiguity inherent in legal problem solving requires more original thought than is taught and expected in law school. A narrow analysis of cases in many courses stifles students’ innovative thinking.³⁰⁰ Developing creative problem solving broadens a student’s understanding of their lawyer role. It expands a lawyer’s focus beyond legal rules to include societal justice, awareness of values, and reflection.³⁰¹ Although imagination underlies persuasive trial advocacy and valuable problem

²⁹² Scully-Hill, *supra* note 282, at 150.

²⁹³ Davis & Webb, *supra* note 62, at 1161.

²⁹⁴ AMERICAN BAR ASSOCIATION, SECTION OF LEGAL EDUCATION AND ADMISSION TO THE BAR, TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT — AN EDUCATIONAL CONTINUUM (1992) (hereinafter cited as MACCRATE REPORT).

²⁹⁵ Seielstad, *supra* note 45, at 449.

²⁹⁶ *Id.*, at 478, quoting Gerald Lopez, *Lay Layering*, 32 UCLA L. REV. 1, 2 (1984); A lawyer is a “professional with formal legal training who employs law, as well as other relevant disciplines, to solve problems and disputes ...” Carrie Menkel-Meadow, *The Lawyer as Problem Solver and Third-Party Neutral: Creativity and Non-Partisanship in Lawyering*, 72 TEMP. L. REV. 785, 793-94 (1999).

²⁹⁷ Seielstad, *supra* note 45, at 448.

²⁹⁸ *Id.* See also, Gary L. Blasi, *What Lawyers Know: Lawyering Expertise, Cognitive Science, and the Functions of Theory*, 45 J. LEGAL EDUC. 313, 331-34 (1995) (Another way to view technical problem solving is “perceiving that the world we would like varies from the world as it is and trying to move the world in the desired direction.”)

²⁹⁹ Seielstad, *supra* note 45, at 448, citing Morton, *supra* note 53, at 377.

³⁰⁰ Morton, *supra* note 53, at 378.

³⁰¹ *Id.*, at 380.

solving, the legal profession is not known for promoting creativity.³⁰² While the practice of law may contain innovative aspects, law firm culture is “less likely to foster, encourage or exploit creativity.”³⁰³ The structures of the legal profession dampen creativity;³⁰⁴ the law can be stagnant and driven by precedent, and legal practice is often built on avoiding risk.³⁰⁵

Professors Magone and Friedland coined the phrase “creative exclusionary rule” to demonstrate the omission of the creative arts from the law school classroom.³⁰⁶ They posit that legal education views the arts as counterproductive to the development and mastery of cognitive abilities.³⁰⁷ Creative tools “are considered distractions, diluting the essence of the educational process.”³⁰⁸ To test their exclusionary rule, Magone and Friedland allowed students to use music, visual arts, language arts, or movement/dance to illustrate a legal concept.³⁰⁹ Students penned haiku and odes, created collages and dioramas, and wrote stories and scripts. They created art with pastels, watercolors, papier mâché, photographs, and fabric.³¹⁰ Overall the results demonstrated that students thoroughly enjoyed the chance to be creative.³¹¹ Students could create and implement their own learning framework and supplement the instructor’s explanation of a legal concept. Additionally, students could practice “deliberation in thinking” by experiencing the importance of plotting strategy in their creative project.³¹² For students who process information differently, creativity may be the spark that unlocks their ability to think analytically and argue persuasively.³¹³

Examining the traits associated with creativity demonstrates the useful application of creativity to effective lawyering. One facet of a creative personality is remaining open-minded when faced with ambiguity.³¹⁴ How often have we all been on the receiving end of a frustrated student who hears “*it depends*”? Many students who are attracted to law school are also drawn to rules and clear lines delineating action. These “Type A” students cringe when there is no bright line

³⁰² Dykstra, *supra* note 47, at 22.

³⁰³ *Id.*, quoting Menkel-Meadow, *supra* note 41, at 112.

³⁰⁴ Moppett, *supra* note 39, at 255.

³⁰⁵ Dykstra, *supra* note 47, at 23 (“This myopic focus on risk reduction often quashes creation and development and also discourages risk taking.”)

³⁰⁶ Magone & Friedland, *supra* note 12, at 576.

³⁰⁷ *Id.*

³⁰⁸ *Id.*

³⁰⁹ *Id.*, at 583.

³¹⁰ *Id.*, at 584-85.

³¹¹ *Id.*, at 589-90.

³¹² *Id.*, at 591-92. “Creativity promotes active, participatory learning and personal involvement in the learning process.” *Id.* at 582.

³¹³ *Id.*, at 583.

³¹⁴ Moppett, *supra* note 39, at 268; Rosenberry, *supra* note 1, at 428-29.

rule to direct their action. If our students were better equipped to embrace uncertainty and the unknown, they could respond more effectively.³¹⁵ Additionally, creativity breeds flexibility. When a student confronts ambiguity and no structure exists, instead of being stymied, a creative person sees the opportunity for innovation.³¹⁶ Lastly, creative personalities are risk takers.³¹⁷ At its core, creative thinking requires trying original, untested theories and risking failure.³¹⁸ Certainly, open-mindedness, flexibility and risk-taking foster not just creativity but real solutions to complex legal problems.

There are many structural barriers to fostering creativity in law students, including the insistence on mandatory grade curves and other means of fostering competition.³¹⁹ While other academics have suggested changes, rarely do they include the creative product itself—such as infusing theater into the curriculum. Academically, curiosity has been identified as one of the most primary determinants of educational success.³²⁰ Research indicates that curiosity is an essential trait that lawyers, judges, and clients alike view as necessary for successful lawyering.³²¹ This includes both “intellectual curiosity” and general curiosity about the lives and perspectives of clients.³²²

Brain science tells us that one of the primary functions of the brain is to receive and process information by forming recognizable patterns. This is an essential system to order the onslaught of stimuli we encounter each second.³²³ While established knowledge pathways are necessary, they also lead to knowledge ruts where thinking can get stuck. These pathways become relied upon and overused and can dominate our thinking processes.³²⁴ However, once we receive new information, we can generate new ideas or revise old ones. This expansive process leads to creative thinking but requires some type of intervention or facilitation to exist.³²⁵ Since our brains like established routes and resist change, the opportunity for creative thinking is hard and resistant. Law school is structured to reinforce “rutted thinking” by training students to think in a linear way and to search for past answers.³²⁶

³¹⁵ Moppett, *supra* note 39, at 268.

³¹⁶ *Id.*, at 268-69.

³¹⁷ *Id.*, at 269.

³¹⁸ Rosenberry, *supra* note 1, at 433.

³¹⁹ Moppett, *supra* note 39, at 295-298.

³²⁰ Jacobs, *supra* note 2, at 373 (Research indicates that students who display curiosity perform better academically than those who do not.)

³²¹ *Id.*, at 379.

³²² *Id.*, at 379-80.

³²³ Weinstein & Morton, *supra* note 41, at 844.

³²⁴ *Id.*, at 844-45.

³²⁵ *Id.*, at 845-46.

³²⁶ *Id.*, at 848.

Cognitive scientist, Mihaly Csikszentmihalyi, developed a theory called “flow”—a psychological process that enhances creativity.³²⁷ He defines flow as “the enjoyment that comes from surpassing ourselves, from mastering new obstacles, from making new discovery”—motivating the creative process.³²⁸ According to Csikszentmihalyi, flow occurs when a person is fully immersed in an event and is transported to a “new reality” or “more complex self.”³²⁹ The process walks the line between creating challenge but not producing excessive anxiety. Flow allows the individual to relax but not become bored.³³⁰ This leads to both “convergent” thinking—conventional understanding of the “correct” answer—and “divergent” thinking—producing several possible solutions. This tension is when a creative idea is born.³³¹ Creative flow is inhibited if the person experiences too much anxiety or stress. Thus, to be available for “flow” the person must possess a basic level of knowledge so as not to become overwhelmed and able to engage in both convergent and divergent thinking.³³²

It is not uncommon for law professors, in particular clinicians, to explore new and innovative ways to capture student attention and foster curiosity.³³³ Aware of the importance of the “curious” mindset, many clinicians intentionally cultivate this critical lawyering skill.³³⁴ Incorporating creativity into clinical teaching improves and refines a student’s professional identity, performance, and confidence.³³⁵ Introducing art and creativity into clinical teaching encourages students to envision innovative approaches to fashioning solutions for client problems.³³⁶

Curiosity is inextricably linked to effective problem solving in both the classroom and clinical setting. Inspiring students to flex their curiosity muscle will prepare students for future lawyering success.³³⁷ Curiosity is directly impacted by work that is varied and novel.³³⁸ This

³²⁷ MIHALY CSIKSZENTMIHALYI, *CREATIVITY: FLOW & THE PSYCHOLOGY OF DISCOVERY & INVENTION* (1996).

³²⁸ Krieger, *supra* note 55, at 173 citing MIHALY CSIKSZENTMIHALYI, *THE EVOLVING SELF*, 175-76 (1993).

³²⁹ *Id.*, at 174, citing Csikszentmihalyi, *supra* note 327, at 74.

³³⁰ *Id.*

³³¹ *Id.*

³³² *Id.*, at 174-75.

³³³ See Dykstra, *supra* note 47, at 27-41; Moppett, *supra* note 39, at 92.

³³⁴ Jacobs, *supra* note 2, at 375-76.

³³⁵ Perlmutter and Cortada, *supra* note 3, at 309.

³³⁶ *Id.*, at 317.

³³⁷ Jacobs, *supra* note 2, at 376. “Curiosity contributes to the acquisition and mastery of [all legal skills] by piquing interest, improving engagement, inviting doubt, inspiring exploration of and the formulation of questions, and then by providing the persistent mindset required to seek information about, answer, and reflect upon the answers to those questions and to strive for constant improvement.” *Id.*, at 377.

³³⁸ *Id.*, at 384.

is compared to the other way of thinking: “analytic” which “detaches things and events from the situations of everyday life and represents them in more abstract and systematic ways.”³³⁹ This is what law school can foster to the detriment of law students.

Enter *Lily*. Students watching *Lily* not only have the time and space to think creatively, but also the chance to alter an old established pathway. The performance “encourages our more spatial, tactile right brains to collaborate with your left, thereby awakening unused pathways.”³⁴⁰ Student reflections demonstrate that the performance encouraged students to think differently about end-of-life planning. One noted, “the personal quality of the performance gave me new ideas about how to approach the topic with clients.” Another student wrote, “I realized there is not one answer or set way to complete estate planning documents. I was more open to various ideas clients might have.” In considering the performance, one student observed, “It made me realize every document should be tailored to the client’s goals, wants and needs.”

CONCLUSION

Theatre can be a tool for exploring morality and promoting empathy.³⁴¹ This happens as “audience members are simultaneously involved in the fictional events, they occupy the world of the fictional characters, and [they] are also aware of themselves as spectators, as onlookers.”³⁴² The power of theatre is to transport the observer into the world of the play and view things from the experience of the characters—“the lived emotional and factual complexity of moral issues.”³⁴³

The focus on the stories of others can lead to more open dialogue, self-awareness, and ultimately more genuine and honest decisions.³⁴⁴ While some students can become stuck or paralyzed when faced with meeting a client, listening to someone else’s story creates greater awareness and allows for more open-minded thinking.

Art reveals itself through an audience’s “lived experience.”³⁴⁵ The audience has an “experiential encounter, one that builds upon all of our life experiences and lessons, but it is also an encounter that transcends the search for meaning or significance by first drawing us into the world it creates.”³⁴⁶ Integrating theatre into education has the potential

³³⁹ SULLIVAN ET. AL, *supra* note 9, at 96.

³⁴⁰ Weinstein & Morton, *supra* note 41, at 859.

³⁴¹ Duckworth, *supra* note 118, at 76.

³⁴² *Id.*

³⁴³ *Id.*

³⁴⁴ See LEE ANNE BELL, *STORYTELLING FOR SOCIAL JUSTICE*, 7 (2010).

³⁴⁵ Mayo, *supra* note 24, at 184.

³⁴⁶ *Id.*

to create more flexible thinking and problem solving.³⁴⁷ Including performance as a teaching technique can help students navigate “the ambiguous nature of a partially ordered world.”³⁴⁸ While many law students tire of the answer “it depends,” many legal problems do not have a single, correct answer. The solution is not necessarily found by following a fixed path with a rational outcome.³⁴⁹ Legal education has the opportunity to expand student learning to incorporate critical skills—empathy and creative problem solving—to better prepare future lawyers for practice.

³⁴⁷ Boggs et al., *supra* note 102, at 833.

³⁴⁸ *Id.*

³⁴⁹ *Id.*