

What Cornell Veterinary School Taught Me about Legal Education

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Keynote Address at the Fourth Biennial Conference of
Emory's Center for Transactional Law and Education

Good afternoon. I am delighted to be back at Emory and to see so many of you who have become friends and colleagues.

When I spoke at the first Transactional Conference in 2008, I entitled my talk *My Fantasy Curriculum and Other Almost Random Thoughts*. That title would also work today, but instead of proposing an integrated transactional skills curriculum, I'm proposing a wholesale revision of our first-year foundational curriculum, one modeled on the veterinary medicine curriculum at Cornell College of Veterinary Medicine.

Were I entitling this talk in a proper academic fashion, I might have called it a *thought experiment*. But I've had good luck with my fantasies, at least two of them.

First, Emory has to a large degree embraced my fantasy curriculum. This year, its faculty taught 21 sections of Contract Drafting, the first course in the fantasy skills curriculum. Emory expects that number to increase next year. Not bad for an elective course that didn't exist in 2007. Who would have thought?

The second fantasy that came true, and the more important one, is that I married a really, wonderful man 29 years ago – albeit at age 31 – but I found him nonetheless.

I'm assuming that because you're all lawyers, none of you has the skills to compute my age, but I'll get to that in a bit.

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**Not a thought
experiment**

Married at 31 for 29
years.

How old am I?

Should a math-
related course be a
pre-requisite to law
school admission?



So, with that luck with fantasies, I will proceed with my fantasy for a new legal education curriculum.

My new fantasy had its genesis in December 2013 when I attended my son Andy's white coat ceremony at Cornell Vet School. At this ceremony, the Dean helps each student to don a white coat, the proper attire of a doctor.

It's akin to a hooding ceremony at a law school graduation, but it happens midway through a student's four years of vet school. Being "coated" symbolizes the end of doctrinal education and the beginning of clinical education. Students recite the Veterinarian's Oath. It's a big deal. I cried.



TLS, Andy, and family



During the Dean's speech elaborating on the symbolism of the coating ceremony, my mind started to do its thing, and I of course began to compare vet school to law school.

For those of you who don't know anything about vet school, it's far harder to get into than law school. First, the U.S. has very few accredited vet schools - approximately 30 in the entire country. Second, all but three are state schools that typically limit 90% or more of their acceptances to in-state residents. These admissions policies reflect, for the most part, the Midwestern location of the schools and the schools' desire to admit and graduate residents who will remain in-state and care for local livestock – often a significant source of a state's income.

Perfectly reasonable. But that makes gaining admittance to vet school highly competitive, even more competitive than medical school.

Once students matriculate, the work inundates them. Students use two graphic metaphors to describe the amount of knowledge that they are expected to assimilate.

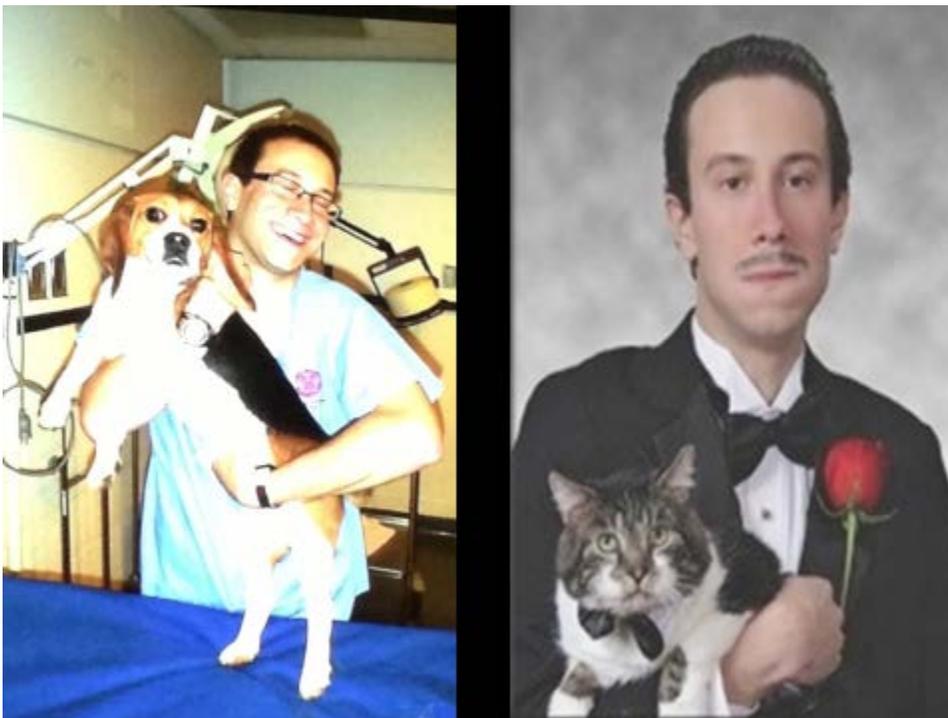
In the first, a fire hose blasts water aimed at a student's mouth. The mouth is the metaphorical brain, and the water the knowledge a student is supposed to acquire. A student, of course, can't possibly swallow all the water, so she swallows as much as she can without drowning. She definitely gags.

The second metaphor is charming, funny, and apt. It begins with a student's brain

being an iceberg. Each quantum of knowledge is a penguin. Only so many penguins can fit on the iceberg at any one time. Therefore, students must face the unfortunate necessity of pushing some penguins off the iceberg to make room for other penguins.

To conceptualize the number of penguins on the iceberg, it helps to keep in mind a favorite vet student sarcasm: “Real doctors treat more than one species.”

It was in thinking about all this that sometime after the white coat ceremony, I asked my son what for me was a pivotal question. His response will tell you what he thought of it. It’s all in the tone. So, I said, “Andy. How do you feel about having to learn about pigs and cows when what you really want to do is to treat cats and dogs?”



Andy in a clinic and with his cat, Hector.

Now remember, the key to his answer is tone. “Mom, my license will be to treat all animals.”

His answer prodded me to think once again about the legal curriculum, but this time to compare it to Cornell’s vet school curriculum. I became curious. I began to troll through the Cornell vet school website with a disquieting regularity.

How did Cornell teach all that science and the clinical skills with respect to all

those species in the same four years as medical school? And, most importantly, were they any good at it? In answer to that question, I note with much trepidation that U.S. News & World Report lists them as the #1 vet school.² You may, of course, take that information for what it's worth.

At this juncture, I sincerely thank Katherine Edmondson, Assistant Dean for Learning and Instruction at Cornell Vet School. She spent significant time explaining to me the Cornell curriculum and its origins. Of course, all errors in describing that curriculum are mine.

As I stated at the beginning of my talk, Cornell's curriculum first disrupted my relative equanimity at Andy's white coat ceremony when the Dean described its significance: it symbolized a student's transition from studying the biomedical sciences to working with patients. In our argot, it signaled the shift from doctrine to practice.

But the Dean's description oversimplifies Cornell's curriculum and more accurately depicts it as it was 25 years ago. In 1993, the Cornell faculty reimaged and dramatically changed its school's substantive curriculum and instructional methods.

The classic veterinary medicine curriculum is a sequence of lecture and lab courses; for example, gross anatomy, histology, immunology, diagnostic imaging, and physiology. To the extent these courses intersect, students must figure out the interrelationships on their own.

In contrast, Cornell's "new" curriculum relies on interdisciplinary courses to teach students the foundations of veterinary medicine. These Foundation courses account for approximately 70% of student coursework, and all students take these courses "at the same time in a prescribed order."³

Students and faculty colloquially refer to the Foundation courses as "blocks" because the curriculum allocates to each course a block of time, unrelated to the traditional semester. A block's length depends on its complexity and the time the former curriculum devoted to those topics or disciplines.

At Cornell, the first Foundation block is "The Animal Body." In this course, students study each organ, using all the scientific disciplines available. Therefore, their study of the heart will include its gross anatomy, but students will also learn its anatomy at the microscopic and ultrastructural level. To add real world context to this study of

² <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-health-schools/veterinarian-rankings> (Last checked 9/15/14).

³ <http://www.vet.cornell.edu/registrar/Curriculum.cfm> (Last checked 9/14/14).

anatomy, the course ties together anatomical dissection with specific surgical procedures. The course also teaches developmental embryology because, without it, students cannot fully appreciate medical malformations in the adult animal.

The pedagogic take-away is that Cornell's Foundation courses integrate diverse, intersecting disciplines, resulting early on in a deeper, more sophisticated understanding of clinical medicine and disease.

When Cornell reinvented its curriculum, it went beyond juggling the order and length of its courses. Students now also begin learning clinical skills immediately on entering the program. So, for example, each time the students study an organ in their Animal Body block, they also learn how to examine an animal to determine the health of that organ system. When studying the heart, they learn to how to give a heart exam. When studying the thorax, they learn how to palpate the thorax. Students learn each skill in context. Practice is linked with theory.

As part of its new curriculum, Cornell also implemented multiple adult-learning pedagogies. Its signature pedagogy is the tutorial group. Each group is composed of a small number of students and a tutor. The tutorial groups meet three times a week, each time for two hours. Each week, students use an actual hospital case as a learning exercise. Their materials describe the animal's medical condition and include its x-rays and blood work. Students work collaboratively in class to diagnose the problem and to determine proper treatment.

The tutorial format encourages active learning. Each session's success depends on the discussions that the students lead. The tutors interject only as necessary to advance the discussion. This pedagogy fosters the development of students' analytical and communication skills, as well as their ability to work collaboratively and independently.

Just as law students must learn how to think like a lawyer, vet students must learn how to think like a veterinarian. Therefore, most importantly, the tutorial group discussions and analysis mimic what a vet would do if confronted with the same facts. The simulations require students to emulate how vets think. They practice problem-solving, learning from their successes and their mistakes.

Each meeting ends with "learning issues" that the students must address before the next session. Learning issues are typically scientific or medical questions that students must answer before they can diagnose their patient's problem or prescribe treatment. To answer these questions, the students must retrieve, analyze, and evaluate information from multiple resources. Through their research, students learn the substantive material associated with the learning issues, and perhaps equally

important, learn how to work independently – a critical practice skill.

Cornell uses the tutorial format as one means to develop student expertise. The pedagogic process is iterative, a salient factor in developing expertise. Each week students tackle a new hospital case, each more sophisticated than the one before. Each week, students practice thinking like a vet, and each week they become that much closer to being a vet.

After learning so much about the Cornell curriculum, I was invigorated and disheartened. Invigorated? I had discovered a professional school that used cutting-edge pedagogies and graduated well-trained entry-level veterinarians. Disheartened? Because the pedagogic changes in the Academy have been incremental and only slowly embraced. We have not yet boldly gone where no law school has gone before.

So, here is where my new fantasy begins.

Somehow, without dissension, law school faculties agree that the Cornell curriculum offers valuable insights into professional education and decide to implement a version tailored to law schools. The focus is not on the full three years, but on first-year courses, the courses virtually all law schools require.⁴

Presumably, the first-year curriculum has a reason for being other than tradition. Exploring the specific justification for each first-year course exceeds the scope of my talk today. However, living on the edge, I suggest the following without the safety of any research as substantiation. First, I suggest that the teaching of civil procedure, contracts, and administrative law reflects our profession's three primary umbrella practice areas: litigation, transactions, and legislation/regulatory law. Second, I suggest that the inclusion of criminal law, torts, and property may well reflect that, historically, client matters related to these legal practice areas composed a significant proportion of a lawyer's practice. But, as I indicated, this is all supposition on my part. As to constitutional law, it is a civic duty. Lawyers are officers of the court.

At most law schools, professors teach these courses independently of each other with little cross-pollination between courses. Were we to reconceive our first-year courses in the Cornell model, we would need to address the salient question of how to create synergies in subject matter and the teaching of skills.

I suggest that we create three foundation modules, one module for each of the three umbrella practice areas: litigation, transactions, and legislation/regulation. A

⁴ Unlike most other professional schools, law schools do not have a multi-year required curriculum. We have courses. The closest thing we have to a curriculum are our first-year courses.

module's content would determine its length, but the goal would be to complete all modules by the end of the third semester. Therefore, students would continue to have significant opportunities to take clinics, externships, and more doctrinal courses. Here's a 10,000 foot view of what the modules might look like.

The litigation module would be comprised of four courses:

- Civil Procedure (to teach students when, where and how a lawsuit may be brought).
- Evidence (to teach students what facts a lawyer may introduce to prove a cause of action).
- Motion Practice (to teach students how to obtain rulings specific to their matters).
- Torts (to teach the substantive law and to provide cannon fodder for litigation-related hypotheticals).

Motion practice is obviously not a first-year course, but so few cases now go to trial, facility with motion practice is a must-have expertise.

Existing first-year legal writing courses would buttress the litigation module by teaching research and the drafting of memos and briefs. In addition, students would learn interviewing skills and attend tutorial groups that would focus on the intersection of the doctrinal courses and the related skills.

The transaction module would be comprised of three doctrinal courses: contracts, property, and business associations. Although B.A. is usually a second-year course, its substance is of such significance in transactions that I believe it should be a component of the foundation transaction module.

Students would learn contract drafting during this module after learning the necessary doctrine. They would also learn transaction-specific skills. Once again, students would attend tutorial groups that would focus on the intersection of the doctrinal courses and skills.

Imagine students confronting the following fact pattern in their tutorial group midway through the transaction module: A 25-year-old man and his 14-year-old sister have asked their lawyer to represent them in negotiating the lease of Blackacre to a corporate division. Their father, who recently died, had leased the property to the division for the past ten years — but without any writing memorializing that agreement. Before students could even begin to draft, they would have to resolve multiple legal,

strategic, business, and ethical issues. Contracts, business associations, property, ethics, business, and drafting. All in two sentences. Almost sinister.

The final module would be the leg/reg module. Its courses would be administrative law, constitutional law, and criminal law. As with the other modules, students would learn context-appropriate skills and participate in a tutorial group.

But other than sounding like a cool idea, why go to the bother of reimagining our basic curriculum in the Cornell model? I hope that one or more of the following reasons may persuade you.

First, I believe that we are obligated to teach students the core doctrine and skills for the practice of law. Students are graduating with licenses to practice in any area of law. They need not have the skills of a practitioner of ten years, but they must be well-prepared for entry level⁵ practice. If our first-year courses are what we deem core knowledge, then, we must teach that knowledge and the related skills as well as we possibly can. We are the students' employees, and they expect us to have the expertise to guide them in their learning.

Second, each module would introduce students early on in law school to all three practice areas. Exposure to these practice areas later in law school is too late. Many students aspire to be litigators because, for them, litigating and lawyering are synonymous. Unfortunately, litigation is all that they know of legal practice because that is what they have seen on TV and in films.⁶ Who hasn't watched at least one episode of *Law & Order*? But few students have watched a riveting TV show or film in which a negotiation or administrative hearing took center stage. Therefore, introducing students to these practice areas early on might well affect their subsequent course selection and eventual career decisions. Learning second semester third year that transactional practice is a life-calling is too late. When is the student going to take the courses to gain the necessary, additional doctrinal foundation and skills expertise?

Third, each module teaches core knowledge and skills. Lawyers do not practice in subject matter silos. What the students learn in each module will ultimately be some part of their practice. For example, litigators regularly litigate contracts and draft settlement agreements. How could it be bad to know why the contract was drafted the

⁵ "Entry-level" is the adjective that Cornell uses to refer to its new graduates. http://www.vet.cornell.edu/admissions/curriculum/educational_goals.cfm. I find it appealing in its accuracy of what one can reasonably expect of someone who has just graduated. Cornell expects a great deal from its students. *Id.* That said, a significant proportion of graduates continue their education through internships and residencies.

⁶ See Tina L. Stark, *My Fantasy Curriculum and Other Almost Random Thoughts*, 2009 Transactions: Tenn. J. Bus. L. 3, 6-7 (2009).

way it was or how to draft a settlement agreement correctly?

Fourth, practice-oriented modules provide the appropriate context for skills training. Teaching interviewing is context-dependent. Interviewing a potential litigation client who has a fact-driven story to tell differs from interviewing an entrepreneur about to negotiate a game-changing biotech license.

I suggest that in planning the new curriculum, we consider the order of the foundation blocks. It may well make sense for the first block to be litigation. Starting with something familiar facilitates the learning process.

A couple of thoughts on pedagogy.

In my fantasy, professors would continue to teach using the Socratic method, law school's signature pedagogy. But the Carnegie Report suggests that the case-dialogue pedagogy loses efficacy over time and is not particularly helpful in transitioning students to practice.⁷ Therefore, in the fantasy, professors would also teach using alternative pedagogies, contextualizing the subject matter whenever possible.

For example, when studying pleadings and the related Federal Rules, a professor might replace cases with relevant treatise excerpts and exemplars – perhaps complaints. Learning from the treatises and the exemplars emulates practice and requires students to learn without being taught – a critical skill in practice. Additionally, students could collaboratively analyze a mock complaint. That complaint would, of course, be fatally flawed for failing to allege fraud in sufficient detail.

As suggested earlier, the new curriculum would emulate Cornell's signature pedagogy, the tutorial group. These sessions would focus on how the courses in a block intersect and on problem-solving. Thus, during the litigation module, students might work on an evolving fact pattern involving product liability. At issue might be the court's jurisdiction and whether the plaintiff had the proper evidence to prove her claim. Through discussion and research, students would resolve these issues. They would practice being practitioners, and with each new set of facts and each new module, they would move one step closer to gaining a practitioner's expertise.

Are there problems with this fantasy? Absolutely. Just imagine three Contracts professors discussing which textbook they should all use and whether to start with remedies or offer and acceptance. But, as Dean Edmondson suggested to me, that's our professional and creative challenge. Yes. It's an out-of-the box idea, but maybe that's its

⁷ William M. Sullivan, Anne Colby, Judith Wegner, Lloyd Bond, and Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law* 75-77 (2007 John Wiley & Sons, Inc.).

strength.

That concludes the short version of my fantasy curriculum. I don't know whether you or I could handle the long version right now, but I would be happy to take questions.

But before that, I have an almost random thought that I am compelled to share.

As I mentioned before, I spent an inordinate number of hours trolling the Cornell Vet School web site. One thing I noticed was that the school required six hours of English composition as a prerequisite to admission.⁸ So, last week during my final conversation with Cornell's Dean Edmondson, I told her that I was about to ask what may be a foolish question – Why did a vet school require six credits of English composition?

Her response was terse and pungent: Vets needed to be able to organize and express their thoughts in a concise and logical way. If medical records were not clear, how could doctors take care of patients? Moreover, what if a vet had to refer a patient? Without a cogent written explanation of a patient's history and treatment, how could the referral vet treat her new patient? And, finally, how could the school possibly assess what students had learned if they couldn't clearly express themselves in writing in an exam?

How can it be that vet schools require English composition as a prerequisite, and law schools don't?

Every other professional school has multiple prerequisites, often including writing.⁹ Moreover, beyond the courses that they require, many schools recommend courses.¹⁰ For example, dental schools encourage their applicants to take sculpting and

⁸ http://www.vet.cornell.edu/admissions/prospective_students/PSPreReqAcademic.cfm (Last checked 9/14/14).

⁹ Johns Hopkins University Medical School requires at least two writing-intensive courses, http://www.hopkinsmedicine.org/som/admissions/md/application_process/prerequisites_requirements.html (last checked 9/15/2014); UCLA School of Dentistry requires 6 semester hours of English Composition and 3 semester hours of Introductory Psychology, <https://www.dentistry.ucla.edu/learning/pre-requisites-requirements-admission> (last checked 9/15/2014); The UC San Francisco School of Dentistry requires English Composition and Psychology courses, <http://dentistry.ucsf.edu/admissions/dentistry-dds/admissions-requirements> (last checked 9/15/2014).

¹⁰ The Ohio State University College of Medicine recommends ethics courses that address questions and issues related to morality and moral behavior, <http://medicine.osu.edu/admissions/md/preparing/pages/index.aspx> (last checked 9/15/2014); Stanford Medical School requires applicants to have excellent English skills and recommends fluency in a foreign language to enhance service in diverse communities, <http://med.stanford.edu/md-admissions/how-to-apply/academic-requirements.html>, (last checked 9/15/2014); The University of Michigan School of Dentistry, in addition to requiring courses in English Composition, also recommends courses in public speaking and art, <http://www.dent.umich.edu/admissions/dds/prerequisites-and-requirements-admission> (last checked 9/15/2014); UNC Chapel Hill School of Dentistry recommends applicants complete business and economics courses, <https://www.dentistry.unc.edu/academic/dds/admissionsrequirements.cfm> (last checked 9/15/2014).

painting classes to improve their manual dexterity.¹¹

Are there no college courses law schools could require that would be useful for our students to have? Maybe writing, or something to do with math, or the functioning of the branches of the United States government, or ethics?

I conclude with some slides that could either make you laugh or cry. Last week, I went to the Harvard Medical School web site to see if it listed a writing prerequisite. Here's what is on the web site. It is the prerequisite for students entering in 2016.¹²

Creative, complex, and compelling discoveries in medicine, as in other fields, involve grappling with good questions borne from close-reading analyses and careful observations. Therefore, effective courses in science and nonscience disciplines should focus on analytical and writing skills. *In addition, at a minimum*, HMS matriculants should have one year of critical writing/thinking preparation, preferably in a course devoted specifically to the development of expository writing skills. Specific skills students may be expected to master and apply to the fields of medicine and scientific inquiry include the following:

- a. Writing logically and with clarity and style about important questions across disciplines.
- b. Articulating persuasively, both on paper and in oral presentations, focused, sophisticated, and credible thesis arguments.
- c. Appreciating the methodologies that particular disciplines apply for understanding and communicating results effectively.
- d. Approaching evidence with probity and intellectual independence.
- e. Using source material appropriately with scrupulous and rigorous attribution.

Although a specific expository writing course meets this requirement most directly and optimally, potentially, these skills can be honed in a science or nonscience course that requires extensive expository writing. Advanced placement credits cannot be used to satisfy this requirement.

Emphasis added.

Then, for comparison, I went to the Harvard Law School web site. Here's that school's statement on prerequisites.

The Harvard Law School faculty prescribes no fixed requirements with respect to

¹¹ <http://www.uab.edu/dentistry/home/students/future-students/dmd-program/193-admissions> (Last checked 9/13/14). Six credits of writing are also required.

¹² <http://hms.harvard.edu/departments/admissions/applying/requirements-admission> (Last checked 9/13/2014).

the content of pre-legal education. The nature of candidates' college work, as well as the quality of academic performance, is taken into account in the selection process. As preparation for law school, a broad college education is usually preferable to one that is narrowly specialized. The Admissions Committee looks for a showing of thorough learning in a field of your choice, such as history, economics, government, philosophy, mathematics, science, literature or the classics (and many others), rather than a concentration in courses given primarily as vocational training. *The Admissions Committee considers that those programs approaching their subjects on a more theoretical level, with attention to educational breadth, are better preparatory training for the legal profession than those emphasizing the practical.*¹³

Emphasis in the original.

Really? The Medical School requires a year of expository writing and the Law School requires nothing?

For absolute clarity: I'm not advocating a pre-law curriculum saturated with mini-law school courses, or even any mini-law school courses. But I think that maybe, just maybe, we might consider some prerequisites. Indeed, I now state for the record that I favor six credits of English composition as a prerequisite for admission to law school. As to whether lawyers should have the math skills to determine my age, I leave that up to you.

Thank you very much.

Sue, do we have time for a vote? Yes? Great.

How many in the audience favor a six-credit English composition prerequisite for admission to law school?

Vote taken by a show of hands.

Let the record reflect that the vote was unanimously in favor of the prerequisite.

¹³ <http://www.law.harvard.edu/prospective/jd/apply/the-application-process/jdfaq.html#course> (Last checked 9/13/14).