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THERAPEUTIC JURISPRUDENCE IN AN INTERPROFESSIONAL PRACTICE AT THE UNIVERSITY OF ST. THOMAS INTERPROFESSIONAL CENTER FOR COUNSELING AND LEGAL SERVICES

JENNIFER L. WRIGHT*

INTRODUCTION

The Interprofessional Center for Counseling and Legal Services (the "Center" or "Interprofessional Center") is a joint effort by the School of Law, the School of Social Work and the Graduate School of Professional Psychology at the University of St. Thomas¹ in Minneapolis, Minnesota. In the Center, law, social work and psychology students gain practice skills by working with clients under the supervision of experienced supervisors. The Center provides *pro bono* professional services to low-income, working poor and other underserved populations who would otherwise have no access to such assistance. The same can be said of many clinical programs. In addition, the Interprofessional Center strives to educate future professionals (particularly lawyers, to whom it does not always come naturally) in a fundamentally therapeutic mindset by addressing client problems and concerns through its focus on the opportunities and challenges of interprofessional collaboration.

GENESIS OF THE INTERPROFESSIONAL CENTER

The idea for the Interprofessional Center originally developed from discussions among faculty and students in the schools of Social Work and Professional Psychology at the University of St. Thomas, beginning in the summer of 1998² (at that time, St. Thomas had not yet decided to reopen its

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1. This institution is the other St. Thomas, located in Minneapolis and St. Paul, Minnesota.

2. Barbara W. Shank, Ph.D., *Concept Paper, UST Interprofessional Clinic (Legal and Mental Health Services)* [hereinafter *Concept Paper*] (on file with author). My special thanks to Barbara Shank, UST School of Social Work, and Virgil Wiebe, UST School of Law, for their information and insights on the development of the ideas behind the IPC.

law school, which had been closed during the Great Depression). Members of these two professional schools had a vision for an interdisciplinary training clinic that would combine the skills and values of each profession to meet the educational and training needs of St. Thomas students and the underserved psycho-social needs of the Minneapolis community.³ In 1999, St. Thomas decided to refound its law school, eventually adopting a vision statement that the new school would be dedicated to “[p]roviding, from a faith-based perspective, practical skills and theoretical legal education and mentoring . . . with opportunities for inter-disciplinary study and experiential learning,” encouraging “interdisciplinary research activity,” exploring “the intellectual integration of faith into the study of law, professional ethics, public policy, and social justice,” and promoting and participating in “service programs designed to address the needs and improve the conditions of the disadvantaged and underserved.”⁴ This vision was consistent with, and became integrated with, the concept of the Interprofessional Center. The Center opened its doors to its first clients in July of 2003.

The members of the three professional schools participating in the design of the Interprofessional Center shared a common recognition of “the advantages for their students in learning clinical and cultural competence and ethical judgment in a rich, interprofessional setting.”⁵ They sought to create a center that would be unique in its combination of collaborative and independent approaches to client service on a “genuinely co-equal” basis.⁶ The Interprofessional Center evolved as a new sort of creature, which could be visualized as a single “plant” (the Interprofessional Center for Counseling and Legal Services, in which all parts constitute one whole), with two “blossoms” that cross-pollinate each other (the Legal Services Clinic and Counseling Services), and drawing from three “roots” (the parent schools of Social Work, Professional Psychology and Law). The relationship and interactions among these different aspects of the Center are at the core of its continuing development.

MISSION AND GOALS

The mission and goals of the Interprofessional Center were defined through a long process of discussion, mutual education and exploration of

3. *Id.*

4. UNIV. OF ST. THOMAS, SCHOOL OF LAW, *Vision Statement*, available at <http://www.stthomas.edu/law/about/mission.asp> (last visited Dec. 16, 2004).

5. *Concept Paper*, *supra* note 2, at 4.

6. *Id.* at 2.

the nature of the unique relationship that the three professional disciplines are trying to build. The mission and goals continue to be developed and refined as the professionals in the Center work through the practicalities of interprofessional assistance to clients and the interprofessional education of students.

The first element of the mission of the Interprofessional Center is that our services are to be both independent and collaborative. For each discipline, there are some clients who receive professional services only from that discipline. Each discipline may call upon the other two professions for consultation, referral and/or full collaboration, depending on the needs of the individual client. We try to identify opportunities for collaborative service to clients. Professional collaboration can take different forms, but our approach embodies our conviction that many, though not all, clients are better served by an interdisciplinary approach to their problems.

The second key element of our mission is that each profession is grounded in its own context, model and ethical codes. Lawyers in the Interprofessional Center are no less lawyers; social workers have the same professional identity as social workers in other settings; psychologists follow scrupulously the ethical standards mandated for psychologists. Rather than blurring the lines between the three professions, the Interprofessional Center seeks to bring together and educate practitioners in the different professions about the culture, ethical rules and educational models of the other disciplines.

In addition to the expansion of awareness brought about by learning about the differences between the professions, the Interprofessional Center also focuses students' attention on the similarities of mission between the three professional schools – to “develop morally responsible individuals who combine career competency with cultural awareness and intellectual curiosity.”⁷ Each professional school within the University also includes in its own mission statement a reference to the importance of training students to seek social justice or to contribute to the social good.⁸ This central focus

7. UNIV. OF ST. THOMAS INTERPROFESSIONAL CTR. FOR COUNSELING AND LEGAL SERVICES, *Mission Statement*, available at <http://www.stthomas.edu/iccls/mission.cfm> (last visited Dec. 16, 2004) [hereinafter *Mission Statement*].

8. *Id.* (stating that “[t]he Graduate School of Professional Psychology is dedicated to the training, education and professional development of general practitioners who will make ethical, professional and creative contributions to their communities . . .”). See also UNIV. OF ST. THOMAS, *University of St. Thomas and College of St. Catherine School of Social Work*, available at <http://www.stthomas.edu/socialwork/BSW/Mission.cfm> (last visited Dec. 16, 2004) (stating that “[t]he Bachelor of Social Work Program at the College of St. Catherine and University of St.

on the needs of the community and the demands of social justice is part of the mission of each of the three professional schools, and central to the identity and functioning of the Interprofessional Center.

STRUCTURE AND STAFFING

The Interprofessional Center is located in an office building adjacent to, but not part of, the University of St. Thomas Minneapolis campus. It is directly across the street from the School of Law, and only two blocks from the Graduate School of Professional Psychology. The School of Social Work is located on the St. Paul campuses of the University of St. Thomas and the College of St. Catherine, respectively, about six and seven miles from the Interprofessional Center. The Center's physical structure mirrors its interprofessional mission. There are areas of the Interprofessional Center which are common to all professions – a large Community Room, where classes and meetings are held; a conference room; a reception area; a mail room; and many interview/meeting rooms. There are also a few areas of the Interprofessional Center which are strictly off-limits to persons from the other clinic, including the separate file rooms and student workrooms for Counseling Services and Legal Services.

From day one, students in all three disciplines are engaged in an ongoing discussion of how to preserve client confidentiality in an interprofessional context where some clients are receiving interdisciplinary assistance, while others are receiving *only* legal services, counseling, or case management services.⁹ The structure of the Interprofessional Center is designed to give physical reality to this theoretical discussion, with the majority of spaces shared, but also with areas reserved for each of the two components of the Center.

Administrative staff in the Interprofessional Center are assigned to either the Legal Services Clinic or Counseling Services. While reception

Thomas will prepare individuals . . . to serve those in need, and to act with conviction in advancing the principle of social justice and human rights.”); *Mission Statement*, *supra* note 7, at http://www.stthomas.edu/lawschool/mad/mad_mis.cfm (stating that “[t]he University of St. Thomas, School of Law . . . is dedicated to integrating faith and reason in the search for truth through a focus on morality and social justice.”).

9. For example, as part of the law students' orientation, they participate in a “scavenger hunt,” designed to familiarize them with the Interprofessional Center by asking them to locate certain items and perform certain tasks. One such task is to go to the Counseling Services administrative assistant, ask him for the Jones counseling file, look up certain information in the file, and write that information on the sheet. Law students who unthinkingly attempt to comply with these directions are handed a dummy file with the rules on professional confidentiality for psychotherapists, and a reminder that counseling files are off-limits to law students unless there is a specific release of information in a particular case.

duties are shared to a degree, all word processing, case file management and other client-related tasks are done only by administrative staff in the relevant discipline. In collaborative cases, the "home" discipline is determined on a case-by-case basis. Thus far, full collaboration cases have all been "housed" in the Legal Services Clinic within the Interprofessional Center.¹⁰ Law supervisors and law students may consult on social work or psychology cases "housed" within Counseling Services.

Another asymmetry that the Interprofessional Center struggles with in its quest to preserve and develop a truly interprofessional approach to service lies in the different decisions made by the different professional schools in the staffing of the Interprofessional Center. While the three supervisors in the Legal Services Clinic are regular tenure-track professors as well as licensed, experienced attorneys, the one social worker and one psychology director/supervisor are highly qualified and experienced, but with the status of part-time professional staff and subject to professional obligations outside the Interprofessional Center. The lack of equal resources, as well as the lack of regular faculty status and governance rights on the part of the Counseling Services directors/supervisors, has been a handicap to the rapid development of a fully collaborative model in the Interprofessional Center. These realities provide the context for the continuing struggle for all participants in the Interprofessional Center to think and act in a truly interprofessional way, constantly balancing equality, mutual respect, collaboration and independence.

THERAPEUTIC JURISPRUDENCE IN PRACTICE

In this essay, I will focus on describing the application of the principles of therapeutic jurisprudence in my own work, teaching in the Legal Services Clinic. I direct the Elder Law Practice Group in the Legal Services Clinic, which also includes a Family Law Practice Group, and an Immigration Law Practice Group.¹¹ Many of the therapeutic jurisprudence issues that arise in elder law arise equally in the other practice areas (and indeed, across the spectrum of legal practice).

In the Elder Law Practice Group, we represent low-income or

10. This situation is due in large part to variation in resources available to the Center, which allowed the law school to open its clinical program in August of 2003, with 22 law students, while the School of Social Work's program had only three students working in the Center in the academic year 2003-2004, and students in the Graduate School of Professional Psychology only began work with clients in the Center in the fall of 2004.

11. As an extension of the interdisciplinary focus of the Center, the supervising attorneys from each practice group seek to achieve expertise and ability to supervise cases in all practice groups, as well as seeking opportunities for students to collaborate across practice groups.

vulnerable elderly clients with problems relating to long-term care (nursing home rights, Medicaid benefits, etc.), financial exploitation and abuse, and guardianship and conservatorship. The large majority of our clients either live in care facilities or are homebound. Most of our clients suffer from a combination of physical and mental impairments.

Traditional modes of legal representation of these clients pose the risk of serious anti-therapeutic consequences. A standard legal/adversarial approach to a case involving a nursing home's violation of the rights of a resident might involve a demand letter to the nursing home, threatening the filing of an administrative complaint or civil lawsuit, unless the violation is corrected and any damages paid. This approach can be very destructive to the ability of the resident and the nursing home to identify common goals and creative solutions for the problem, and indeed to maintain an ongoing care-giving/receiving relationship.¹² It can also lead to stress, confusion, suspicion and trauma on the part of the nursing home resident, sometimes exceeding the injury experienced due to the original violation of rights. The legal process can also be an extraordinarily slow way to resolve pressing daily issues of dignity, autonomy and quality of life in the nursing home.

Thus far, the Elder Law Practice Group has established the closest collaborative relationship in the Interprofessional Center between law and social work. Each new client is interviewed by a case team consisting of two law students and a social work student.¹³ An informed consent form, explaining the differing roles of social workers and lawyers, including differences in duty to warn and mandatory reporting obligations, is signed

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12. The traditional approach assumes an adversarial stance and immediately begins to marshal forces to fight the lawsuit. This sets up a defensive, adversarial psychological posture in which each party becomes ego-invested in appearing "right" and "winning." Collaboration, compromise, and emotional vulnerability are almost impossible in such a context. Discovery of the parties' true needs becomes very difficult.

Susan Daicoff, *Making Law Therapeutic for Lawyers: Therapeutic Jurisprudence, Preventive Law, and the Psychology of Lawyers*, 5 PSYCHOL., PUB. POL'Y & LAW 811, 825 (1999). See also Ingrid N. Tollefson, *Enlightened Advocacy: A Philosophical Shift With a Public Policy Impact*, 25 HAMLINE J. PUB. L. & POL'Y 481, 492 (2004).

13. In some unusual cases, a social work student is not assigned to a case at the beginning, or must be removed from a case, if there is some concern that there may be a conflict between the reporting duties of the social worker in cases of elder abuse and the duty of client confidentiality. In Minnesota, social workers are mandated reporters of abuse or neglect of "vulnerable adults," while lawyers are not. The issues raised by mandatory reporting issues are important, and we do struggle with them in the Interprofessional Center. In fact, they receive far more attention due to their importance in theory than would be justified by the relatively few actual problems that arise in practice, at least in the Elder Law Practice Group. I will not be addressing mandatory reporting issues in this article.

by each client, in addition to the legal retainer agreement. From the beginning of each case, the law students and social work students work together to identify the client's goals and vulnerabilities, frame the central issues in a holistic manner, and seek the most therapeutic solutions to the client's problems. Social work students begin with a biopsychosocial assessment of the client, which helps identify her/his strengths, impairments and needs. This information is also invaluable in the initial decision as to whether a mentally impaired client has the necessary capacity to retain the Legal Services Clinic.

Social work students also provide case management services, essential to identifying and addressing underlying problems which may give rise to repeating legal issues. For example, one client was threatened with eviction from an assisted living facility due to problematic behaviors related to his social isolation and untreated alcohol dependency and depression. The social worker on the case was able to identify the needs for friendly visiting, chemical dependency treatment and psychotherapy, and to find or provide the necessary services to ensure that, once the first eviction proceeding was resolved favorably by the case team, there would not be an ongoing string of landlord/tenant conflicts.

Counseling by social work students provides a necessary support to clients who find the legal process intimidating, confusing, and stressful. This counseling and support helps to reduce the trauma experienced by elderly clients who testify in court or participate in negotiation. One client found that, with the support of his social worker/counselor, his participation in a negotiation with the nursing home gave him a new sense of control over his life and his home, improving his mental status and quality of life. When this client received adequate emotional and psychological support, his participation in the legal process was actively therapeutic.

Social workers teach the lawyers in the Legal Services Clinic a great deal about the importance of, and skills required to establish, a strong empathic bond with the client. Many of the tenets of "client-centered legal counseling" are closely related to well-established social work models.¹⁴ This bond between professionals and clients is crucial not only to achieve therapeutic outcomes for the clients, but also for the students in the Legal

14. "Thus, using a generalist social work model, a relationship between the lawyer and the client is assumed as integral to achieving the best outcome for the client." Carolyn Copps Hartley & Carrie J. Petrucci, *Justice, Ethics, and Interdisciplinary Teaching and Practice: Practicing Culturally Competent Therapeutic Jurisprudence: A Collaboration Between Social Work and Law*, 14 WASH. U. J.L. & POL'Y 133, 143 (2004).

Services Clinic.¹⁵ Law students learn that they cannot effectively represent their clients if they shy away from experiencing and understanding the complex emotional, social and psychological reactions that both they and the client may undergo in the course of the representation. Law students may not avoid the sometimes awkward and painful process of developing and expressing empathy by hiding behind a shield of lawyerly detachment.

In many cases, the Legal Services Clinic's ability to communicate fruitfully with other parties is dramatically increased by the presence of social work students on the case team.¹⁶ Many care facilities, and other individuals and organizations, find the very presence of lawyers intimidating and threatening. The simple act of identifying ourselves as lawyers representing a resident may create an escalation of adversarial behavior that can be extremely harmful to the client and the client's case. Social workers act as crucial communication facilitators, reassuring facilities and other parties that all friendly discussion has not ended, just because the lawyers have appeared on the scene. Social workers have far greater success than lawyers in enlisting nursing homes in working with the case team to address the care or other issues facing the client. On a more basic level, social workers are also more familiar with the jargon, customs and culture of care facilities, and can serve as cultural interpreters for the lawyers.

The Elder Law Practice Group continues to work to establish an effective team approach to client representation between social work students and law students. This approach is so successful in improving therapeutic outcomes for elderly clients participating in the legal process, that I now feel that doing elder law without the collaboration of social workers, and without taking therapeutic issues explicitly into account, may sometimes border on malpractice.¹⁷ As the Interprofessional Center continues to develop, I expect that the Elder Law Practice Group will engage more fully with psychology students, particularly in providing ongoing psychotherapy for clients, and in forensic assessment and expert testimony in cases where the mental state of the client is at issue.

Therapeutic issues also arise regularly in cases in the Family Law and

15. "[A]t least some, if not all, lawyers and clients desperately need to experience the lawyer-client interaction as a positive, healing experience. TJ/PL offers one avenue to this end because it explicitly values mental health concerns, emotional consequences, and interpersonal relationships inherent in many legal matters." See Diacoff, *supra* note 12, at 843.

16. "[A] generalist social work approach emphasizes the importance of the clinical, or 'micro,' skills which are the foundation of professional-client interactions, but also in interactions with other professionals." See Hartley & Petrucci, *supra* note 14, at 143.

17. See Daicoff, *supra* note 12, at 845.

Immigration Law Practice Groups. In the Family Law Practice Group, which represents people suffering the effects of domestic violence, there is an obvious need to deal with the trauma suffered by clients and their family members who have experienced violence at the hands of intimate partners and parents. The risk of re-traumatization of clients who have to repeat and relive their experiences of abuse, first in the lawyer's office and then in court, is serious. Clients may also experience the legal process as disempowering and failing to provide the emotional validation and justification that they seek. At the same time, many abused clients must nevertheless continue to maintain some kind of functional relationship with the other parent for many years. Clients also frequently suffer from a wide variety of practical living challenges, ranging from housing, employment and transportation needs, to chemical dependency issues, to mental illness. The Family Law Practice Group is able to address these issues, and to improve both therapeutic and legal outcomes for its clients, through the collaborative and independent services available in the Interprofessional Center.

Clients of the Immigration Law Practice Group face similar problems. The Immigration Law Practice Group primarily represents applicants for asylum. Nearly all of these clients have undergone persecution in their countries of origin, giving rise their claims for asylum. They too suffer from mental health issues common to victims of severe trauma, and they too may be re-traumatized by having to relive their experiences in the legal process. Some clients have been so traumatized that, without the assistance of a counselor with whom they have established a trusting therapeutic relationship, they are simply unable to tell their stories of torture and abuse, without which their claims for asylum cannot go forward. If their asylum claims cannot be substantiated, the clients face being returned to the same place and conditions, to likely face further abuse. The immigration process itself can seem unpredictable, irrational and even abusive to clients from a different country and culture (and sometimes even to experienced U.S. immigration attorneys!). Immigration Law Practice Group clients also have a wide variety of practical needs that can be effectively met through case management services.

TEACHING STUDENTS TO THINK THERAPEUTICALLY

In the Legal Services Clinic, we begin working from day one to instill a therapeutic mindset in our law students. Therapeutic thinking is not something that most students have been exposed to in law school, prior to participating in the Legal Services Clinic. Many law students are resistant to acknowledging the wide range of psychological, emotional and spiritual

issues that are involved in client representation.¹⁸ We address these issues, beginning at our orientation, before the semester even officially begins. The concept of footwashing as a metaphor for legal representation and client service is an important recurring theme, beginning at orientation and continuing through the semester.¹⁹

A therapeutic perspective is an important part of the classroom component of the Legal Services Clinic. Social work and psychology directors/supervisors and students participate in many of the classes, as teachers, as participants in role playing exercises and as participants in discussion. Students (and faculty!) in all three disciplines are given repeated reality checks, as their assumptions and preferences are challenged in class from other professional perspectives. Law students (and faculty!) particularly receive somewhat humbling lessons in how their normal behavior is perceived by other professionals.

In the Elder Law Practice Group, classes include discussions on how lawyers' values and ethics affect their legal practice and the kinds of clients they choose to represent, whether and how elder law attorneys can/should assess client competence, the role of social workers and social work advocacy in the nursing home context, and techniques for working with mentally impaired clients. We also spend time looking at how different interview techniques may affect elderly clients' ability to remember, to communicate, and to work with the case team in their cases, and how the experience of the interview affects clients psychologically and emotionally. We discuss the benefits of alternative dispute resolution in many cases, and learn about techniques for representing clients in these alternative processes.

Classes for the Legal Services Clinic, as a whole, include a class specifically devoted to therapeutic jurisprudence as an analytical framework for looking at substantive law, procedure and legal representation, a class on the ethics rules of the three professions and the ethical issues raised in an interprofessional practice setting, a class on psychological models of health and healing, and a class devoted to discussing secondary trauma²⁰ and the anti-therapeutic effects of law school

18. Marjorie A. Silver, *Love, Hate, and Other Emotional Interference in the Lawyer/Client Relationship*, 6 CLINICAL L. REV. 259, 278-83 (1999).

19. Footwashing is explored as a model for servant leadership, revolutionary humility, reversal of hierarchy, risk-taking for social justice, public intimacy, radical hospitality, self-examination and collegial cleansing, and self-rejuvenation in legal representation. Virgil Wiebe, *From the Odyssey to Sex in the City: Footwashing as an Ethic for Interprofessional Practice*, PowerPoint presentation (2004) (on file with author).

20. Secondary trauma is the trauma experienced by third parties in hearing about terrible

and law practice on lawyers, including productive ways of dealing with stress and trauma.²¹ Our class on expert and lay professional witness testimony involves social work and psychology students, learning in role to be effective witnesses, and law students, learning how to conduct an effective direct or cross examination and how to make a better presentation at trial through collaboration with the expert or other professional witnesses on the trial team.

In addition to the classroom component, a therapeutic mindset is encouraged by student participation in Grand Rounds. Grand Rounds are held four times each semester. Interprofessional case teams present cases to the entire Interprofessional Center in which interprofessional collaboration was an essential part of serving the client's needs. Further, students from one discipline may present a case that does not include interprofessional collaboration, to give students a sense of the nature of the independent services provided to clients by each profession. Comments and suggestions from students from different professions give the presenting students new perspectives on their own work with their clients.

Finally, therapeutic thinking is demanded in case team meetings and the case planning process. Supervisors constantly ask students about the therapeutic implications of different case strategies, and require students to examine the assumptions underlying the choice of how to define the client's case plan. Social work students in the Elder Law Practice Group frequently raise alternatives that the law students may have missed, and draw attention to the effects that the representation has on the client over the course of the case. For example, law students working hard to carefully draft a civil complaint, and to plan for all possible contingencies before initiating litigation, were confronted by the social work student with the negative effect that delay was having on a client's mental state. The law students had been insufficiently aware that delay that did not result in any legal prejudice could nonetheless have a seriously anti-therapeutic effect on the client. This realization led to an invaluable discussion of the effects that the law students' own psychological reactions to the act of actually filing the civil suit – the fear of overlooking some vital detail due to inexperience, the loss of control in turning the case over to the court's docketing system, the scariness of jumping into a new experience with

experiences of others – in the Legal Services Clinic, generally our clients. See Lynda L. Murdoch, *Psychological Consequences of Adopting a Therapeutic Lawyering Approach: Pitfalls and Protective Strategies*, 24 SEATTLE UNIV. L. REV. 483, 493 (2000); see generally Andrew P. Levin & Scott Greisberg, *Vicarious Trauma in Attorneys*, 24 PACE L. REV. 245 (2003).

21. We expect that the trip to the day spa that goes with this class will be a popular innovation among our students (and faculty!).

“real world” consequences – were having on their supposedly detached and purely “legal” determination of when to file.

DIRECTIONS FOR THE FUTURE

The Interprofessional Center for Counseling and Legal Services is still a very new creature and will certainly continue to grow and develop. The Legal Services Clinic expects to expand law student participation by the addition of full-time legal fellows, who will be trained as lawyers and clinical teachers. We hired our first fellows in the Fall of 2004, and their enthusiasm and creative ideas have already proved to be invaluable assets to the Interprofessional Center. The Legal Services Clinic also continues to explore new collaborative possibilities to expand our clinical offerings, including hopes to reach out to the business school, in the development of a transactional micro-enterprise or non-profit representation clinic, and plans to involve other non-clinical law faculty in experiential law teaching in their particular fields of expertise. This effort is aided by the high value that the University of St. Thomas School of Law places on deep and broad experience in law practice among its faculty. Counseling Services continue to grow and expand, offering a wide variety of psychosocial services, including individual psychotherapy for children, adolescents and adults, couples and relationship therapy, family therapy, team consultations, group therapy, career counseling, psychological assessment, and community outreach and education. Every week, the number of clients who are receiving interprofessional services from students from two or more disciplines increases. Each new case provides the chance to explore new ways to provide interprofessional services to maximize therapeutic outcomes for clients.