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Marriage and Family Therapy and the Law: Discovering Systemic Common Ground

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Marriage and Family Therapy and the Law: Discovering Systemic Common Ground

by

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Each person whose signature appears below certifies that this dissertation in his/her opinion is adequate, in scope and quality, as a dissertation for the degree Doctor of Philosophy.

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To my friends and family who were there for me throughout this process, I am forever grateful for your love and support. Lastly, to my students, this work is for you. May your words be heeded by the MFT community for generations to come.

CONTENT

TABLES AND FIGURES

ABBREVIATIONS

AAMFT	American Association for Marriage and Family Therapy
COAMFTE	Commission on Accreditation for Marriage and Family Therapy Education
MFT	Marriage and Family Therapist or Marriage and Family Therapy

ABSTRACT OF THE DISSERTATION

Marriage and Family Therapy and the Law: Discovering Systemic Common Ground

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Many important decisions regarding couples and families are made by the legal system. However, this system's adversarial nature often results in relational losses for clients, even when one "wins" a case. Some believe a solution may exist in legally-minded marriage and family therapists, who, as experts in family systems theory, are in a unique position to help facilitate healing in a flawed, but well-meaning family court system (Brooks & Madden, 2012; Madden, 2008). However, the literature reveals that new therapists may lack appropriate legal knowledge when they graduate, suggesting a need for different preparation by marriage and family therapy programs (Nelson & Graves, 2011).

This dissertation aims to comprehensively examine the literature's current body of knowledge concerning effective teaching methods for educating therapy students in the law; it then aims to explore issues of student engagement by examining the views of marriage and family therapy students concerning their personal legal skills, the legal system, and the legal education of therapists. By addressing student views and applying tried-and-true methods of effective legal instruction, future educators will be able to apply this dissertation's findings to ensure that they are training legally-competent

therapists who will engage effectively and appropriately with clients and professionals in the legal system.

CHAPTER ONE

INTRODUCTION

This dissertation aims to examine the relationship between marriage and family therapy students and the legal system. It begins by comprehensively examining the literature's current body of knowledge concerning effective teaching methods for training therapy students in the law. A gap in the literature was identified in this analysis, which a second study sought to fill by examining the views of marriage and family therapy students concerning their personal legal skills, the legal system, and the legal education of therapists. By addressing student views and applying effective methods of legal instruction, academic programs, clinical placement sites, and future researchers will be able to use the results of this dissertation to better address the legal needs of MFT students and the clients they serve.

Background

While the fields of marriage and family therapy (MFT) and law are typically seen as distinct in nature, there is actually an extensive degree of overlap between the two fields. Therapists have been interceding with the court system on behalf of their field since the days of Freud, who lectured judges in Vienna on the practicality of psychology in 1906 (Holtzworth-Munroe, Applegate, Rudd, Freeman, & D'Onofrio, 2013). Since then, many ways to integrate law and therapeutic practice have been developed, creating crossover fields of study like legal psychology and therapeutic jurisprudence (Holtzworth-Munroe et al., 2013). A call for this sort of integration comes from therapists and lawyers alike, as many are concerned that the legal process may be

harming couples and families (e.g., Hafemeister, Ogloff, & Small, 1990; O'Connell & DiFonzo, 2006; Rachlinski, 1999). The proposed solution has to do with human relationships. According to the current dean of Mercer University School of Law, "The need for a system of laws arises from the social nature of human beings. Laws are about relationships, just as practicing law and achieving justice are always concerned with relationships (Floyd, 2007, p. 559)." Some legal scholars believe that experts in family systems theory—such as marriage and family therapists—are in a unique position to help minimize relational losses in a flawed, but well-meaning family court system (Brooks & Madden, 2012; Madden, 2008).

This call for integration comes from the reality of important decisions in the lives of couples and families being made by the courts—issues of child welfare, inheritance, spousal support, and elder care, among others. However, the legal process is adversarial in nature, often disregarding the views of individuals who must live with the results (Brooks, 1996; Madden, 2008). The ensuing family situation is sometimes one that creates a relational loss, even when a client "wins" the case (Madden, 2008). As a result, the field of law and marriage and family therapy share many clients and areas of practice—in circumstances like divorce, child custody, mediation, and court-ordered therapy, among others (Riley, Hartwell, Sargent, & Patterson, 1997).

During a legal battle, clients are likely to experience feelings of vulnerability, increased stress, and fear that they will lose important rights if they do not engage in conflict with other family members. This, in turn, damages family relationships (Firestone & Weinstein, 2004). For example, even though a divorcing parent might "win" custody of her children in court, the necessary courtroom attacks are also likely to

create damaged emotions which will impede future co-parenting and communication efforts.

For decades, marriage and family therapists have studied and practiced with the understanding that family member interactions reinforce one another, resulting in a self-perpetuating family system. Family systems theory—also broadly referred to as "cybernetics" or "systems theory"—is one of the primary foundations upon which the study of marriage and family therapy is built (Nichols, 2012). Family systems theorists know that such a system needs to be viewed as a whole, in the context of its environment—in this case, the family court system—in order to understand the system and affect positive change (White, Klein, & Martin, 2015). This is the reason why family systems practitioners are so vital in the effort to facilitate healing in the family court system (Brooks & Madden, 2012; Madden, 2008).

As with many professional organizations in the last decade, the American Association of Marriage and Family Therapists (AAMFT) has established core competencies to define the minimum skills necessary for practice as a licensed marriage and family therapist (Nelson et al., 2007). Fourteen of these competencies relate to legal skills, either directly or in support thereof (Miller, Linville, Todahl, & Metcalfe, 2009). However, a recent study by Nelson and Graves (2011) found that although clinical supervisors rated legal knowledge as one of the most important core competences, it is an area insufficient performance by postgraduate interns. This should give marriage and family therapy programs cause for concern, because lack of preparation in the area of law renders new therapists less effective when it comes to legal research, advocacy, dissemination of information, and credibility in the legal arena (Bersoff et al., 1997). As

the family court system becomes aware of the effectiveness of systemic practice, it thus becomes increasingly important that academic programs are training legally-competent marriage and family therapists to be the champions of family systems theory within the legal arena (Brooks & Madden, 2012; Madden, 2008).

Objectives and Rationale

The present dissertation follows the publishable paper format as identified in Loma Linda University's Doctoral Student Handbook. The first publishable paper presents a comprehensive review of the current literature on how to teach the law to therapy students. No such compilation has ever been published. The second publishable paper aims to fill a gap in the existing literature by examining the views of marriage and family therapy students concerning their personal legal skills, the legal system, and the legal education of therapists.

First Publishable Paper

Many authors suggest that using innovative, research-informed methods of teaching the law to social science students is an important key to increasing legal engagement and skill in future practitioners (e.g., Gale et al., 1995; Holtzworth-Munroe et al., 2013; Miller et al., 2009). To explore such methods, I completed a comprehensive review of the available literature on how to teach the law to therapy students. This review identifies teaching interventions which have been found to be beneficial in the legal education of future therapists, and serves as the first of two publishable papers in the present dissertation. Since research on interventions for teaching the law to marriage

and family therapy students has been scarce (Miller et al., 2009; Riley, Hartwell, Sargent, & Patterson, 1997), literature from similar therapy fields—psychology, social work, and counseling—was also investigated. Three types of teaching interventions—experiential learning, e-learning, and cross-disciplinary learning—were dominant in the literature. Each of these interventions is explored below, along with practical applications and directions for future exploration.

Second Publishable Paper

The current literature identifies a feeling of "anxiety" which therapy students experience when they think about the legal arena, resulting in avoidance of legal practice (Miller et al., 2009). This concept remains generalized and abstract in the literature, and specific student voices remain largely unheard. However, the issue of anxiety is important to investigate and address, because it can cause physiological and psychological harms to both individual students (Rosen & Schulkin, 1998) and the larger societal system (Sellers, Caldwell, Schmeelk-Cone, & Zimmerman, 2003). When a person experiences anxiety, their amygdala—which regulates the fight or flight response of the sympathetic nervous system—is activated by emotional stress. Heart and breathing rates increase, muscles tense, and blood flow is diverted from the abdominal organs to the brain. In the short term, this prepares the body to confront a crisis, but in the long term, anxiety can increase the risk of heart disease, chronic respiratory disorders, gastrointestinal conditions, and even death (Rosen & Schulkin, 1998). Prolonged anxiety is also associated with several psychological disorders, such as post-traumatic stress

disorder, obsessive-compulsive disorder, and panic disorder (American Psychiatric Association, 2013).

While many therapy students may express anecdotally that such an anxiety does exist, further research was necessary to provide a richer, fuller of understanding of how individual therapists conceptualize that anxiety, personal legal effectiveness, the legal system, and the effects of the interplay between these elements. Specific obstacles and potential solutions were revealed on a personal student level, making the views of the students more visible and relatable through the humanness of their actual words. Themes were also identified to determine how therapists and legal professionals can encourage cross-disciplinary collaboration, facilitating engagement between the fields of marriage and family therapy and the law for the benefit of society.

CHAPTER TWO

CONCEPTUAL FRAMEWORK

Engagement between marriage and family therapists and the legal system remains a problem, despite a growing recognition of the effectiveness of systems-oriented practice within the legal community (Brooks & Madden, 2012; Madden, 2008; Miller et al., 2009). As this problem concerns social constructs—couples, families, the legal system, and the therapy system—it therefore becomes appropriate to examine the two theoretical orientations which are typically used to address this type of problem. Both social constructionism and symbolic interactionism are frequently used in studies which seek to understand how people create meaning in given situations, although they have different intellectual histories and different emphases in actual practice (Leeds-Hurwitz, 2006). The following chapter compares these two major conceptual frameworks and explains why social constructionism was chosen for investigation of this particular topic. It then examines the central tenets of social constructionist theory, and addresses its strengths and weaknesses in relation to the present dissertation.

Comparing Social Constructionism and Symbolic Interactionism

Since its inception up until the mid-twentieth century, logical positivism—rather than social constructionism or symbolic interactionism—was the dominant theoretical approach to the scientific process, including research in the social sciences (Hess, 1997; Yearley, 2005). Logical positivists consider logic and mathematics to be the most certain route to truth, viewing science as the rational analysis of the observable world through experiment and empirical study, with little discussion of personal context, subjectivity, or

social constructs (Tolhurst, 2012). Since then, there has been a fragmentation within the scientific disciplines, which has brought about several "general" or "grand" theories of how to properly conceptualize scientific inquiry (Hess, 1997; Yearley, 2005).

While postmodern theoretical frameworks maintain that subjective considerations render the notion of a true, all-encompassing grand theory to be impossible (Restivo & Croissant, 2008), the traditional idea of applying a grand theory to research continues to be taught. One grand theory, symbolic interactionism, is similar to the postmodern philosophy of social constructionism in that the purpose of both theories is to understand how people create meaning for themselves and others—even though they accomplish this from slightly different perspectives. As such, the two theories are often confused and misapplied (Leeds-Hurwitz, 2006). While symbolic interactionism and social constructionism do share similar theoretical principles, they differ in their intellectual histories and areas of emphasis in actual application. There is therefore a call within the scientific community to give careful consideration to the methodological implications of both theories before applying either one (Leeds-Hurwitz, 2006).

Different Intellectual Histories

Historical differences exist between social constructionism and symbolic interactionism, which serve to partially explain the preference for one theory over the other in different fields and contexts (Leeds-Hurwitz, 2006). The term "symbolic interactionism" was first coined by Herbert Blumer in 1937, having grown out of the Chicago School of Sociology, but adhering strongly to the social psychological theoretical orientation of George Herbert Mead (Blumer, 1969). Even though Mead did

not call his work "symbolic interactionism," many adherents cite Mead's *Mind, Self, and Society: From the Perspective of a Social Behaviorist* (1934) as the original publication on symbolic interactionism's theoretical principles. The theory concerns itself primarily with the creation and meaning of social symbols, the self, and the ways in which the self is constructed through interaction with others (Leeds-Hurwitz, 2006). There is therefore an emphasis in symbolic interactionism on the self-other relationship, as well as the social roles which develop in response to social expectations (Stryker, 1968).

Social constructionism, on the other hand, was not presented as a cohesive scientific theory until 1967, in the publication of Berger and Luckmann's *The Social Construction of Reality*. Whereas symbolic interactionism bases its tenets on the assumptions of Mead's school of psychology, the underlying principles of social constructionism instead reflect the authors' training in sociology and philosophy (Berger & Luckmann, 1967; Leeds-Hurwitz, 2006). As a result, instead of emphasizing "what" the social world is in relation to the self—a psychological, symbolic-interactionist inquiry—social constructionism has historically been employed in studies seeking to understand "how" knowledge about the social world is constructed through language and "why" the subjective results exist. This reflects the theory's sociological and philosophical roots (Leeds-Hurwitz, 2006). This effort to explore how knowledge about reality is constructed on a societal level has long been the goal of social constructionist theory, dating back to the original authors (Berger & Luckmann, 1967).

Similar Theoretical Principles

Despite symbolic interactionism and social constructionism originating at different times, from different academic disciplines, and in different societal contexts, the two theories are remarkably similar in their guiding theoretical principles. Perhaps this is the reason that they are so often confused in actual practice (Leeds-Hurwitz, 2006). Both theories seek to understand the meaning-making which occurs between self and others, and both pay particular attention to the language and symbols which participants use to describe their experience.

Language is paramount in both theoretical orientations. As Atkinson and Housley (2003) put it, "Language allows for the creation of culture, in that human social actors can exchange experiences, cumulate experiences, and share meanings" (p. 6). According to both symbolic interactionism and social constructionism, participants use language to create their sense of self, others, and the world around them. As such, a researcher using either theory will pay special attention to the particular words that participants use, often quoting participants directly in publications (Leeds-Hurwitz, 2006). In practice, this is done by examining participant reports of language used or of language recorded in a natural environment, with purists arguing that only the analysis of a natural context is appropriate (Beall & Sternberg, 1995; Leeds-Hurwitz, 2006).

In addition to their shared emphasis on language, both symbolic interactionism and social constructionism are interpretive theories which concern themselves primarily with the study of meaning construction. In her article, *Social Theories: Social Constructionism and Symbolic Interactionism,* Leeds-Hurwitz (2006) writes, "Like social constructionism, symbolic interactionism emphasizes the centrality of social interaction,

and the joint action necessary to maintain it, as well as stressing the significance of symbols . . . Because of these overlaps, they have occasionally been treated as two parts of the same theory" (p. 233). As a result, both approaches take as their central question how people construct meaning for themselves and others, through both the language they use and the behaviors they exhibit (Berger & Luckmannn, 1967; Blumer, 1969).

Different Emphases in Application

While both symbolic interactionism and social constructionism seek to understand the meaning-making which occurs between self and others, especially through the use of language, the two theories do so from slightly different perspectives (Leeds-Hurwitz, 2006). Symbolic interactionism emphasizes "what" the created-meaning is, the effect of the self-other relationship, and the social roles which result. It also emphasizes micro, individual meaning-making over larger societal considerations (Blumer, 1969; Sandstrom, Martin, & Fine, 2001). Social constructionism, on the other hand, emphasizes "how" meaning is created and "why" subjective realities exist in response to language. In contrast to symbolic interactionism, social constructionism privileges the study of larger understandings of social groups and society at large over micro-level understandings of the self (Andrews, 2012; Berger & Luckmann, 1967). According to Leeds-Hurwitz (2006), "Most briefly, what separates them is that social constructionism is centrally concerned with how people make sense of the world, especially through language, and emphasizes the study of relationships; whereas symbolic interactionism's central concern is making sense of the self and social roles" (p. 233). Researchers should

thus be mindful of these distinctions when selecting a theory, and not inadvertently confuse them.

Choosing Social Constructionist Theory

Both symbolic interactionism and social constructionism are appropriate for studying meaning-making, especially through the use of language (Leeds-Hurwitz, 2006). The present study concerns itself with the meaning which students make concerning the legal system and their place within it, and it employs language—dialogue, through an interview process—to examine this phenomenon. As such, either theoretical orientation could be appropriately applied, at least in terms of content.

The reason for choosing one theory over the other is therefore primarily one of scope. Recall that symbolic interactionism concerns itself primarily with "what" the created-meaning is, the effect of the self-other relationship, and the social roles which result (Blumer, 1969; Sandstrom, Martin, & Fine, 2001). Social constructionism, on the other hand, places more of an emphasis on "why" and "how" that meaning is created, and privileges the study of larger understandings of society over micro-level understandings of the self (Andrews, 2012; Berger & Luckmann, 1967). This invites the following question: Is the present study more concerned with created-meaning from a self-versus-other standpoint of social role exploration, or does it privilege how meaning is created at a larger, societal level?

The following research question is the basis of all other inquiries in the present dissertation: "How do therapy students conceptualize the legal system and their place within it?" As explained comprehensively in the Method chapter, a more theoretically-

sound version of this question—from either a symbolic interactionist or social constructionist perspective, since they share similar assumptions—would sound something like the following: "In the present time and circumstances, and taking all voices into account, how do therapy students conceptualize the legal system and their place within it, as reflected through dialogue with this particular interviewer?" While either theory could be adequately applied to such a question, one notable difference does exist in terms of scope. In application, the purpose of the present study is to understand processes which will encourage policies at both the university-level and at the societal-level to promote collaboration between the legal and therapeutic communities. Social constructionism privileges the study of how processes occur in an effort to apply the results to meaning-making at larger societal levels—in this case, the therapeutic and legal communities at large (Leeds-Hurwitz, 2006). Social constructionism is therefore a more appropriate theoretical orientation for the present inquiry.

Principles of Social Constructionist Theory

There have been multiple explanations of what constitutes "true" social constructionist methodology, primarily because the theory itself suggests that research—indeed, reality itself—can only be experienced and interpreted subjectively. Therefore, every research participant's interview responses have equal merit, and interpretations will differ based on the interpretation of the researcher and his or her surrounding circumstances (Edley, 2001). However, there are a few areas of general agreement. First, social constructionism posits that reality and meaning are constructed through a communal, relational process (Berger & Luckmann, 1967). To a social constructionist,

while true objective reality does in fact exist, it cannot be perceived directly. Rather, perceived reality does not exist apart from people—it is created as a result of their interactions. Views on reality are shared between individuals through dialogue, and this creates what people usually take for granted as objective reality (Berger & Luckmann, 1967). As a result, social constructionists believe that true objective reality can only be understood through these subjective constructions created by two or more persons (Andrews, 2012).

Each individual's interpretation of constructed-reality is also contextual in nature. Every individual has a unique view on what constitutes reality based on the circumstances she finds herself in (Berger & Luckmann, 1967). This experienced-reality may change based on the context of the moment, especially through the language being used to describe it in the moment (Andrews, 2012). According to the founders of social constructionist theory, Berger and Luckmann (1967), "the most important vehicle of reality-maintenance is conversation" (p. 152). Human beings use language to make things happen. They talk about things, which makes them subjectively "real" and gives them substance (Leeds-Hurwitz, 2007).

Since social constructionists believe that perceived-reality is subjective based on the context of each participant, they attribute inherent value to every voice in order to gain an understanding of "what is happening" when doing research (Andrews, 2012). As a result, research methodologies which privilege individual voices are preferred, while those which privilege averages and trends are not preferred, since they silence minority voices (Gehart, Tarragona, & Bava, 2007). This notion of the importance of hearing every voice is in contrast to other research methodologies which privilege what "most"

people say—relying on averages, standard deviations, and other statistical measures—or what the "people who matter" say—taking the pragmatic approach that research should focus on populations that are either well-funded or more numerous. Thus, power is a crucial factor in social constructionist theory, with researchers paying deliberate attention to the voices of the powerless, ensuring that every voice is taken into account (Gehart et al., 2007).

Strengths of Social Constructionist Theory

True to its name, social constructionism is an ideal theoretical orientation from which to study processes which are socially constructed. One of the theory's basic principles, after all, is that "nothing exists in the social world unless it has been introduced into that world by a human social and constructive act" (Harré, 2002, p. 24). As such, social constructionism concerns itself primarily with meaning-making in socially constructed contexts (Berger & Luckmann, 1967; Leeds-Hurwitz, 2006). In contrast to symbolic interactionism, social constructionism privileges the investigation of constructions which occur at larger social levels (Andrews, 2012; Berger & Luckmann, 1967). For example, social constructionism has been widely applied in studying gender, which has been found to result from socialization processes—taught, learned, and transformed (Allen & Walker, 2000). Similarly, the present study wishes to examine the socialization processes by which therapists have been systemically reinforced to think and behave in certain ways in relation to the legal system. Since the purpose of the present study is to understand these processes at the larger societal and university levels, social constructionism provides an especially sound theoretical orientation.

Because the present dissertation used interviews to gather data, it was best served in applying a theory which privileges analysis of dialogue and language. Social constructionism is one such theory, noting that participants use language to create their sense of self, others, and the world around them (Andrews, 2012; Berger & Luckmann, 1967). A social constructionist researcher thus pays particular attention to the words that participants use, often quoting participants directly in publications (Leeds-Hurwitz, 2006). Narratives, in particular, are especially useful in the employment of social constructionist principles, because "we become who we are through telling stories about our lives and living the stories we tell; our stories are a cornerstone of our identity" (Andrews, 2002, p. 75). The present dissertation collected participant narratives concerning how they came to their present understanding of the legal system and their place within it. Social constructionism's emphasis on language and narrative were therefore especially helpful in interpreting these themes.

Lastly, in contrast to other theories which could have been used, social constructionism remains mindful of issues of power, privileging every voice. This is because social constructionists believe that experienced-reality is subjective based on the individual context of each participant (Andrews, 2012). As a result, research methodologies which privilege individual voices are preferred, while those which privilege averages and trends are not preferred (Gehart, Tarragona, & Bava, 2007). Thus, one strength of social constructionist theory is that it attends to issues of power, with researchers paying deliberate attention to every voice, so that every experienced-reality is taken into account (Gehart et al., 2007). In the present dissertation, the views of all

participants were therefore taken into account and given equal treatment, with no participant being disregarded as a statistical "outlier," unworthy of consideration.

Limitations of Social Constructionist Theory

There are two limitations to social constructionist theory which are dominant in the literature: the first argument is that social constructionist studies have historically tended to misapply or ignore the methodological implications of the theory (Leeds-Hurwitz, 2007), and the second is that the theory is relativistic to the point of losing practical application (Slife & Richardson, 2011). In an effort to address the first limitation in the present dissertation, the assumptions of social constructionist theory were identified and applied, and its limitations were addressed. Further, literature from both the founding theorists (Berger & Luckmann, 1967) and contemporary scholars of social constructionism (e.g., Andrews, 2012; Leeds-Hurwitz, 2007) provided the basis for these theoretical principles, which were included as a dominant part of the dissertation.

While social constructionism has been lauded by many scholars for its ability to account for individual views over prevailing views (Gehart et al., 2007; Gergen, 2011), some have argued that it does so at the expense of being noted as relativistic to the point of losing practical applicability (Slife & Richardson, 2011). While this may be true in studies which do not account for this limitation in interpreting a study's results, other theoriests believe that the merits of attending to every participant's experienced-reality far exceed social constructionism's perceived relativistic shortcomings (e.g., Andrews, 2012; Gehart et al., 2007; Gergen, 2011). Consciously attending to every voice addresses issues of power (Gehart et al., 2007); allows minority voices to be heard, which are often

silenced in traditional methodologies (Andrews, 2012); and provides researchers with a "relational way of understanding our world," an effort which remains "enormously valuable to the human condition" (Gergen, 2011, p. 315).

Critics claim that such a preference is arbitrary and that it directly contradicts social constructionist principles. Because a social constructionist "neither denies nor asserts anything as true or real" (Gergen, 2011, p. 318), the researcher theoretically cannot and should not assert that social constructionism is more valuable than any other methodology. On the other hand, this is done every time social constructionism is chosen as the preferred theory (Slife & Richardson, 2011). In response, my assertion is that the logic of this argument is cyclical and therefore of limited practical use. If a researcher were to follow such an argument, it would force the researcher to *never* be able to choose a theory which presupposes that experienced-reality is subjective, since this would place that theory above others—an objective judgment, in contrast with the subjectivist assumptions of the theory.

In the real world, choosing a preferred theoretical framework is necessary for any inquiry, including the present one. In the comparison of social constructionism and symbolic interactionism above, I came to the conclusion that one theory was superior to the other because of its scope. I made this decision based on requirements identified in the literature, rather than my own presuppositions (e.g., Berger & Luckmann, 1967; Blumer, 1969; Leeds-Hurwitz, 2006). Social constructionism is a helpful theoretical lens in the context of the present dissertation because of its many strengths: applicability in the study of meaning-making relating to larger social constructs (Berger & Luckmann, 1967; Leeds-Hurwitz, 2006), mindfulness of issues of power and minority voices

(Andrews, 2012; Gehart et al., 2007), attentiveness to issues of dialogue and language (Andrews, 2012; Berger & Luckmann, 1967; Leeds-Hurwitz, 2006), and relationality in the research context (Gergen, 2011).

CHAPTER THREE

PAPER ONE: REVIEW OF THE LITERATURE

Teaching the Law to Therapy Students: What We Currently Know

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Abstract

Families suffer relational harm as a result of their involvement with the family court system. As the legal field becomes mindful of the effectiveness of family systems theory in helping these families, it becomes increasingly important that academic programs train legally-competent marriage and family therapists. This review comprehensively identifies and describes teaching interventions that educators have found to be helpful in teaching the law to therapy students. Three types of teaching interventions—experiential learning, e-learning, and cross-disciplinary learning—are dominant in the literature. Current teaching efforts are discussed, examples are given, and a model course is proposed.

Introduction

Therapists have interceded with the court system on humanity's behalf since the days of Freud, who famously lectured judges in Vienna on the practicality of psychology in 1906 (Holtzworth-Munroe, Applegate, Rudd, Freeman, & D'Onofrio, 2013). Since then, many ways to integrate law and therapeutic practice have been developed, creating crossover fields of study like legal psychology and therapeutic jurisprudence (Holtzworth-Munroe et al., 2013). A call for this sort of integration comes from therapists and lawyers alike, as many are concerned that the legal process may be harming couples and families (e.g., Hafemeister, Ogloff, & Small, 1990; O'Connell & DiFonzo, 2006; Rachlinski, 1999). Some believe a solution may exist in legally-minded marriage and family therapists, who, as experts in family systems theory, are in a unique position to help facilitate healing in a flawed, but well-meaning family court system (Brooks & Madden, 2012; Madden, 2008).

Many important decisions in the lives of couples and families are made by the courts—issues of child welfare, inheritance, spousal support, and elder care, among others—but the legal process is adversarial in nature, often disregarding the views of individuals who must live with the results (Brooks, 1996; Madden, 2008). Sometimes, the ensuing family situation is one that creates a relational loss, even if a client "wins" the case (Madden, 2008). During a legal battle, clients are likely to experience feelings of vulnerability, increased stress, and fear that they will lose important rights if they do not engage in conflict with other family members. This, in turn, damages family relationships (Firestone & Weinstein, 2004). There have been, however, recent developments within the legal community to address these concerns. Lawyers, judges,

and legal scholars are becoming increasingly aware of the effectiveness of family systems theory in helping to prevent and ameliorate relational wounds to families which often result from the legal process (Madden, 2008; Brooks & Madden, 2012).

Family systems theory—also broadly referred to as "cybernetics" or "systems theory"—is one of the primary foundations upon which the study of marriage and family therapy is built (Nichols, 2012). For decades, marriage and family therapists have studied and practiced with the understanding that family member interactions reinforce one another, resulting in a self-perpetuating family system. More importantly, family systems theorists know that such a system needs to be viewed as a whole, in the context of its environment—in this case, the family court system—in order to understand the system and affect positive change (White, Klein, & Martin, 2015). As the ailing family court system becomes aware of the effectiveness of systemic practice, it thus becomes increasingly important that academic programs are training legally-competent marriage and family therapists to be the champions of family systems theory within the legal arena.

As with many professional organizations in the last decade, the American Association of Marriage and Family Therapists (AAMFT) has established core competencies to define the minimum skills necessary for practice as a licensed marriage and family therapist (Nelson et al., 2007). Fourteen of these competencies relate to legal skills, either directly or in support thereof (Miller, Linville, Todahl, & Metcalfe, 2009). However, a recent study by Nelson and Graves (2011) found that although clinical supervisors rate legal knowledge as one of the most important core competences, it is an area of comparatively poor performance by postgraduate trainees. This should give marriage and family therapy programs cause for concern, because lack of preparation in

the area of law renders new therapists less effective when it comes to legal research, advocacy, dissemination of information, and credibility in the legal arena (Bersoff et al., 1997). Many authors suggest that using innovative, research-informed methods of teaching the law to social science students is an important key to increasing legal knowledge in future practitioners (e.g., Gale et al., 1995; Holtzworth-Munroe et al., 2013; Miller et al., 2009).

The following review identifies teaching interventions which have been found to be beneficial in the legal education of future therapists. Since research on this subject in the field of marriage and family therapy is scarce (Miller et al., 2009; Riley, Hartwell, Sargent, & Patterson, 1997), literature from similar therapy fields—psychology, social work, and counseling—is also explored. Three types of teaching interventions—experiential learning, e-learning, and cross-disciplinary learning—were dominant in the literature. Each of these teaching styles is explored, followed by a discussion of implications for academic programs and directions for future research.

Review Methodology

Five search engines were used to comprehensively identify literature on the topic of teaching the law to therapy students. These included Academic Search Premier, PsychINFO, PsychARTICLES, SocINDEX, and ERIC. Search terms included "marriage and family therapy," "psychology," "social work," "counseling," "teaching," and "law," as well as synonyms and variations thereof. Because of the scarcity of literature on this topic, a cutoff date of 1990 was used. From the results, articles were selected which addressed the teaching of legal studies to graduate students in therapy programs. Three

trends for improving the legal education of therapy students emerged: experiential learning, e-learning, and cross-disciplinary learning.

Experiential Learning

For years, lectures on technical legal knowledge have dominated social science classrooms. As a result, instead of being prepared for practice, graduates have entered the workplace with easily-forgotten substantive knowledge and very little skill as to how to apply it (Braye & Preston-Shoot, 2006). This has created a growing recognition within the social sciences of the potential and importance of emphasizing real-world applications in the teaching of law (Lloyd-Bostock, 1994). Some professors draw upon "experiential learning theory," which posits that students learn best when they engage with course concepts as a "whole person." Thinking cognitively about the material is not enough; students learn best by actually doing an activity and processing how it relates to their lives (Kolb, 2005). Applying course concepts to actual practice scenarios helps students develop pertinent legal skills more deeply and efficiently than in traditional didactic courses (Allison & Wurdinger, 2005; Braye & Preston-Shoot, 2006).

Without a practiced understanding of the relationship between law and actual therapeutic work, students and young professionals experience significant anxiety in legal scenarios (Miller et al., 2009). This anxiety goes beyond that of performance, and often concerns the unfamiliarity of legal experiences and the court system. For example, many social science students have never met or spoken with a lawyer or a judge. Experiential learning activities provide a remedy, in that students can gain experience with anxiety-

provoking situations before actually dealing with them in the real world (Miller et al., 2009).

Several experiential learning activities for legal study are present in the literature, including mock trials (Miller et al., 2009), legal clinics (Malott & Knoper, 2012), problem-based learning, and role-playing (Preston-Shoot & McKimm, 2012). Hands-on legal experiences with clients outside the classroom have been noted as being particularly helpful to students, as they promote social justice, advocacy, and multicultural competency in a unique and dynamic learning environment (Malott & Knoper, 2012). Similarly, experiences which expose students directly to lawyers and other legal professionals provide crucial expertise in collaborating across systems and disciplines to facilitate client access to legal and basic resources (Malott & Knoper, 2012).

Positive student evaluations have been reported across multiple experiential learning programs, as students tend to prefer teaching methods which encourage active involvement and a deeper learning of the law (Braye, Preston-Shoot, & Johns, 2005). Clinical placements have been rated as being particularly helpful, especially when supervisors are proactive in applying legal principles. Students appreciate it when supervisors "check out their knowledge of the law" and also when they pull out actual legal resources to demonstrate "what the law says" (Preston-Shoot & McKimm, 2012, p. 908).

E-Learning

E-learning, also known as computer-assisted or computer-supported learning, refers to teaching interventions where, by design, computers are used to help students

engage with multimedia learning materials at their own pace (Johns, 2003). Two learning theories inform this style of teaching. The first, "multimedia learning theory," suggests that students learn better when information is presented simultaneously in both visual and verbal forms. This is because the brain has separate channels of working memory for visual and verbal input—like two engines on a plane. Thus, students reach learning outcomes more efficiently by engaging both cognitive "engines" during multimedia activities—which are both visual and verbal—than in traditional verbal-only classes composed of lectures and readings (Mayer, 2001). "Self-regulated learning theory" also informs e-learning practice. This is the notion that goal-setting and self-direction enhances learning outcomes (Zimmerman, 2001). E-learning students set their own learning goals, complete assignments at their own pace, and design their own projects—all on the computer (Johns, 2003). Indeed, self-regulated learners have been shown to have a heightened sense of self-efficacy and are more likely to take on challenges and exert more effort in future areas of life (Zimmerman, 2001). This makes students more successful both in school and after graduation.

Students and teachers alike have experienced e-learning as an effective and enjoyable learning tool in the study of law (Braye et al., 2005; Preston-Shoot & McKimm, 2012). As a teaching intervention, it enhances traditional law classes in a number of different ways. First, computers offer an engaging format that students are familiar with in the modern age. Second, e-learning offers a more interactive approach to learning the law than traditional lectures, encouraging students to monitor their own progress, just as they would in actual practice. Third, computers offer access to the internet as an additional learning tool, giving students access to a wide range of

information to help clarify the lessons being taught. Fourth, the internet offers the benefit of keeping course content up-to-date, a process which students can benefit from on a continual basis, simply by accessing the latest resources on official websites (Johns, 2003). Lastly, e-learning facilitates diversity within the classroom, by accommodating students whose learning styles and skills might not be valued or utilized in traditional learning formats (Preston-Shoot & McKimm, 2012).

An outcome study of social science students in one law class found that e-learning created positive changes in attitudes toward the law, motivated students in their learning process, improved confidence, and increased students' collaborative abilities (Brave, Marrable, & Preston-Shoot, 2014). While there is limited research on the subject of e-learning in marriage and family therapy coursework, the results are promising. Students experienced the non-traditional learning format as "not a problem" in the modern age, and they had a high degree of satisfaction with e-learning as a teaching method overall (Gale et al., 1995; Stevens, Dobrovolny, Kent, & Shulman, 2001, p. 5).

Though e-learning has many benefits as a teaching method (Johns, 2003) and tends to be well-received by students (Braye et al., 2005; Preston-Shoot & McKimm, 2012; Stevens et al., 2001), it is currently underutilized in the teaching of law (Braye et al., 2005). In order to remain competitive and accommodate different learning styles, programs of higher education need to have a variety of course-delivery mechanisms, which, in the modern age, includes implementing e-learning programs as a resource for students (Stevens et al., 2001). The use of e-learning is likely to increase as a result, with significant work currently being undertaken to develop its use in the teaching of law (Bray et al., 2005).

Cross-Disciplinary Learning

In 1997, members of the American Psychology-Law Society (AP-LS), the legal arm of the American Psychological Association, held a conference to determine how best to educate social science students in the study of law. The committee recognized that practitioners with sound legal expertise are more effective than their peers in a number of key areas. Such individuals are more proficient in designing legally-relevant research, framing their results for use by legal professionals, disseminating their work, and increasing their credibility as experts within the legal arena (Bersoff et al., 1997). In other words, legally-savvy therapists are better equipped to make their voices heard in the legal arena.

In pursuing these competencies, social science students are encouraged to collaborate with legal professionals so that each student can begin to "think like a lawyer, becoming a comfortable guest, if not an insider, in the legal community" (Bersoff et al., 1997, p. 1305). Collaboration across disciplines benefits members of both professions by creating an integrated system, capable of producing innovative research and collective creativity which does not exist at the isolated, individual level (Roberts et al., 2014). To help facilitate such a collaboration, participants at the AP-LS conference discussed two endeavors which are helpful in teaching graduate students to "think like a lawyer": (1) collaborative coursework with legal professionals and/or (2) the completion of a degree containing a legal component (Bersoff et al., 1997).

Collaborative Study

Social science students who collaborate with law students and/or professors in their coursework benefit in a number of ways. First, these students tend to learn more and have an increased appreciation for collaboration across disciplines (Colarossi & Forgey, 2001). Students also report that collaborative study alleviates anxiety about legal subjects, improves understanding of legal processes, and is more enjoyable than traditional teaching methods (Miller et al., 2009; Riley et al., 1997). Academic programs have facilitated cross-disciplinary study through a variety of means, such as collaborative courses (Applegate, D'Onofrio, & Holzworth-Munroe, 2009; Riley et al., 1997), clinical practica (Applegate et al., 2009; Malott & Knoper, 2012), and mock trial exercises (Miller et al., 2009).

Collaborative study experiences have also helped students envision ways in which they might make a difference within the legal arena. For example, in a family law course with both marriage and family therapy and law students, co-taught by professors from both disciplines, students appreciated the "opportunity to see first-hand how therapy can fit so helpfully with law." One student expressed that the collaborative learning approach "really illustrated how mental health professionals can work with attorneys in a positive manner" (Riley et al., 1997, p. 475). In a similar study, students experienced a collaborative mock trial exercise between law and marriage and family therapy students as positive, worthwhile, and relevant to their career. As a result, these students anticipated "better personal performance in the courtroom in the future" (Miller et al., 2009, p. 462).

Collaborative study experiences can also extend outside the classroom. For example, counseling students working in a collaborative tax law clinic were able to gain hands-on experience working in a legal setting while still in school. When a client presented with debt-related anxiety and resulting conflict within the family, one student was able to make a positive difference by lending support while the client revealed the true status of his monetary issues in a meeting with lawyers (Malott & Knoper, 2012).

Hybrid-Degree Programs

Therapists who choose to pursue law as a second or co-field of study have a more comprehensive understanding of how the law affects their work with clients, and are better equipped to navigate the legal system's use of psychology to better serve the needs of children and families (Hall, 2009). Dual training in law and the social sciences is useful in a variety of contexts, especially for students who wish to pursue careers in academia and public policy (Hafemeister et al., 1990; Tomkins & Ogloff, 1990). Hybrid-degree students note that training in two disciplines also increases their employability once they leave school (Hafemeister et al., 1990).

Today's therapy students have a variety of options, should they choose to pursue legal study in an academic program. For example, a student could pursue a Master of Legal Studies degree (Bersoff et al., 1997), a professional Juris Doctor degree (Krase, 2014), or even a single degree encompassing both therapy and the law (Hall, 2009). Dual degrees can be completed either concurrently or in sequence, with concurrent programs taking slightly less time (Hafemeister et al., 1990; Tomkins, 1990).

Students who decide to pursue two degrees acknowledge that it can be an expensive and time-consuming endeavor (Hafemeister et al., 1990; Tomkins, 1990), but the modern student's choice of graduate study may in fact be framed as much by economic and social realities as it is by the student's personal interests (Krase, 2014). During the 1990s, when the American economy was booming, a graduate or professional degree was not always necessary for financial success (Krase, 2014). However, in the modern economic climate, many students are finding it necessary to pursue not just one, but two graduate or professional degrees (Krase, 2014).

For the forgoing reasons, both professional and economic, it falls to academic programs to provide hybrid-study options for students who wish to further develop their legal expertise. The field of psychology pioneered such programs (Bersoff et al., 1997), but other therapeutic disciplines have followed suit. There are now hybrid-degree programs of legal study in the fields of counseling (Regent University School of Law, 2017; Valparaiso University School of Law, 2017), social work (Krase, 2014), and to a limited extent, marriage and family therapy (St. Thomas University, 2017).

Discussion

The current literature suggests that programs of legal education for social science students are finding effectiveness in three types of teaching interventions: experiential learning, e-learning, and cross-disciplinary learning.

Summary of the Literature

Students and teachers alike have reported positive results with experiential learning, in which professors engage students in actually "doing" a legal activity, rather than just reading or hearing about it (Lloyd-Bostock, 1994). There are many ways that professors and program directors can encourage experiential learning in the legal classroom—through roleplaying "real world" client scenarios (Preston-Shoot & McKimm, 2012), conducting mock trials (Miller et al., 2009), and by involving students in legal clinical work (Malott & Knoper, 2012). All of these methods have been praised as being both effective and enjoyable (Braye, Preston-Shoot, & Johns, 2005).

E-learning refers to learning experiences where computers are used to help students engage with learning materials (Johns, 2003). This type of instruction has been well-received by both students and teachers, due to its engaging and adaptive nature. Rather than falling behind or becoming bored, students get to interact with legal topics at their own pace. Academic programs should be mindful that the use of the computer-assisted learning environments is expected to increase, which should assist in the planning of future legal curricula (Braye et al., 2005).

Cross-disciplinary learning involves collaboration in courses and clinical work between students, professors, and practitioners in the fields of social science and law. This type of collaboration produces innovative research and collective creativity which does not exist at the individual level (Roberts et al., 2014), and helps therapy students become comfortable as "guests, if not insiders, in the legal community" (Bersoff et al., 1997, p. 1305). Students desiring a more comprehensive understanding of the law might even opt to pursue a hybrid or dual-degree program. More of these programs should be

made available to students, as they contribute to therapeutic understanding in the legal arena (Hall, 2009) and are especially useful in the fields of academia and public policy (Hafemeister, Ogloff, & Small, 1990; Tomkins & Ogloff, 1990).

Course Suggestions

University professors have a limited amount time to engage with students during each class period, so it is important that they use that time effectively. Staying mindful of the experiential learning adage that "doing" is a more efficient way to learn than listening to traditional lectures, the wise professor can save both time and effort by engaging students in experiential learning activities (Allison & Wurdinger, 2005; Braye & Preston-Shoot, 2006). For example, having students reason through the legal challenges of a clinical vignette or having them role-play the vignette in class is a favorite experiential learning exercise (Preston-Shoot & McKimm, 2012). The ultimate legal roleplaying vignette is, of course, the mock trial, in which students practice courtroom scenarios, which helps them develop legal skills and alleviates anxiety about the court system (Miller et al., 2009).

Rather than being told what the law is, students appreciate being guided through actually "looking up" relevant laws so that they will know how to do this in future practice (Preston-Shoot & McKimm, 2012). Having students look up the law themselves, rather than merely giving it to them, enhances their ability to self-regulate, which should make them more likely to initiate legal research in the future (Zimmerman, 2001). Practice knowledge can be fortified even further by promoting legal applications

in existing clinical placements, and by creating new placements that are specifically geared toward applying the law (Malott & Knoper, 2012).

These days, when practicing therapists research relevant laws, they almost always do so independently over the computer. Having students practice this type of activity in the classroom constitutes e-learning (Johns, 2003), a teaching style that is both on the rise and highly effective (Braye et al., 2005; Preston-Shoot & McKimm, 2012). In addition to online research, the virtual classroom can be used effectively to teach course materials through online readings, video examples, and discussions (Johns, 2003). One way to utilize both e-learning and experiential learning techniques might be to create a discussion board specifically for discussing and role-playing clinical vignettes. Another method might be to record students role-playing actual practice scenarios, and uploading the videos with student permission for future online discussion.

While cross-disciplinary learning has been shown to enhance the legal learning process (Miller et al., 2009; Riley et al., 2007), it may not always be possible for marriage and family therapy programs to include law professors or law students in a course. Even so, professors always have the option of inviting a family lawyer, law professor, or judge to visit as a guest speaker. If distance is an issue, guest speakers can even interact with the class over a webcam. At the very least, there are many free video options by lawyers and judges available over the internet, which can give therapy students a taste of how members of the legal profession speak and think about their world. Family courts are also free and available for visits by students and professors in most geographic areas. These courts are used to student visits, since most law schools require them, and they are almost always happy to accommodate. If in doubt, the

marriage and family therapy professor can call the court ahead of time and arrange an appropriate learning experience.

Limitations and Research Implications

The existing literature has done a good job of providing conceptual and anecdotal accounts of helpful teaching and learning practices in the legal education of social science students. This sort of practice wisdom can assist marriage and family therapy professors in implementing teaching interventions which others have found to be helpful, but further evidence is needed to show that these techniques are helpful across the board. Empirical evidence on the effectiveness of these different approaches, as of yet, has been extremely limited. Only five studies have applied an empirical research methodology besides case study analysis (Braye et al., 2005; Braye et al., 2014; Colarossi & Forgey, 2001; Hafemeister et al., 1990; Preston-Shoot & McKimm, 2012), and none of these studies came from the field of marriage and family therapy. Thus, future research should focus on addressing both the empirical effectiveness of these teaching interventions and their transferability from other social science fields to marriage and family therapy.

This review was conducted to provide educators with guidance on "how to teach" legal principles to marriage and family therapy students, but equally important is the question of which topics are actually being taught in marriage and family therapy law classes. This question has been posed before. A 1995 study found a high degree of inconsistency in the legal and ethical topics which were being taught to marriage and family therapy students, aside from the limited requirements imposed by AAMFT at the time (Harris, 1995). Since then, AAMFT has modified and enumerated its expectations

for the legal training of marriage and family therapists as part of its core competency standards (Nelson et al., 2007), but a survey of the content in modern courses has yet to be conducted.

In the future, it would be prudent to examine articles published since the development of AAMFT's core competencies (Nelson et al., 2007), since they represent the field's current educational standard. However, such an attempt presently results in a lack of research articles from which to draw, as newer studies are needed on this topic. In particular, while the views of clinical supervisors on students' legal competencies have been empirically noted (Nelson & Graves, 2011), the voices of marriage and family therapy students themselves remain unheard.

Concluding Remarks

The future looks bright for marriage and family therapists, given their training in family systems theory and the increase in positive regard for this type of expertise within the family court system (Madden, 2008; Brooks & Madden, 2012). The family court system—as with family systems—is flawed, but well-meaning. Legally-competent marriage and family therapists are needed now, more than ever, as ambassadors of systemic thinking in the legal arena, so that fewer couples, families, and children suffer needless harm in that environment (Brooks, 1996; Madden, 2008). The time has come to develop and implement effective teaching interventions in the legal training of marriage and family therapists, so that they can begin to make even more of a positive difference in the world. After all, helping systems is what we do.

References

Allison, P., & Wurdinger, S. (2005). Understanding the power, promise, and peril of the experiential learning process. *Teacher Education and Practice, 18*(4), 386-399.

Applegate, A.G., D'Onofrio, B.M., & Holzworth-Munroe, A. (2009). Training and transforming students through interdisciplinary education: The intersection of law and psychology. *Family Court Review, 47,* 468-484.

Bersoff, D.N., Goodman-Delahunty, J., Grisso, J.T., Hans, V.P., Poythress, N.G., & Roesch, R.G. (1997). Training in law and psychology: Models from the Villanova conference. *American Psychologist, 52*(12), 1301-1310.

Brave, S., Marrable, T., & Preston-Shoot, M. (2014). Building collaborative capacity for using and evaluating the impact of e-learning in social work education: The case of law. *Social Work Education, 33*(6), 835-853.

Braye, S. & Preston-Shoot, M. (2006). Broadening the vision: Law teaching, social work, and civil society. *International Social Work, 49*(3), 376-389.

Braye, S., Preston-Shoot, M., & Johns, R. (2005). Law in social work education: Reviewing the evidence on teaching, learning, and assessment. *Social Work Education, 24*(5), 547-563.

Brooks, S.L. (1996). A family systems paradigm for legal decision making affecting child custody, *Cornell Journal of Law and Public Policy, 6*(1), 1-22.

Brooks, S.L. & Madden, R.G. (2012). Epistemology and ethics in relationship-centered legal education and practice. *New York Law School Law Review, 56,* 331-365.

Colarossi, L., & Forgey, M.A. (2001). Evaluation study of an interdisciplinary social work and law curriculum for domestic violence. *Journal of Social Work Education, 42,* 307-323.

Firestone, G., & Winestein, J. (2004). In the best interests of children: A proposal to transform the adversarial system. *Family Court Review, 42*(2), 203-215.

Gale, J., Dotson, D., Huber, M., Nagireddy, C., Manders, J., Young, K., & Carter, H. B. (1995). A new technology for teaching/learning marital and family therapy. *Journal of Marital and Family Therapy, 21*(2), 183-191.

Hafemeister, T.L., Ogloff, J.R., & Small, M.A. (1990). Training and careers in law and psychology: The perspective of students and graduates of dual degree programs. *Behavioral Sciences and the Law, 8,* 263-283.

Hall, S. (2009). Building bridges to a different kind of integration: New students' frequently asked questions about law and psychology. *Journal of Psychology and Christianity, 28*(1), 66-70.

Harris, S.M. (1995). Ethics, legalities, professionalism, and the professor: A document analysis. *The American Journal of Family Therapy, 23*(1), 38-47.

Holtzworth-Munroe, A., Applegate, A.G., Rudd, B.N., Freeman, A., & D'Onofrio, B. (2013). Interdisciplinary psychology and law training in family and child mediation: An empirical study of the effects on law student mediators. *Journal of the Scholarship of Teaching and Learning, 13,* 82-98.

Johns, R. (2003). Application of web-based learning in teaching social work law. *Social Work Education, 22*(5), 429-443.

Kolb, A.Y., & Kolb, D.A. (2005). Learning styles and learning spaces: Enhancing experiential learning in higher education. *Academy Of Management Learning & Education*, *4*(2), 193-212.

Krase, K. S. (2014). Examining the student's decision to pursue a joint graduate degree program in social work and the law. *Social Work Education*, *33*(7), 906-916.

Lloyd-Bostock, S. (1994). Research and teaching in legal psychology: An outline of British developments. *Psychology, Crime, & Law*, *1*(2), 159-164.

Madden, R.G. (2008). From theory to practice: A family systems approach to the law. *Thomas Jefferson Law Review, 30*(2), 429-454.

Malott, K.M., & Knoper, T. (2012). Social justice in application: Counselor training in a legal context. *Journal for Social Action in Counseling and Psychology*, *4*, 23-40.

Mayer, R. E. (2001). *Multimedia learning*. New York: Cambridge University Press.

Miller, J.K., Linville, D., Todahl, J., & Metcalfe, J. (2009). Using mock trials to teach students forensic core competencies in marriage and family therapy. *Journal of Marital and Family Therapy, 35*, 456-465.

Nelson, T., Chenail, R., Alexander, J., Crane, D., Johnson, S., & Schwallie, L. (2007). The development of core competencies for the practice of marriage and family therapy. *Journal of Marital and Family Therapy, 33*, 417–438.

Nelson, T. & Graves, T. (2011). Core competencies in advanced training: What supervisors say about graduate training. *Journal of Marital and Family Therapy, 37*(4), 429-451.

Nichols, M.P. (2012). *Family therapy: Concepts and methods* (10th ed., pp. 54-59). Boston: Pearson.

O'Connell, M.E., & DiFonzo, J.H. (2006). The family law education reform project final report. *Family Court Review*, *44*, 524-570.

Preston-Shoot, M. & McKimm, J. (2012). Tutor and student experiences of teaching and learning law in UK social work education. *Social Work Education, 31*(7), 896-913.

Rachlinski, J. (1999). New law and psychology: A reply to critics, skeptics, and cautious supporters. *Cornell Law Review, 85*, 739-766.

Regent University School of Law. (2017). *Joint law degrees.* Retrieved from http://www.regent.edu/acad/schlaw/academics/jointdegrees.cfm

Riley, P., Hartwell, S., Sargent, G., & Patterson, J. (1997). Beyond law and ethics: An interdisciplinary course in family law and family therapy. *Journal of Marital and Family Therapy, 23,* 461-476.

Roberts, J., Abu-Baker, K., Fernández, C.D., Garcia, N.C., Fredman, G., Kamya, H., Higarza, Y.M., De Leff, J.F., Messent, P., Nakamura, S., Reid, F.T., Sim, T., Subrahmanian, C., & Vega, R.Z. (2014). Up close: Family therapy challenges and innovations around the world. *Family Process, 53*(3), 544-576.

St. Thomas University. (2017). *Masters of science degree in marriage and family therapy.* Retrieved from https://web.stu.edu/JointDegreePrograms/tabid/865/Default.aspx

Stevens, P., Dobrovolny, J., Kent, S., & Shulman, K. (2001, October). *If they ask you to put your course online over the weekend, tell them to take a hike*. Paper presented at the World Conference on the WWW and Internet Proceedings, Orlando, FL. Retrieved from http://eric.ed.gov/?id=ED467072

Tomkins, A.J. & Ogloff, J.R. (1990). Training and career options in psychology and law. *Behavioral Sciences and the Law, 8,* 205-216.

Valparaiso University Law School. (2017). *J.D./M.A. in clinical mental health counseling.* Retrieved from http://www.valpo.edu/psychology/academics/graduate-programs/jdma-in-clinical-mental-health-counseling/

White, J.M., Klein, D.M., & Martin, T.F. (2015). *Family theories: An introduction* (4th ed.). London: Sage.

Zimmerman, B. J. (2001). Theories of self-regulated learning and academic achievement: An overview and analysis. In B. J. Zimmerman & D. H. Schunk (Eds.), *Self-regulated learning and academic achievement: Theoretical perspectives* (2nd ed., pp. 1–37). Mahwah, NJ: Erlbaum.

CHAPTER FOUR

METHODOLOGY

A review of the literature on the legal education of therapy students lays the necessary foundation for facilitating collaboration between the therapy and legal fields, since legal knowledge improves therapists' abilities when it comes to legal research, advocacy, dissemination of information, and credibility in the legal arena (Bersoff et al., 1997). However, even the most legally-savvy marriage and family therapists would have little to no impact on families in the court system if they avoided legal practice altogether because of anxiety (Miller et al., 2009). Thus, the next empirical step was to examine the circumstances surrounding such an anxiety. To that end, I proposed and conducted the following qualitative, constructivist grounded theory study to examine the views of marriage and family therapy students concerning their personal legal skills, the legal system, and the legal education of therapists. This study was conducted in an effort to identify which obstacles have been impeding engagement by new therapists in legal practice, so that these obstacles might be addressed by future interventions.

Exploration of Appropriate Research Methods

Positivist Grounded Theory

One method of inquiry could have been to ask therapy students about the anxiety issue directly. An advantage to such an approach would have been that the research would be driven by the existing literature, addressing the problem—anxiety—head on as identified in previous studies. Asking about the problem, however, presupposes that this anxiety exists for the research participants—that it has been objectively identified, and

therefore does not need to be identified again. Thus, another possible advantage to such a direct line of questioning would be that the problem of anxiety could have been presupposed, saving the researcher time and effort during the initial inquiry.

Such a methodology would have been characteristic of the "positivist" research tradition, in which science is viewed as the rational analysis of an observable world. Positivist methodologies dominated scientific inquiry up until about the 1960s (Tolhurst, 2012). Originally, grounded theory inquiries adopted a positivist approach, in harmony with the prevailing scientific practices of the time. As a research method, positivist grounded theory was revolutionary in that it allowed qualitative researchers to conduct studies which were more systematic, scientifically-rigorous, valid, and reliable (Glaser & Strauss, 1967; Tolhurst, 2012).

Given that the problem of anxiety has been scientifically observed in previous studies, it could therefore be characterized as "real" in the positivist tradition. The next step would have therefore been to explore this anxiety in order to understand it better and find a solution. Research questions might have included queries such as, "What are the underlying reasons for therapy student anxiety about the legal arena?" or "What interventions do therapy students think would be helpful in dealing with anxiety concerning legal situations?" One benefit to such an approach would have been that every participant would have been forced to address the anxiety problem, ensuring that the present study stayed on-track with the existing literature. This would have helped with publication and dissemination of the study, since the findings would be directly linked to literature which had already been accepted in the field.

However, social constructionist researchers would warn that to ask about a problem so directly might actually cause participants to assume that the problem exists, even if they would not have perceived it on their own. Thus, this kind of problem-talk perpetuates the problem by constantly recreating it through dialogue (Charmaz, 2014; Gehart, Tarragona, & Bava, 2007). As a result, a positivist researcher might not be eliciting the truest results, since the interview questions themselves would suggest that participants should talk about anxiety—a subject which may not have arisen without it being brought up.

Collaborative Inquiry

To avoid suggesting problem-saturated answers in framing the research question, it might have been be a more useful approach to allow participants to direct the conversational dialogue instead. As a reaction against traditional positivist thinking, some researchers prefer to even the playing field—viewing participants as co-researchers, and the interviewer as a co-participant. In doing so, the contextual influences that the interviewer and interviewee have on each other are taken into account (Schwandt, 2000). Such researchers strive for collaboration, noting that the form of every research question suggests a possible range of answers, and also that the interviewer's body language, tone of voice, and choice of words may have a profound impact upon the answers received (Anderson, 1997). These social constructionist purists call their research method "collaborative inquiry," believing that any form of research is automatically collaborative as a result of the interviewer directing the questions and the conversation. Thus, steps are taken to either minimize or embrace the input of the interviewer. Since collaborative

researchers recognize that participant responses might change in relation to surrounding circumstances, the method itself makes a clear distinction that the results should be interpreted as only applicable to each study's participants, at that time, in those circumstances (Gehart et al., 2007).

In the present study, the input of the researcher could have been embraced simply by asking the literature-driven questions addressed above, while acknowledging the researcher's impact on the knowledge gleaned in the resulting paper. Alternatively, to minimize the input of the researcher, the research question and resulting interview questions could have simply been framed in terms of a conversation topic instead of specific questions, allowing the participants to choose where the dialogue went (Anderson, 1997; Gehart et al., 2007). Such a research question have included something like the following: "In a conversation about 'the legal system,' what types of themes manifest through dialogue with participants?"

Collaborative inquiry has several advantages: it accounts for contextual circumstances, the impact of the researcher, and the changing nature of participant responses in the moment. As such, many of the interviewing techniques of collaborative inquiry were employed in the present study, as discussed below. The results of purely collaborative inquiry would have been above criticism for not taking minority voices, different time periods, and other variations into account, since the method is explicit about the theoretical impossibility of generalizable results and privileging every voice (Gehart et al., 2007). This strength is also, however, the approach's greatest drawback. Situational or not, if a problem does currently exist—for example, anxiety preventing therapists from working collaboratively with the legal system—clients are still being

harmed and a solution still needs to be identified. Research results which are deemed to be completely ungeneralizable would therefore have limited theoretical application to actual, real-world scenarios outside the contextual circumstances of the research study (Slife & Richardson, 2011).

Constructivist Grounded Theory

As with collaborative inquiry, constructivist grounded theory is a social constructionist methodology which emphasizes the interactions between people and how they use language to construct their experienced-realities, which in turn are influenced by the context of the moment (Andrews, 2012; Charmaz, 2014). Knowledge about reality is thus created and shared between two or more people through discourse, so an examination of the discourse itself becomes a very effective research tool (Charmaz, 2014). In this way, a constructivist researcher accesses knowledge about another person's reality by entering into a dialogue with them. One of the strengths of constructivist grounded theory as a research method is this emphasis on dialogue, since language itself creates an individual's subjective reality (Gehart et al., 2007).

While driven by the same theoretical assumptions, what distinguishes constructivist grounded theory from other social constructionist methods is that it compromises on the issue of relativism in favor of yielding results which, while still being acknowledged as ungeneralizable, can still be applied as if they were—primarily as a starting point for future interventions and further inquiry (Tolhurst, 2012). Social constructionist purists consider this to be a weakness, since they privilege contextual considerations and the changeable, subjective nature of experienced-reality over

generalizable results, which they deem impossible (Gehart et al., 2007; Schwandt, 2000). On the other hand, some researchers consider constructivist grounded theory's applicability to be a strength, arguing that the applicability of a study's results is important in solving real-world problems (Charmaz, 2014).

Consider the following illustration. The constructivist grounded theory researcher begins by engaging participants in conversation about a given topic—in this case, "How do you, as a therapy student, conceptualize the legal system and your place within it?" The researcher is mindful that since she is also a part of the conversation, her own views and interactions are going to contribute to the formation of the results (Charmaz, 2014). Written transcripts of the conversations are transcribed and analyzed, with the end result being a more thorough understanding of the underlying issue. A social constructionist purist—a collaborative inquiry researcher, for instance—would interpret the results strictly in terms of the individuals interviewed in that particular context, arguing against generalizability of the results (Gehart et al., 2007; Schwandt, 2000). However, a constructivist grounded theorist—just like a positivist grounded theorist—looks for patterns across the participant responses, often resulting in a series of diagrams or tables which illustrate ungeneralizable, yet usable results. These diagrams or tables are often included in research articles and dissertations, to promote easier understanding and application (Charmaz, 2014).

Chosen Methodology and Rationale

For the sake of applicability and while still adhering to social constructionist principles, I used constructivist grounded theory methodology in the present study.

While I value the utility of taking context and subjectivity into account, I also believe that research results should be usable to the extent necessary to make them applicable in solving real-world problems. Such a problem presently exists, because families in the legal arena are currently experiencing relational harm (Firestone & Weinstein, 2004). In alignment with constructivist grounded theory principles, I interviewed therapy students concerning their personal legal skills, the legal system, and the legal education of therapists. I then transcribed the interviews and analyze them according to constructivist grounded theory guidelines. The results of this analysis should give practitioners a better understanding of how therapy students view these issues, so that next steps can be taken to facilitate better understanding and engagement in legal practice.

Research Question

As social constructionists, researchers who use constructivist grounded theory view reality as a contextual, social process, based largely on language. As a result of this emphasis on context, perceived-reality is viewed as subjective and constantly in flux. Therefore, every participant's voice is taken into account, and issues of power are addressed (Charmaz, 2014). My foundational research question—"How do therapy students conceptualize the legal system and their place within it?"—therefore adopted some caveats, to accommodate these theoretical principles.

First, it became necessary for the research question to address issues of context—that at a different time and under different circumstances, a participant's interview responses might vary, based on a different interpretation of reality in that moment (Gehart et al., 2007). It also became necessary to address the researcher's mindfulness of

the social processes underlying data creation—that the researcher's own body language, tone of voice, wording of the interview questions, and other factors concerning interaction with participants would have an influence on the responses received (Anderson, 1997). The importance of language was also noted, since social constructionists view experienced-reality as created primarily through dialogue (Leeds-Hurwitz, 2006). Finally, it was important to acknowledge that social constructionist theory takes account of every voice, since each participant's reality is subjective, unique, and therefore of value. Thus, attention was given to considerations of power in order to make sure that no voice was privileged over another (Gehart et al., 2007). With these principles in mind, a more comprehensive and theoretically-sound research question emerged: "In the present time and circumstances, and taking all voices into account, how do therapy students conceptualize the legal system and their place within it, as reflected through dialogue with this particular interviewer?"

Research Method

Sample

Inclusion and Exclusion Criteria

Students in the master's program in Marital and Family Therapy at Loma Linda University were eligible for this study. Participants must have completed the "Law and Ethics" course, ensuring uniformity when students were asked questions about perceived legal competency. Students with a wide range of experiences with the law were recruited, to address theoretical sampling considerations. Students who didn't speak English were ineligible, as the interviews were conducted in English.

Participant Population

This study's participants—drawn from the master's degree program in Marital and Family Therapy at Loma Linda University—reflected a population which was predominantly white, Christian, and female. All participants took the same Law and Ethics course from the same instructor, and their interview responses were undoubtedly informed by experiences from that class. In their Law and Ethics course, participants were taught primarily through weekly reading assignments, lectures, and role-playing vignettes in the classroom. They also observed family court proceedings for six to eight hours and wrote a reaction paper as part of their grade. For their final project, participants wrote a ten-page research paper on a legal or ethical topic of their choice. More information about the Law and Ethics course can be found in the syllabus, included in Appendix E. Lastly, since participants were drawn from only one program at one university, it was important to note that results of the study may not be generalizable to the population at large, though they may reflect similar themes present in that population.

Diversity Considerations

Fifteen subjects were recruited for the present study, with no attrition. Since the participants were master's degree students, so the mean age of 26 was in line with expectations. Different races were represented, as available within the recruitment parameters, but the participant pool—12 Caucasian, 1 Latino, and 2 Other—did not reflect the diversity expected from Loma Linda University, which serves a racially-diverse population. It is likely that the interviewer being Caucasian influenced the likelihood of other races volunteering for the study. Also, since most participants had the

researcher as a teaching assistant and all participants had the same instructor in the Law and Ethics class, interviewees were not diverse in their legal educational background. Resulting issues of potential vulnerability were minimized through non-coercive recruitment procedures and open-ended interview questions.

Recruitment

Participants were recruited during classes at Loma Linda University, using the Recruitment Script in Appendix B. Students were asked to email the investigator if they wished to participate, or if they wished to know more about the study. Students were informed that participation was optional, that class credit was inapplicable to this particular study, and that responses would not influence the interviewer's view of the participants. To further ensure that participants felt safe and un-coerced, students were informed that interviews would be de-identified to preserve confidentiality once they were transcribed. Participants were also informed that they could withdraw from the study at any time. At the conclusion of the study, a random drawing was conducted, in which a $100 Amazon gift card was awarded to the winning participant, who signed an acknowledgment that she received the award. This drawing incentivized participation in the study, while the amount and chance of winning were small enough that participants would likely not have felt coerced to participate.

Informed Consent Procedures

Informed consent processes took place at the location of the interview. Capacity for consent was inferred from speech and actions, as well as the fact that all participants

had been admitted as master's students at LLU and were of age to legally consent. Participants were advised that participation is optional, and that they could rescind their permission at any time. Informed consent about research processes and subject-matter were obtained and explained in detail at the time of each interview. A copy of the informed consent document was offered to each participant. This document may be viewed in Appendix A. Participants were informed that they could take additional time to consider the informed consent documents and be interviewed at a later time if they wished. Participants were urged to contact the researcher or LLU at any time if they had questions, or if they wish to withdraw their interview from the study.

Interview Procedures

Informed consent and interview procedures took place at an LLU office or classroom, and the door was closed to ensure confidentiality. Interviews commenced upon IRB and dissertation committee approval and were completed within several months. Interviews each lasted about thirty minutes.

To leave room for discussion of context and to accommodate all possible views, interview questions were deliberately open ended, such as the following: "What sorts of thoughts and feelings come to mind when you think of the legal system?" "How do you view the role of therapists in relation to the legal system?" "What does that look like?" "What do you feel would help create more cooperation and closeness between the therapy field and the legal field?" While the flow of the interviews were guided by the interviewees in a postmodern, collaborative style as suggested by Charmaz (2014), the

researcher referred to a list of interview topics to ensure a comprehensive coverage of the issues. A complete list of the interview topics may be found in Appendix C.

Coding: Validity, Trustworthiness, and Credibility

Grounded theorists—both positivist and constructivist—typically work in groups during data analysis, coding the same transcripts and double-checking each other's work. This reduces the effect of individual biases and contextual idiosyncrasies on the research findings (Charmaz, 2014). A secondary coder was recruited, to utilize the effectiveness of this research method. To further account for the researchers' impact on the data, grounded theorists also create analytic memos throughout the coding processes. These analytic memos record the researchers' thoughts, feelings, and biases, helping them to externalize their preconceived notions and coding rationale. In doing so, researchers can come to a more accurate, unbiased consensus for each code (Charmaz, 2014). These standard procedures in grounded theory methodology were used in the present study to minimize individual bias. For example, since the present study dealt with therapy students' anxiety in legal scenarios, my own analytic memos consistently addressed how my own responses—as a researcher, a therapist, and an attorney—were informed by participants' reactions to the anxieties they expressed.

Researcher Background and Biases

One of the central tenets of social constructionism is that each participant's interpretation of reality is created subjectively by that participant, in light of his or her own experiences (Berger & Luckmann, 1967). This includes the personal context of the

researcher, viewed by social constructionists as a co-participant when conducting research (Gehart, Tarragona, & Bava, 2007). In staying true to social constructionist principles, it is therefore necessary that I remained transparent about my personal background and biases in the present study. In doing so, it is my hope that the reader might gain a broader understanding of the subjective context in which this study was done, interpreting the results in light of these considerations.

I was introduced to social constructionism as a way of viewing the world during the first quarter of my master's degree program at Loma Linda University—a Christian institution. I found it affirming that there were Christian believers in the world who valued the stories and personhood of social outcasts, just as Jesus did. While many of my professors and fellow students maintained conservative religious beliefs, they were able to do so without stigmatizing people whose stories differed from their own. One of my classmates said it best: "I think it's God's job to judge, and man's job to learn and to love." As a practicing Christian, I have endeavored to adopt a non-judgmental, context-driven social constructionist philosophy in my own therapeutic and research practice ever since.

One of the ways that I accrued clinical hours during my master's program was by running an anger management group at a local community center. Most of the clients in that group were mandated to be there by the courts, and I was intrigued by their personal backgrounds and experiences with the legal system. I was struck by how many of these clients knew more about the legal system than I did, simply based on their experiences—yet they were looking to me for help and advice. My supervisors were supportive, reminding me to focus on the therapeutic process, stating that I was not expected to be an

expert in the law. "That's the lawyer's job." However, my clients were still talking to me about "temporary restraining orders" versus "preliminary injunctions" and the like, so I began to notice a pressing need for more collaboration between therapists and legal professionals. I felt unsettled every time I had to tell a client, "Go ask your lawyer," so I eventually decided to go to law school.

As a law student at University of the Pacific, McGeorge School of Law, I learned that the American legal system—and indeed, law school itself—is adversarial in nature. In stark contrast to the collaborative, relational skills I was taught as a therapy student, in law school I was taught how to *win*, even if that meant that others would lose. At the same time, there were some professors who appreciated and encouraged my relational, therapeutic style of interacting. I learned that alternative practices like mediation, therapeutic jurisprudence, and collaborative divorce are promoted by many legal scholars as less-harmful alternatives to traditional "win or lose" litigation. It struck me as surprising that lawyers would be reaching out to the therapeutic community, because I did not know of many therapists who were reaching back.

After law school, I returned to Loma Linda University to complete my Ph.D. in Marital and Family Therapy, hoping to study ways in which the legal system and therapeutic professionals could work together to facilitate healing in couples and families. As a graduate teaching assistant, I helped teach crossover courses in law and therapy to master's students, including "Law and Ethics," "Conflict Resolution Theory," and "Family Law and Divorce Mediation." I also assisted students with legal and therapeutic issues in the quarterly "Case Presentation" class, in which master's students receive

clinical supervision. As such, many of this study's participants had me as a teaching assistant in one of their classes.

My goal for this dissertation is that it will open up a dialogue about ways in which marriage and family therapy programs can improve the legal education of their students, as well as ways in which collaboration can be encouraged between therapists and legal professionals. It is my dearest hope that this work be used as a springboard for the beginning of—not just one—but many therapeutic conversations and research endeavors which will improve the lives of couples and families in the legal system for years to come.

CHAPTER FIVE

PAPER TWO: CONSTRUCTIVIST GROUNDED THEORY ANALYSIS

Marriage and Family Therapists and the Law: Ensuring Student Voices are Heard

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Abstract

The marriage and family therapy and legal fields exist for the same purpose: to enhance human relationships. Therapy students are required to develop a number of legal competencies, and the two fields share many clients and areas of practice. The present study aims to fill a gap in the literature by asking marriage and family therapy students how they perceive their personal legal skills, the legal system, and the legal education of therapists. Student interviews were collected, transcribed, and analyzed using a constructivist grounded theory design. Identified themes included comfort with most legal tasks, ambivalence about the legal system, anxieties about legal practice, and a perceived lack of collaborative opportunities. A teaching theory emerged which attends to these themes.

Introduction

While the fields of marriage and family therapy (MFT) and law are typically seen as distinct in nature, there is actually an extensive degree of overlap between them. For instance, according to the current dean of Mercer University School of Law, "The need for a system of laws arises from the social nature of human beings. Laws are about relationships, just as practicing law and achieving justice are always concerned with relationships (Floyd, 2007, p. 559)." While one area of overlap includes a shared concern with relationships and an understanding of the social nature of individuals, the two professions also share many clients and areas of practice, in circumstances like divorce, child custody, mediation, and court-ordered therapy, among others (Riley, Hartwell, Sargent, & Patterson, 1997). In addition, MFTs agree to abide by a code of ethics that includes professional, institute-specific, regional, and national regulations (AAMFT, 2015). With such an involvement with the legal field, it is therefore integral that appropriate legal instruction is part of training new therapists for practice in the modern world.

The American Association for Marriage and Family Therapy (AAMFT) has included 14 specific legal skills in its list of core competencies, which define the minimum standards necessary to practice as a licensed MFT (AAMFT, 2004; Miller, Linville, Todahl, & Metcalfe, 2009; Table 1). While these competencies were developed with independent practice in mind, it is the responsibility of academic programs to help students master these skills to at least a rudimentary level before they graduate (Nelson & Graves, 2011). In addition, the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) requires that legal and ethical issues be covered in

training coursework (COAMFTE, 2014). However, while all COAMFTE-accredited programs must include this training, the academic community has yet to examine whether the instruction being provided is actually sufficient.

Table 1. *Marriage and Family Therapist Core Competencies Pertaining to Legal, Ethical, and Professional Issues (Miller et al., 2009)*

1.3.4	Explain practice setting rules, fees, rights, and responsibilities of each party, including privacy, confidentiality policies, and duty to care to client or legal guardian.
1.5.2	Complete case documentation in a timely manner and in accordance with relevant laws and policies.
3.3.2	Prioritize treatment goals.
3.3.7	Work collaboratively with other stakeholders, including family members, other significant persons, and professionals not present.
3.5.2	Participate in case-related forensic and legal processes.
5.1.1	Know state, federal, and provincial laws and regulations that apply to the practice of marriage and family therapy.
5.2.1	Recognize situations in which ethics, laws, professional liability, and standards of practice apply.
5.2.3	Recognize when a legal consultation is necessary.
5.3.2	Develop and assess policies, procedures, and forms for consistency with standards of practice to protect client confidentiality and to comply with relevant laws and regulations.
5.3.3	Inform clients and legal guardian of limitations to confidentiality and parameters of mandatory reporting.
5.3.5	Take appropriate action when ethical and legal dilemmas emerge.
5.3.7	Practice within defined scope of practice and competence.
5.4.1	Evaluate activities related to ethics, legal issues, and practice standards.
5.5.1	Maintain client records with timely and accurate notes.

Very few studies address the topic of MFT legal education and practice, and many of them are out of date. For example, one review from 1995 found inconsistencies in

topics being taught in MFT law and ethics courses with these differences largely explained by variances in the world views of different professors (Harris, 1995). The AAMFT core competencies were developed, at least in part, to address such inconsistencies (Miller et al., 2009). However, as this topic has not been addressed since that time, the effect of the AAMFT core competencies on MFT legal courses remains unclear.

The academic community does, however, have reason to question whether MFT students are being adequately prepared for legal practice. In 2011, Nelson and Graves (year) found that although clinical supervisors reported that legal competencies were both the most important and best mastered of the competency domains, reported performance still lagged substantially behind desired performance. Students were proficient in some legal competencies, such as mandated reporting, informed consent, and record keeping, however, actual knowledge of the law was reported as "an example of an area that may need concentrated effort to improve (p. 448)." One finding was especially concerning: students' ability to actually participate in legal processes was ranked 128th, last in terms of competency.

Some academic programs have sought to improve MFT students' legal education by implementing and evaluating experiential learning exercises and collaborative training opportunities, which have yielded positive results. For example, Riley et al. (1997) partnered with a legal program to teach a collaborative family law course, in which students reported that working alongside legal professionals helped them see how the therapy and legal fields could work together to help clients. Similarly, Miller et al. (2009) used a mock trial exercise to collaboratively train MFT and law students in

courtroom processes, which helped curb students' anxieties and demystify the legal system.

While previous studies provide information regarding course outcomes and suggest that students experience anxiety and disengagement from legal practice, student voices regarding their perspectives and experiences with the legal system legal have remained largely unheard. Furthermore, a theory to guide teaching in the legal arena has yet to be developed which takes student perspectives into account. The present study aims to fill this gap in the literature by better understanding how MFT students perceive their personal legal skills, the legal system, and the legal education of therapists. The authors selected a grounded theory design (Charmaz, 2014) in order to develop a theory to help teach and supervise in this area.

Method

The authors used a constructivist grounded theory design to examine MFT student views about their personal legal skills, the legal system, and the legal education of therapists (Charmaz, 2014). Research procedures and design were approved through the Loma Linda University IRB. Students were interviewed, the interviews were transcribed and deidentified, and themes were noted using an open coding process. Axial codes were then constructed from open code themes, and patterns were analyzed until saturation was reached. Analytic memos were kept throughout the process to keep the authors mindful of their own influence on data creation.

Constructivist Assumptions

The authors adopted the following constructivist grounded theory assumptions in the present study: (1) understandings of reality are dynamic, constructed by participants in the context of each changing moment; (2) research results are created by human interactions; (3) research results are created by researchers as well as participants; and (4) research results are created—rather than merely observed—by the research process (Charmaz, 2008). These assumptions informed the entire research process, from data creation to the interpretation of results. For example, the authors viewed the results of the present study as inextricably informed by the positions and understandings of the authors as well as the students. Therefore, rather than attempting to eliminate researcher bias, the authors created analytic memos to facilitate mindfulness of their positions. Similarly, because constructivists view research as unavoidably context-dependent, the authors did not interpret the specific results of this study to be generalizable to other student populations (Charmaz, 2014). As an alternative, the present study is meant to document the voices of individual students to highlight the meaningful thoughts and feelings which were present at the time of each interview.

Sample

Participants

This grounded theory analysis was based on transcripts of 15 student interviews. Participants included a convenience sample of student volunteers from the graduating classes of 2015, 2016, and 2017—five students from each cohort—pursuing their master's degrees in marital and family therapy at Loma Linda University. All

participants were required to have completed the program's law and ethics course prior to being interviewed. The law and ethics course was taken during the first quarter of participants' MFT programs, and included traditional classroom instruction, a full day of courtroom observation, a research paper, and two multiple choice exams. Participants ranged in age from 23 to 48, with a median age of 26. There were 3 males and 12 females in this study, and racial/ethnic groups were represented as follows: 12 Caucasian, 1 Latino, and 2 Other.

Recruitment

The primary author recruited participants through classroom announcements at Loma Linda University, using an IRB-approved Recruitment Script. Students were asked to email the investigator if they wished to participate, and were informed that participation was optional. To preserve anonymity, students were ensured that interviews would be de-identified to preserve confidentiality upon transcription. Recruitment was incentivized by a random drawing of a $100 gift card at the conclusion of the study. Informed consent was appropriately obtained and documented from all participants.

Data Creation

Interviews were held one-on-one with the primary author, and questions were open-ended to leave room for participants to direct the conversation as desired. A semi-structured interview guide was followed to ensure comprehensive coverage of research topics. For example, one interview prompt was, "Please describe your degree of comfort with the legal system. What sorts of thoughts and feelings come to mind when you think

of the legal system?" Another was, "What do you think would help MFT programs teach the law to future students? What would you keep the same? What would you change?" Interviews typically lasted between 30 and 50 minutes.

To enhance trustworthiness, a secondary author was recruited to participate in the coding process to raise questions and challenge interpretations (Charmaz, 2014). The authors began by open coding, analyzing sessions line by line and noting elements which appeared to be relevant to the research topic and important to participants. For example, open codes included concepts such as, "feels confused about inconsistent progress note expectations," "distrusts lawyers because of how they are portrayed in society," and "values experiential learning activities over lectures." Next, the authors engaged in axial coding to organize the previous codes into overarching conceptual themes. Axial codes included themes such as, "unfamiliarity with the legal system," "comfortable with informed consent," and "learns by doing." When reporting results, the authors used student quotes in an effort to stay as close as possible to the meaning each participant meant to convey.

Throughout the coding process, the authors journaled using analytic memos to keep track of their thoughts, feelings, and biases. These analytic memos helped externalize individual thought processes, preconceived notions, and coding rationale, so that the authors could maintain awareness of how their own thoughts and feelings were influencing each code (Charmaz, 2014). Transcripts were coded and re-coded until saturation was reached and no new themes emerged. The authors then examined these codes in the context in which they arose during the interviews, so that underlying patterns could be noted and better understood.

Results

While the students in this study reported sufficient comfort with most legal tasks, they also reported a sense of disengagement based on an ambivalent regard for the legal system, anxieties about legal practice, and a lack of collaborative opportunities with legal professionals. Student accounts which informed these themes are presented below, in an effort to stay close to the meaning which each student meant to convey. A teaching theory emerged which attends to these themes, promoting legal application and engagement throughout the academic program.

Student Comfort with Legal Competencies

Students were invited to discuss their degree of comfort with several areas of legal practice, including general legal knowledge, recognizing legal issues, obtaining informed consent, writing progress notes, and following legal policies and procedures. These categories were informed by the 14 AAMFT core competencies which relate to legal practice, as identified by Miller et al. (2009; Table 1). Since all participants had completed the law and ethics course, the following views represent those of students which the academic program deemed fully-prepared, in terms of course work, for legal therapy practice.

Legal Knowledge

Most students were moderately comfortable with their level of general legal knowledge. Students expressed a familiarity with legal tasks which were used in actual practice, as well as an ability to look up legal concepts which had been forgotten. For

example, one student said, “I feel like I’ve remembered the most important things. If you’re talking about the things that I use every single day, I would say that. If you’re talking about all the other things that may come up. . .I could look them up.” Students also tended to feel that legal knowledge would increase with more practice: “I feel like I still need to learn more, and the more I practice, the more I learn. Obviously, I am not a lawyer and am not intending to be. The more cases I have. . .the more answers I am going to get.”

Recognition of Legal Issues

Nearly all students identified a high degree of comfort with recognizing legal issues as they come up in therapy. One student talked about the helpfulness of legal issues being addressed in classes throughout her academic program: “I feel like those were pretty well drilled in, especially the first semester. It’s been reinforced throughout all of the classes, and I feel like most of the issues are common sense.” Other students spoke about identifying legal issues through experience and consulting with a supervisor as needed. For example, one student said, “You can start to feel the red flags. . .at least enough to know when to ask for help.” Another student shared similar thoughts: “I’m not a law and ethics guru, but I do know if something’s questionable. If my gut says something, I don’t hesitate to call my supervisor.”

Informed Consent

Students were almost universally comfortable with the issue of informed consent, because they practiced this legal skill with every client. Such experienced was noted as

being helpful: “I feel confident about [informed consent], and I let them know every time. You know, the first day.” “I feel this is the thing we have to do every single time the client comes in. ‘Hi. . .I am an MFT trainee, and this is what it means.’” “I’ve done it with every client. It’s something that’s so essential that I’ve gotten very used to it.” Consistency and clear expectations were also beneficial: “It is clear and we have a form that we use which states everything, like, ‘This is who I am, this is the cost, this is what we are mandated to do.’ It’s set in stone.”

Progress Notes

Writing legally-adequate progress notes was the area where students tended to struggle the most. Some students were confused because different placement sites had different expectations: “I feel like every place has its own documentation. . .[at one placement], they are very thorough and check your notes all the time and at my other placement it’s not so firm, so I don’t know if I am writing notes correctly.” “I feel like it’s subjective depending on who is signing off on your paperwork. . .When you switch to another supervisor, they ask, ‘Why are you writing like that?’” Inconsistency within the same placement site had confused some students as well: “My placement site is constantly changing in what we can and cannot put in. Staying abreast of that is difficult.” “Confusing, because when I started at my clinical site, the rule was that everything was confidential, even from other employees. But they changed their policy, and now. . .I have to be careful, because other care providers take things out of context.”

Legal Policies and Procedures

Participants' level of comfort with following legal policies and procedures appeared to be related to clinical exposure. Students who had never used a particular form or procedure felt confused: "I've really only gone over the forms in classes, but I haven't had any experience. So with something so serious like that, I'd be a little bit scared and I'd need help from my supervisor. I need to experience it first for me to be comfortable." On the other hand, students with more therapy experience tended to feel quite comfortable: "The first time, I was like, 'What do I do?' I just wanted to make sure I got everything right. But now that I've done it, I know to state exactly what I heard, what was said, and to fax in the form."

Summary: Student Competencies

The students in this study tended to be comfortable with most areas of legal practice. For example, participants expressed a high level of comfort with legal issue recognition and informed consent, as well as a moderate level of comfortable with general legal knowledge. While students tended to be uncomfortable with writing legally-sound progress notes, their responses appeared to be related to inconsistent expectations by placement sites rather than inadequate preparation. Similarly, when it came to following legal policies and procedures, levels of comfort tended to be higher in students with more therapy experience.

Anxious Disengagement from Legal Practice

Despite expressing confidence with most legal tasks, the students in this study reported mixed attitudes toward the legal system. While most students viewed the legal system as being generally well-intentioned and necessary to preserve fairness in society, they were also troubled by its potential to yield negative outcomes for clients and therapists. Every student in the study expressed feelings of anxiety about becoming involved in such a system as a result.

Ambivalent Regard for the Legal System

Nearly every student viewed the legal system as systemically well-intentioned: "I think they are there to keep us safe and to try and make things as fair as possible." "I don't have any negative feelings, and actually have a really positive regard. They are there to help us." Many students also perceived the legal system as being necessary: "It feels like it's in place for a reason." "It serves a purpose. I think when people cannot come to an agreement, they need someone to interfere." "If we didn't have them there, people would be doing a whole bunch of stuff and getting away with it."

On the other hand, most participants were troubled that the legal system sometimes yields inadequate results: "Sure, there are circumstances where things may get botched up." "I think there are times where it can be misused." "[There can be] disappointment and a breach of trust. . .sometimes it doesn't feel like you're getting the assistance you want so it's disheartening." Students were especially concerned about how the legal system could negatively impact their ability to practice therapy: "It's almost like scary to hear the possibilities of what can happen to you as a professional." "I

think there's a little bit of intimidation that goes on when you have to go to court for a client. . .you could be sued for this, you could lose your license for this, you could go to jail for this."

Anxieties about Legal Practice

Every participant, without exception, expressed some manner of anxiety about becoming professionally involved with the legal system. In exploring student narratives about anxiety, several themes arose. In general, participants tended to experience feelings of fear and performance anxiety when they spoke about engaging in legal practice. Students identified this anxiety as being rooted in feeling like an outsider in legal situations and not being familiar with the legal environment. A distrust of lawyers was also a complicating factor. Lastly, as therapists, the students preferred relational ways of interacting, and expressed distaste for the contrasting nonrelational style of the legal system.

Feelings of Fear

Sometimes anxiety was expressed in general terms, as a straightforward feeling. According to one student, "The word 'fear' encompasses most of the feelings I have about the legal system." The words "scary" and "scared" were frequently used: "The times I've been in court, it's been kind of scary for me because I think, 'Oh my gosh, it feels like I'm in trouble.' It's just not a welcoming or a good feeling. I feel like if they call me to the stand, I am going to get interrogated or drilled." "It's intimidating, and exciting, and scary—because you almost feel like you're in trouble when you're in a

court room." "I think [our clients] would be a lot better off without everybody being so scared of how it impacted them legally, so everybody could work together as a team to help our clients."

Performance Anxiety

Anxiety was also expressed about inadequate legal performance, with fear of professional liability being the most common concern. For example, one student spoke about potential pitfalls in providing documentation to the court: "I think it's really hard because we have to be very vague in our letters that we write, so advocating for our clients can be scary. . .I think it's more about a liability issue, like worrying about being liable for yourself as a therapist or putting your client in an awkward situation." Another student was concerned about testifying in court: "If you're subpoenaed to go to court, then you may have to say something the client told you in confidence. That's something I worry about happening one day. If a judge makes me do something like that, I can't do anything to protect my client." For some, anxieties about performance seemed to be reinforced in the academic program: "I think there's a little bit of intimidation that goes on. . .when you have to go to court for a client. I think that it was built up a little bit in our classes that 'you could get sued for this, you could lose your license for this, you could go to jail for that.'"

Feeling Like an Outsider

Students also expressed feelings of detachment and alienation from the legal system. For example, one student talked about her experience in reference to being in the

courtroom: “With my experience going to court, we were only allowed to sit in a certain section and we couldn’t ask questions. It was just—come in, sit down, take notes, [and] leave.” Another student interviewed a judge who acknowledged a lack of engagement between the two professions, but did not offer any solutions: “[The judge] mentioned that she would like to see more of a collaboration. . .but did not discuss much more than that.”

Several participants expressed feelings of disengagement in day-to-day practice settings. According to one student, “As far as MFTs, from what I’ve seen in my practice, I don’t think that we are really involved much more than just writing a court letter once in a while. We don’t really get to vouch for anybody or give our opinions, even though we know so much about these clients.” Other students surmised that legal professionals might not be aware of reasons to involve an MFT: “I don’t think they know that there are resources out there. I don’t know if they realize, ‘I could employ the strength of another professional,’ and that it might be nice to have an interdisciplinary type of brainstorming.” “Most lawyers don’t know much about marriage and family therapy, so they may not understand where we are coming from—kind of the more sensitive approach.”

Unfamiliarity with the Legal System

Though none of the students in this study had yet testified in court at the time of the interviews, all of them had observed family court proceedings firsthand for several hours during the law and ethics course. Despite this exposure, nearly all of the students expressed anxieties concerning unfamiliarity with the legal system. Such anxieties would likely be even be more pronounced in students who had not had this exposure.

According to one student, "I haven't really had very much experience with the legal system at all—I mean, aside from making suspected child abuse reports." Others seemed to relate: "I think that because there isn't a complete understanding of what it looks like to be involved in the legal process and be a therapist, there's more anxiety and fear surrounding it." "As much as I would like to say that I don't fear the legal system at all, being put on the stand to testify—I think the fear comes from not knowing what to expect." One student even chose to draw on what she had seen in movies to try and understand what was going on in the courtroom: "It was just like, in movies and stuff you see how [courtroom proceedings] can go really poorly, so. . .I was just like, 'Oh my gosh, she might incriminate herself!'"

Distrust of Lawyers

While students tended to hold judges in especially high regard (e.g., "I have a pretty good opinion of judges because I do not think they are fighting for one side or the other."), several of them expressed a distrust of lawyers. One student surmised, "In a court case, if a lawyer doesn't necessarily have the correct evidence, they might want to spin it." Another student thought that this distrust might stem from lawyers being harbingers of bad news: "There's a negative stigma that lawyers are out to get you. If you're an MFT and you're contacted by a lawyer, most of the time it's not for a good thing. You're being sued, or you need to come testify, or they need information about one of your clients. Lawyers and therapists don't have the best interaction with each other, and I think that's sad." Even popular culture appeared to play a part: "Lawyers? I have a hard time trusting them. Like, if I meet a lawyer, I don't automatically distrust

them, but I think the media portrays them in a bad light. So you have some of that overflow of 'Oh, lawyers are not the most trustworthy people.'"

Nonrelational Legal Standards

As therapists, the students in this study tended to prefer relational ways of interacting with others. Several students spoke about the legal system as being "cold" and "unfriendly" because of its emphasis on procedure and logic, often at the expense of personal emotions. One student felt anxious in the courtroom because the judge would not allow clients to discuss past trauma, "Even though it was really pertinent to what they were going through!" Another student was bothered that much of the court's discussion in a child custody case centered around money, rather than the best interest of the child: "I felt for the child because the parents were arguing about money, not about the child's wellbeing."

The consequences of nonrelational legal standards could be felt by students in their work with clients as well. For example, one student worked with a client who had committed a past murder, and was bothered that she could not break confidentiality to tell the court: "I hate the fact that if someone tells me they murdered a child twelve years ago, I can't say anything about it. What if that person goes and does it again? What if that family doesn't ever have closure?" Another student was troubled by the disconnect between courtroom decisions and potential consequences for clients later on: "A lot of times we may see what happens after the court case, but the court doesn't see that there are impacts on the family as a result of decisions made in the court system."

Lack of Collaborative Opportunities

Nearly all of the students expressed frustration with the lack of collaboration they had encountered from legal professionals, both in their education and in actual practice. Largely millennials, most of the participants in this study were used to the free exchange of information via the internet throughout their lives, so professional isolation was viewed as a weakness: "Collaboration? I just don't think it's done. It seems like especially the older generation thinks, 'This is my job and that's your job. I'll refer people to you, but we don't interact.' I think it's shifting. . .We have to all use each other's strengths."

Students also believed that more engagement between therapists and legal professionals would benefit their clients. For example, one student surmised that clients might reveal themselves to different professionals in different ways: "I think people put on a different hat when they're talking to their therapist versus talking to their lawyer, and maybe it would help create a fuller picture of what they should be working on as a couple or family." Another student felt that therapists could benefit the legal system by consulting on family issues: "In a perfect world, I suppose MFTs would serve more of an active role. Let's bring in the therapist to see their perspective on things. Like more proactive, more preventative than anything."

Despite these perceived benefits, students felt that the legal community typically undervalues therapists: "I think that it sometimes feels like lawyers don't value what the therapist has to offer. Maybe working on that and showing them, 'Oh hey, this is the way the therapist is benefitting the client, so I should get them more involved,' would make it more of an even playing field." One student suggested that perhaps legal professionals

should come and speak to MFTs to increase therapists' familiarity with the legal world: "What I'd like to see is maybe have a lawyer—maybe one who deals with family-involved cases—come and speak to MFTs, or maybe a presentation people can go listen to, just to have an understanding of the lingo people use so you don't feel like you're kind of fumbling around."

Despite this perceived lack of collaboration, students remained eager to engage with the legal community if given the opportunity. For example, nearly every student mentioned how much they enjoyed having a courtroom observation assignment: "It was interesting to see how people come in with their cases and see how the judge is able to look at it." "I liked learning about it, what happens on the other side that we don't always know about." Several students were even willing to undertake additional legal coursework: "I think that more legal courses should definitely be a part of every MFT program in order to graduate." "I want to see more legal knowledge on behalf of MFTs. I think that we don't get enough, and it should be ongoing. It needs to be really in-depth, really difficult, and no stone unturned."

Summary: Anxious Disengagement

While students expressed a willingness to collaborate with legal professionals, they perceived themselves as being isolated and disengaged due to a lack of collaborative opportunities. Participants also presented several anxious themes: feelings of fear, performance anxiety, feeling like an outsider, unfamiliarity with the legal system, distrust of lawyers, and discomfort with nonrelational legal standards. Despite having completed

legal educational requirements, it appeared that student anxieties about the legal system outweighed motivations to become involved (Figure 1).

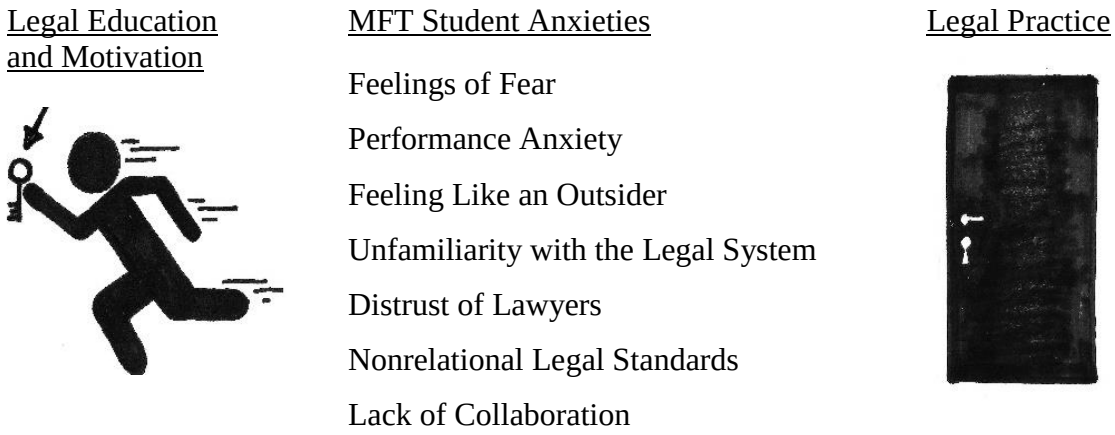

Figure 1. Despite Adequate Preparation, MFT Student Motivation to Engage in Legal Practice is Outweighed by Anxieties

Teaching Theory: Strategies for Student Engagement

According to Miller et al. (2009), "The increasing demand for therapists to be involved with the court system calls for new strategies to prepare graduates to perform in these expanding professional roles (p. 463)." The students in this study agreed. In fact, every participant identified lectures and slides as being insufficient in preparing students for modern legal practice. When asked how academic programs might improve their legal instruction, the participants offered several solutions to help ease student anxieties and disengagement. These suggestions were analyzed within the context of the themes identified above. A teaching theory emerged which attends to these considerations, in an

effort to resolve issues of ambivalence and anxiety in order to prepare students for future in engagement in legal practice (Table 2).

Table 2. *Guidelines for Preferred MFT Legal Instruction*

What to Teach	Keep topics current and relevant to actual legal practice
When to Teach	Teach legal topics throughout the academic program
Who Should Teach	Involve legal professionals as collaborative partners: professors, teaching assistants, and guest lecturers
How to Teach	Facilitate experiential learning activities: courtroom observations, roleplaying vignettes, legal clinical opportunities, legal documentation, and mock trials, among others

What to Teach: Keeping the Law Relevant

Participants felt that topics of legal instruction should be based on how current and relevant they are to actual therapy practice. Keeping topics current and relevant attends to student anxieties concerning legal unfamiliarity and performance. Since, in the words of one student, "It's the law, and things change all the time," keeping information updated is likely to require additional preparation on the part of professors. Such efforts are both necessary and appreciated: "I know it's kind of hard to make sure that you have the new laws, but I think it's important because the laws change every year." "Laws change. They evolve. So I think that staying current is definitely [important]."

Students also expressed an appreciation for discussions which tied legal concepts to actual therapy practice: "I remember [the professor] presented a video and mentioned, 'This is what I did. Also, I talked to the client and got a release of confidentiality.' He just kind of went through the steps. I think that benefitted me in helping me see, 'Okay, this is how it's done during a therapy session.'" This preference for keeping legal concepts relevant by applying them to real-life situations was echoed by nearly all participants: "I think that's the thing that most people are looking for, kind of having real-world exposure. I mean, vignettes help too, but I wish we'd had more of them. Anything that shows real-world examples." "I would use more examples. More vignettes. I would keep going to the courthouse, having to be present in family law situations." When students expressed these preferences, they sometimes contrasted them with traditional teaching styles: "The 500 pages of notes that I printed out didn't [help]. I think if you make it more interactive and really apply it to everyday life situations. . .I think it will stick with more people."

When to Teach: Keeping the Law Fresh

Students recognized that they needed to learn the law early in their programs in order to work with clients effectively. Keeping the law updated and fresh throughout the academic program attends to student anxieties concerning fear of inadequacy and inability to perform. According to one student, "It was helpful learning it immediately, with one of our first classes being a law class. . .I think in every single one of our classes so far, we've brought something up about what's legal and ethical." However, because the students' legal course was taught at the beginning of their programs, many of them

struggled with remembering the law later on: "I think that trying to squeeze law and ethics into one quarter is incredibly difficult. Even though I've memorized a lot of it, and I do use it when dealing with clients. . .I feel like I had a lot to memorize for that huge exam, and then it's gone."

A desire for continuity in legal instruction was a common theme. One student used other courses for comparison: "This might be overkill, but more than just one law and ethics class would have helped. Like, there's more than one substance abuse class. There's more than one theory class." Another student thought that offering more classes would help keep students up to date on new laws as well: "Maybe more classes and information [would help]. I need to know if information is current or old." By keeping legal topics fresh and current throughout the academic program, students felt that they would remember the information better and longer: "Maybe a class every quarter, with a different topic whether it's therapist-client privilege, or what our role is when we're subpoenaed, just some different legal issues throughout the program so that everything is covered in more detail as part of the degree."

Who Should Teach: Keeping the Law Collaborative

One way to keep legal instruction current and relevant is to involve members of the legal profession in the learning process. Legal collaboration has been the primary focus of efforts in the literature to improve MFT legal instruction for good reason (Riley et al., 1997; Miller et al., 2009). Bringing legal professionals into the comfort zone of therapy students addresses most, if not all, identified student anxieties concerning legal practice. Feelings of fear, exclusion, unfamiliarity, distrust, and nonrelationality can all

be alleviated by simply facilitating positive exposure to members of the legal system. For example, one MFT program taught a collaborative family law course with law school students and professors. The students found that working alongside legal professionals helped them see how the therapy and legal fields overlap and provided a positive example of how members of both fields could work together (Riley et al., 1997). Similarly, therapy students in a collaborative mock trial practicum reported how the experience helped demystify the legal profession and bring their own professional identities into sharper focus (Miller et al., 2009).

Taking the small step of having a judge or a lawyer speak to students as a guest lecturer is another way to create an engaging and memorable learning experience: "I think I would definitely keep somebody involved who was aware of current events in law and ethics. . .trying to get more speakers and people who are in the field." "I think it would be helpful, actually talking to a judge or lawyer. I think interviewing them is important. When you're sitting in the courtroom, you see what's going on, but you don't know what their thought processes are. 'So you did this, and I am just wondering why.' Kind of pick their brain a little bit. If you can find someone who is willing to do that, it would be great."

How to Teach: Keeping the Law Applicable

Students learn more effectively by doing a task than by hearing about it through traditional lectures (Wurdinger, 2005). For example, Miller et al. (2009) found that MFT students who participated in a mock trial exercise reported feeling less anxious and more competent with future legal tasks. By engaging in experiential tasks, "Students learn not

only what the law is but also how the law works. Using mock trials with students helps develop competent, thoughtful graduates who are able to successfully bridge the gap between training and practice (Miller et al., 2009, p. 463)." Providing experiential legal training attends to student anxieties concerning performance, unfamiliarity, and fear, making students more likely to engage in future legal practice.

Similarly, every student in the present study preferred experiential learning methods to traditional classroom instruction. Lectures and slides were especially disdained: "I think when it's a lecture, I tend to zone out, because I feel like I have already read it." "Reading a story on a slide presentation just doesn't help me very much." "Fifty-something bullet points in an eight-point font—I am not going to remember any of that." Instead, students expressed a desire to learn by actually attending legal proceedings, working through case examples, and practicing legal techniques.

The students in the present study had observed family court proceedings as part of their law and ethics class, and the experience was received as overwhelmingly positive: "Honestly, the court room observation was helpful for me just to see what it's really like, because I didn't have any experience before this. It was helpful for me to see the workings of [the legal system], and it was also helpful to get to know the issues which are facing MFTs right now." "I think the assignment of going to court was a really good experience, because if I wouldn't have had that assignment, I don't think I would have set food into court unless I was actually called to appear."

In the classroom, role-playing through case examples was another favorite learning method: "The case examples I was given in class are the things that I remember more than anything else. Telling me, 'This is how I dealt with this client. This is what

happened, this how I dealt with it, and this is how the laws are involved.' That's what really stuck with me." Case examples can even be fictional, as is the case with clinical vignettes: "Clinical vignettes help the information stick more because. . .I'm going to think as a therapist about how to solve that problem, rather than just memorizing the facts or tuning out a lecture. I would know by actually practicing the things that I need to do as it if were real life."

More than any other suggestion, students claimed to learn best by "doing." For example, one student worked as a mediator as part of her traineeship, "I feel like you learn so much more by doing. I did go to the court, and I worked as a mediator for a while. I feel like I learned so much more doing that than in the classroom. It was more practical and hands on." Another student took it upon herself to write progress letters for clients: "When I wrote my first letter for a client, it made me realize how easy it is to help them in that way. Since then, I've offered clients letters to say that I see them as a therapist on agency letter head."

Discussion

The students in the present study perceived themselves to be sufficiently competent with most legal tasks. This finding parallels reports from supervisors that legal skills tend to be a highly-mastered AAMFT core competency domain, even though supervisors suggest that more mastery is needed (Nelson & Graves, 2011). One conspicuous difference was that the students in this study reported moderate discomfort with writing legally-adequate progress notes, an area which supervisors previously described as an area of strength (Nelson & Graves, 2011). However, the students

identified this discomfort as stemming from inconsistent supervisor expectations rather than a lack of skill. This study also confirmed what supervisors have already noted, that student comfort with actual knowledge of the law and ability to engage in legal practice lags behind other competencies (Nelson & Graves, 2011).

This legal disengagement appears to stem from ambivalent and anxious student opinions concerning the legal system. The theme of anxiety, as noted by Miller et al. (2009), was further explored, resulting in several sub-themes: feelings of fear, performance anxiety, feeling like an outsider, unfamiliarity with the legal system, distrust of lawyers, nonrelational legal standards, and a lack of collaborative opportunities. These findings informed a teaching theory which encourages currency, applicability, and collaboration in an effort to facilitate student confidence and engagement.

The good news for MFTs is that in spite of therapists' current disengagement, the legal community is becoming increasingly aware of the effectiveness of family systems theory, taking relational and developmental considerations into account when they work with clients (Madden, 2008). Traditional principles of objective reasoning are currently giving way to brain research which suggests that pure legal reasoning is impossible without attending to underlying emotional and relational factors (Brooks & Madden, 2012). Thus, there has never been a better time for MFTs, as relational experts, to take measures to shed current anxieties and become more legally-involved.

Teaching Theory Implications

Student themes informed a teaching theory which provides clear, simple teaching solutions to reduce anxiety and facilitate legal engagement. By analogy, one student

compared learning the law to learning how to drive: student drivers take a class, observe experienced drivers, and practice driving under supervision. Only then are they allowed to take an exam and drive on their own. MFT students are taught to provide therapy in much the same way—classroom instruction is coupled with observation and supervised practice. On the other hand, when it comes to teaching the law to therapy students, academic programs have traditionally stopped short of providing practical, hands-on experience or collaboration (Miller et al., 2009) and MFT students are likely to remain anxious and disengaged as a result.

The students in this study therefore suggest providing a legal education which is practical, experiential, and collaborative—just like their therapy education. Legal principles should be taught throughout the academic program and in reference to actual therapy practice to keep information relevant, current, and memorable. Learning activities should also be experiential, with courtroom visits, roleplaying activities, legal clinical opportunities, and legal documentation supplementing traditional lectures. Finally, academic programs should teach collaboratively with legal professionals so that therapy students can benefit from the perspectives of legal insiders. Such collaborations are likely to reduce student anxieties about the legal system by increasing familiarity with the legal system, promoting trusting relationships with its members, and creating relational experiences in the legal arena.

Limitations

The results of constructivist research are meant to be interpreted in the context of participant demographics (Charmaz, 2014). Because the students in this study were

predominantly young, female, and white, their voices may not reflect the opinions of MFT students from other backgrounds. For example, it is likely that students of racial minorities would have viewed the legal system as less impartial than this study's participants (Overby, Brown, Bruce, Smith, & Winkle, 2005).

Similarly, student responses were likely to have been influenced by the context of the interviewer-interviewee relationship. Research participants tend to give interview responses which they perceive as being more socially acceptable in the context of the interview (Lewis-Beck, Bryman, & Liao, 2004). In the present study, the interviewer was an attorney and a former teaching assistant. It is possible that opinions about the legal system and the law and ethics class would have been spoken about differently with another interviewer.

Future Directions

The present study immortalizes the voices of one unique cohort of new therapists who cared very much about their legal education. In the future, similar studies should be conducted with MFT students from other universities to see if they hold similar views. It would also be prudent to empirically test the effectiveness of the students' suggested teaching interventions. It is the authors' hope that academic programs, clinical placement sites, and future researchers will be able to use the results of this study to better serve the legal needs of MFT students and the clients they serve. It is important that the voices of MFT students continue to be heard, and that this study initiates merely one of many future conversations on the topic of legal education in the field of marriage and family therapy.

References

American Association for Marriage and Family Therapy (2004). *Marriage and therapy core competencies.* Alexandria, VA: Author.

American Association for Marriage and Family Therapy (2015). *Code of ethics.* Retrieved from http://aamft.org/iMIS15/AAMFT/Content/Legal_Ethics/Code_of_Ethics.aspx

Brooks, S.L. & Madden, R.G. (2012). Epistemology and ethics in relationship-centered legal education and practice. *New York Law School Law Review, 56,* 331-365.

Charmaz, K. (2008). Constructionism and the grounded theory method. *Handbook of constructionist research,* 397-412.

Charmaz, K. (2014). *Constructing grounded theory.* Thousand Oaks, CA: SAGE.

Commission on Accreditation for Marriage and Family Therapy Education (2014). *COMAFTE accreditation standards: Version 12.0.* Retrieved from http://dx5br1z4f6n0k.cloudfront.net/imis15/Documents/COAMFTE/Version%2012/COAMFTE_Accreditation_Standards_Version_12.pdf

Floyd, D.H. (2007). Lost opportunity: Legal education and the development of professional identity. *Hamline Law Review, 30,* 555-564.

Harris, S.M. (1995). Ethics, legalities, professionalism, and the professor: A document analysis. *The American Journal of Family Therapy, 23*(1), 38-47.

Lewis-Beck, M.S., Bryman, A., & Liao, T.F. (2007) *The SAGE encyclopedia of social science research methods.* Thousand Oaks, CA: SAGE.

Madden, R.G. (2008). From theory to practice: A family systems approach to the law. *Thomas Jefferson Law Review, 30*(2), 429-454.

Miller, J.K., Linville, D., Todahl, J., & Metcalfe, J. (2009). Using mock trials to teach students forensic core competencies in marriage and family therapy. *Journal of Marital and Family Therapy, 35,* 456-465.

Nelson, T. & Graves, T. (2011). Core competencies in advanced training: What supervisors say about graduate training. *Journal of Marital and Family Therapy, 37*(4), 429-451.

Overby, L., Brown, R.D., Bruce, J.M., Smith, J.E., & Winkle, I.W. (2005). Race, political empowerment, and minority perceptions of judicial fairness. *Social Science Quarterly, 86*(2), 444-462.

Riley, P., Hartwell, S., Sargent, G., & Patterson, J. (1997). Beyond law and ethics: An interdisciplinary course in family law and family therapy. *Journal of Marital and Family Therapy, 23,* 461-476.

Wurdinger, S. (2005). *Using experiential learning in the classroom: Practical ideas for all educators.* Lanham, MD: Rowman and Littlefield.

CHAPTER SIX

DISCUSSION

The goal of this dissertation was two-fold: 1) conduct a thorough literature review to identify current efforts concerning teaching the law to therapy students and 2) conduct a constructivist grounded theory analysis to identify the views of marriage and family therapy students concerning their personal legal skills, the legal system, and the legal education of therapists. The results were presented in the form of two publishable papers. This chapter discusses findings and themes which existed across the two papers, modifications from the original dissertation proposal, limitations and strengths, and implications of the dissertation results.

Themes of Papers One and Two

The dissertation took a two-pronged approach to studying MFT legal education and engagement. First, existing knowledge on this topic was explored through a comprehensive literature review of publications by academics and researchers in various therapy fields, resulting in paper one. Second, new knowledge was discovered through the mechanism of a constructivist grounded theory analysis of student interviews, resulting in paper two. Some themes were present in both papers, while others arose only from one. This section of the dissertation examines the areas of overlap and divergence between the two papers.

For example, both the existing literature and the students identified experiential learning activities as useful—and perhaps even necessary—alternatives to traditional lectures (Miller et al., 2009). The literature review validated the views of the students by

pointing out that in other therapy fields, both teachers and students have reported positive results from actually doing a legal activity instead of just hearing about it (Lloyd-Bostock, 1994; Wurdinger, 2005). Similarly, the literature confirmed the importance of the students' request for more collaborative learning experiences with legal professionals. Interdisciplinary collaboration has been noted to promote creativity beyond that which exists at an isolated level (Roberts et al., 2014), and the psychology community has called for its students to become comfortable as "guests, if not insiders, in the legal community" (Bersoff et al., 1997, p. 1305).

However, while the students discussed their wish for more cross-disciplinary collaboration in the classroom and in therapy practice, they did not organically raise the topics of hybrid degree or dual degree program options, as were present in the literature (Hafemeister et al., 1990; Hall, 2009). Similarly, while the topic of e-learning was prevalent in the literature, it was never mentioned spontaneously by the students (Braye et al., 2005; Preston-Shoot & McKimm, 2012). It is possible that these topics did not arise simply because the students came from a field which currently lacks dual-degree programs in therapy and law (St. Thomas University, 2017), and from an academic program which does not offer e-learning courses. However, the benefits of both of these learning methods have been well-established. Students reach learning outcomes more efficiently in e-learning courses than in traditional courses composed of lectures and readings (Mayer, 2001). Similarly, students who complete dual training in therapy and law are better equipped to navigate the legal system (Hall, 2009) and generally have better employment options (Hafemeister et al., 1990).

On the other hand, the students focused on several aspects of legal education that the literature did not. For example, Miller et al. (2009) was the only study which addressed anxiety, but the students focused on this topic to the point where several types of anxiety were identified. This may be isolated to this particular cohort of students or it may reflect a broader reality within the MFT community, since Miller et al. (2009) is one of very few studies on this topic in the MFT field. The students also spoke about topics which were not addressed by the literature at all, including the frequency of legal courses, the relevance of topics being taught, and the currency of course information. Again, it is unclear to what extent these student views are prevalent in the rest of the MFT field, since the literature on this topic is so scarce. Future researchers would do well to examine these topics.

Modifications

Several minor changes occurred between the dissertation proposal and completion of the final dissertation. The most notable change was that at the time of the dissertation proposal, the author was relying primarily on the 2006 edition of Charmaz's *Constructing Grounded Theory* for the purpose of informing the research method, but later switched to the 2014 edition upon learning of its availability. Substantively, the two editions are virtually the same, thought there were likely small modifications to methodological language throughout the dissertation as a result.

Interview processes were also slightly different than anticipated, but well within acceptable theoretical parameters. It was originally anticipated that the sample would consist of 15-20 participants and that interviews would last between 30-60 minutes.

However, the study ended up with exactly 15 participants and the interviews typically lasted between 25-40 minutes. This is permissible and expected, as constructivist grounded theory simply requires that the number of participants and timing of interviews be sufficient to reach saturation (Charmaz, 2014). The data collected was more than sufficient, as no new themes were emerging by the time analysis of the final transcripts took place.

Demographic predictions in the dissertation proposal were also inaccurate. Because the student population of Loma Linda University is racially diverse, it was unexpected that 12 of the 15 participants would identify as Caucasian. Neither the primary nor the secondary researchers noted this discrepancy until after the interviews were collected, so efforts at theoretical sampling did not take place. Fortunately, constructivist grounded theory allows for such idiosyncrasies as long as the author remains transparent, since results are not meant to be generalizable to the population (Charmaz, 2014).

Lastly, the information for websites which were consulted as part of the dissertation proposal had to be updated. These websites were originally viewed in 2015 in preparation of the first publishable paper, so by the time the dissertation was completed in 2017, much of the information had changed. Such information included website locations, titles, and dates. However, it was confirmed that the content which was cited had not substantively changed.

Limitations and Strengths

The present study intentionally dealt with a very limited population. The decision to interview only marriage and family therapy students at Loma Linda University was made primarily because the researcher was interested in the views of students from his own university, but such a limitation also excluded students from other schools. In addition, only English-speakers are allowed to interview, and similarly, the demographics of the subject pool likely did not reflect populations in other academic programs.

The participants who volunteered were also likely biased toward a particular affinity for either the researcher or the subject matter, as there were many other qualified students who did not volunteer for the study. One evidence of this limitation is that disproportionately more Caucasian students volunteered for the present study than were represented in the student population. This likely influenced student responses concerning the fairness of the legal system and other matters (Overby, Brown, Bruce, Smith, & Winkle, 2005). Similarly, during the interviews themselves, participant responses were likely influenced by social desirability bias, which results in participants giving responses which they perceive as socially acceptable (Lewis-Beck, Bryman, & Liao, 2004). Therefore, since the interviewer in the present study was an attorney and a former teaching assistant to many of the participants, it is possible that student responses would have been different in the presence of another interviewer.

It is also important to note that while some research methodologies seek generalizable results, constructivist grounded theory seeks only to identify meaning from the stories of each unique group of participants. While not a shortcoming per se, as this limitation comes from the tenets of social constructionist theory, generalizable research

results are nevertheless considered impossible to attain using constructivist grounded theory methodology (Charmaz, 2014). As such, the results of this study are not meant to be generalizable to every population or to every circumstance, but rather represent themes consistent with this study's own participants during the context of these particular interviews.

On the other hand, the results of this dissertation provide an incredibly rich and meaningful glimpse into the legal worldview of this particular cohort of students. As an inductive method of inquiry, constructivist grounded theory is particularly well suited for investigating social processes which have little to no prior research, such as the legal education of therapy students (Charmaz, 2014). Open-ended interview questions and direct quotes allowed the students in this study to speak for themselves, resulting in the discovery of a new theory rather than the rehashing of an existing one. This process of discovering new knowledge also allowed the researcher to completely enter the world of the participants, adopting a neutral viewpoint and avoiding assumptions about what the students were going to say. Letting the students speak for themselves also resulted in a narrative which permits the reader to go beneath the surface of raw data to really perceive the depth and meaning of these students' lives. This is what Charmaz was referring to when she wrote how qualitative research makes the "world appear anew" (2006, p. 14). What is sacrificed in terms of generalizability is more than made up for by the richness, depth, and meaning that has been achieved in terms of understanding these particular students.

Implications and Concluding Thoughts

Academic programs can benefit from the findings of this dissertation by applying effective legal teaching methods as identified in the literature, by the students, or both. For example, the literature and the students both supported the idea that legal topics should be taught through experiential, practical exercises such as courtroom observation, roleplaying vignettes, legal clinical placements, and mock trials. Similarly, the literature and the students agreed that collaboration with legal professionals reduces student anxieties and increases familiarity with legal processes by promoting trusting relationships with legal professionals and creating relational experiences in the legal arena. The students also valued legal instruction which was kept current and relevant, and taught throughout the academic program. The literature suggested that e-learning, hybrid degree, and dual degree programs in the area of law might also be beneficial.

Future researchers should be mindful of the current lack of studies on the topic of legal education in the field of marriage and family therapy. The few studies that have been done consist of case studies which need to be empirically validated at some point. Similarly, most of the teaching interventions identified in this dissertation's literature review were from other therapy fields. The transferability of the effectiveness of teaching interventions from those fields to marriage and family therapy should be investigated. The teaching theory presented in this dissertation's grounded theory study should also be empirically tested, and similar studies should be conducted at other universities identify which interventions may be generalizable to the rest of the field.

The studies in this dissertation initiate merely one of many future conversations on the topic of legal instruction in the field of marriage and family therapy. It is an

important and relevant topic which has been neglected by academic programs and researchers for far too long. It is the author's hope that the students represented in this narrative will long be remembered, that their views will be cherished, and that their voices will resonate in the field of marriage and family therapy for years to come.

REFERENCES

Allen, K.R. & Walker, A.J. (2000). Constructing gender in families. In R.M. Milardo & S. Duck (Eds.), *Families and relationships* (pp. 1-17). Chichester, UK: John Wiley.

Allison, P., & Wurdinger, S. (2005). Understanding the power, promise, and peril of the experiential learning process. *Teacher Education and Practice, 18*(4), 386-399.

American Association for Marriage and Family Therapy (2004). *Marriage and therapy core competencies.* Alexandria, VA: Author.

American Association for Marriage and Family Therapy (2015). *Code of ethics.* Retrieved from http://aamft.org/iMIS15/AAMFT/Content/Legal_Ethics/Code_of_Ethics.aspx

American Psychiatric Association. (2013). *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition.* Arlington, VA: American Psychiatric Association.

Anderson, H. (1997). *Conversation, language and possibilities.* New York: Basic Books.

Andrews, T. (2012). What is social constructionism? *The Grounded Theory Review, 11*(1), 39-46.

Applegate, A.G., D'Onofrio, B.M., & Holzworth-Munroe, A. (2009). Training and transforming students through interdisciplinary education: The intersection of law and psychology. *Family Court Review, 47*, 468-484.

Atkinson, P. & Housley, W. (2003). *Interactionism: An essay in sociological amnesia.* Thousand Oaks: Sage.

Beall, A.E. & Sternberg, R.J. (1995). The social construction of love. *Journal of social and personal relationships, 12,* 417-438.

Berger, P.L. & Luckmann, T. (1967). *The social construction of reality: A treatise in the sociology of knowledge.* New York: Anchor.

Bersoff, D.N., Goodman-Delahunty, J., Grisso, J.T., Hans, V.P., Poythress, N.G., & Roesch, R.G. (1997). Training in law and psychology: Models from the Villanova conference. *American Psychologist, 52*(12), 1301-1310.

Blumer, H. (1969). *Symbolic interactionism: Perspective and method.* Englewood Cliffs, NJ: Prentice Hall.

Brave, S., Marrable, T., & Preston-Shoot, M. (2014). Building collaborative capacity for using and evaluating the impact of e-learning in social work education: The case of law. *Social Work Education, 33*(6), 835-853.

Braye, S. & Preston-Shoot, M. (2006). Broadening the vision: Law teaching, social work, and civil society. *International Social Work, 49*(3), 376-389.

Braye, S., Preston-Shoot, M., & Johns, R. (2005). Law in social work education: Reviewing the evidence on teaching, learning, and assessment. *Social Work Education, 24*(5), 547-563.

Brooks, S.L. (1996). A family systems paradigm for legal decision making affecting child custody, *Cornell Journal of Law and Public Policy, 6*(1), 1-22.

Brooks, S.L. & Madden, R.G. (2012). Epistemology and ethics in relationship-centered legal education and practice. *New York Law School Law Review, 56,* 331-365.

Charmaz, K. (2006). *Constructing grounded theory: A practical guide through qualitative data analysis.* Thousand Oaks: Sage.

Charmaz, K. (2008). Constructionism and the grounded theory method. *Handbook of constructionist research*, 397-412.

Charmaz, K. (2014). *Constructing grounded theory.* Thousand Oaks, CA: SAGE.

Colarossi, L., & Forgey, M.A. (2001). Evaluation study of an interdisciplinary social work and law curriculum for domestic violence. *Journal of Social Work Education, 42,* 307-323.

Commission on Accreditation for Marriage and Family Therapy Education (2014). *COMAFTE accreditation standards: Version 12.0.* Retrieved from http://dx5br1z4f6n0k.cloudfront.net/imis15/Documents/COAMFTE/Version%2012/COAMFTE_Accreditation_Standards_Version_12.pdf

Corbin, J. & Strauss, A. (2008). *Basics of qualitative research: Techniques and procedures for developing grounded theory.* Thousand Oaks: Sage.

Edley, N. (2001). Unravelling social constructionism. *Theory & Psychology, 11,* 433–441.

Firestone, G., & Winestein, J. (2004). In the best interests of children: A proposal to transform the adversarial system. *Family Court Review, 42*(2), 203-215.

Floyd, D.H. (2007). Lost opportunity: Legal education and the development of professional identity. *Hamline Law Review, 30,* 555-564.

Gale, J., Dotson, D., Huber, M., Nagireddy, C., Manders, J., Young, K., & Carter, H. B. (1995). A new technology for teaching/learning marital and family therapy. *Journal of Marital And Family Therapy*, *21*(2), 183-191.

Gehart, D., Tarragona, M., & Bava, S. (2007). A collaborative approach to research and inquiry. In H. Anderson & D. Gehart (Eds.), *Collaborative therapy: Relationships and conversations that make a difference* (pp. 367-387). New York: Routledge.

Gergen, K.J. (2011). Relational being in question: A reply to my colleagues. *Journal of Constructivist Psychology, 24,* 314-320.

Glaser, B. and Strauss, A. (1967). *The discovery of grounded theory: Strategies for qualitative research*. New York: Aldine De Gruyter.

Hafemeister, T.L., Ogloff, J.R., & Small, M.A. (1990). Training and careers in law and psychology: The perspective of students and graduates of dual degree programs. *Behavioral Sciences and the Law, 8,* 263-283.

Hall, S. (2009). Building bridges to a different kind of integration: New students' frequently asked questions about law and psychology. *Journal of Psychology and Christianity, 28*(1), 66-70.

Harré, R. (2002). Material objects in social worlds. *Theory, Culture and Society, 19*(5/6), 23-33.

Harris, S.M. (1995). Ethics, legalities, professionalism, and the professor: A document analysis. *The American Journal of Family Therapy, 23*(1), 38-47.

Hess, D.J. (1997). *Social studies: An advanced introduction.* New York: New York University Press.

Holtzworth-Munroe, A., Applegate, A.G., Rudd, B.N., Freeman, A., & D'Onofrio, B. (2013). Interdisciplinary psychology and law training in family and child mediation: An empirical study of the effects on law student mediators. *Journal of the Scholarship of Teaching and Learning, 13,* 82-98.

Johns, R. (2003). Application of web-based learning in teaching social work law. *Social Work Education, 22*(5), 429-443.

Kerner, J., Rimer, B., & Emmons, K. (2005). Introduction to the special section on dissemination: Dissemination research and research dissemination: How can we close the gap?. *Health Psychology*, *24*(5), 443-446.

Kolb, A.Y., & Kolb, D.A. (2005). Learning styles and learning spaces: Enhancing experiential learning in higher education. *Academy Of Management Learning & Education*, *4*(2), 193-212.

Krase, K. S. (2014). Examining the student's decision to pursue a joint graduate degree program in social work and the law. *Social Work Education*, *33*(7), 906-916.

Leeds-Hurwitz, W. (2006). Social theories: Social constructionism and symbolic interactionism. In D.O. Braithwaite & L.A. Baxter (Eds.), *Engaging theories in family communication: Multiple perspectives* (pp. 229-242). Thousand Oaks: Sage.

Lewis-Beck, M.S., Bryman, A., & Liao, T.F. (2007) *The SAGE encyclopedia of social science research methods.* Thousand Oaks, CA: SAGE.

Lloyd-Bostock, S. (1994). Research and teaching in legal psychology: An outline of British developments. *Psychology, Crime, & Law*, *1*(2), 159-164.

Madden, R.G. (2008). From theory to practice: A family systems approach to the law. *Thomas Jefferson Law Review, 30*(2), 429-454.

Malott, K.M., & Knoper, T. (2012). Social justice in application: Counselor training in a legal context. *Journal for Social Action in Counseling and Psychology*, *4,* 23-40.

Mayer, R. E. (2001). *Multimedia learning*. New York: Cambridge University Press.

Mead, G.H. (1934). *Mind, self, and society: From the perspective of a social behaviorist.* Chicago: University of Chicago Press.

Miller, J.K., Linville, D., Todahl, J., & Metcalfe, J. (2009). Using mock trials to teach students forensic core competencies in marriage and family therapy. *Journal of Marital and Family Therapy, 35,* 456-465.

Nelson, T., Chenail, R., Alexander, J., Crane, D., Johnson, S., & Schwallie, L. (2007). The development of core competencies for the practice of marriage and family therapy. *Journal of Marital and Family Therapy, 33,* 417–438.

Nelson, T. & Graves, T. (2011). Core competencies in advanced training: What supervisors say about graduate training. *Journal of Marital and Family Therapy, 37*(4), 429-451.

Nichols, M.P. (2012). *Family therapy: Concepts and methods* (10th ed., pp. 54-59). Boston: Pearson.

O'Connell, M.E., & DiFonzo, J.H. (2006). The family law education reform project final report. *Family Court Review, 44,* 524-570.

Overby, L., Brown, R.D., Bruce, J.M., Smith, J.E., & Winkle, I.W. (2005). Race, political empowerment, and minority perceptions of judicial fairness. *Social Science Quarterly, 86*(2), 444-462.

Preston-Shoot, M. & McKimm, J. (2012). Tutor and student experiences of teaching and learning law in UK social work education. *Social Work Education, 31*(7), 896-913.

Rachlinski, J. (1999). New law and psychology: A reply to critics, skeptics, and cautious supporters. *Cornell Law Review, 85,* 739-766.

Regent University School of Law. (2017). *Joint law degrees.* Retrieved from http://www.regent.edu/acad/schlaw/academics/jointdegrees.cfm.

Restivo, S. & Croissant, J. (2008). Social constructionism in science and technology studies. In J.A. Holstein & J.F. Gubruim (Eds.), *Handbook of constructionist research* (pp. 213-230). New York: The Guilford Press.

Riley, P., Hartwell, S., Sargent, G., & Patterson, J. (1997). Beyond law and ethics: An interdisciplinary course in family law and family therapy. *Journal of Marital and Family Therapy, 23,* 461-476.

Roberts, J., Abu-Baker, K., Fernández, C.D., Garcia, N.C., Fredman, G., Kamya, H., Higarza, Y.M., De Leff, J.F., Messent, P., Nakamura, S., Reid, F.T., Sim, T., Subrahmanian, C., & Vega, R.Z. (2014). Up close: Family therapy challenges and innovations around the world. *Family Process, 53*(3), 544-576.

Rosen, J.B. & Schulkin, J. (1998). From normal fear to pathological anxiety. *Psychological Review, 105,* 325-350.

Sandstrom, K.L., Martin, D.D., & Fine, G.A. (2001). Symbolic interactionism and the end of the century. In G. Ritzer & B. Smart (Eds.), *Handbook of social theory* (pp. 217-231). Thousand Oaks, Sage.

Schwandt, T.A. (2000). Three epistemological stances for qualitative inquiry: Interpretivism, hermeneutics, and social constructionism. In N.K. Denzin & Y.S. Lincoln (Eds.), *Handbook of qualitative research* (2nd ed., pp. 189-214). Thousand Oaks: Sage.

Sellers, R.M., Caldwell, C.H., Schmeelk-Cone, K.H., & Zimmerman, M.A. (2003). Racial identity, racial discrimination, perceived stress, and psychological distress among African American young adults. *Journal of Health and Social Behavior, 44,* 302-317.

Slife, B.D. & Richardson, F.C. (2011). The relativism of social constructionism. *Journal of Constructivist Psychology, 24,* 333-339.

St. Thomas University. (2017). *Masters of science degree in marriage and family therapy.* Retrieved from https://web.stu.edu/JointDegreePrograms/tabid/865/Default.aspx.

Stryker, S. (1968) Identity salience and role performance: The relevance of symbolic interaction theory for family research. *Journal of Marriage and the Family, 30,* 558-564.

Stevens, P., Dobrovolny, J., Kent, S., & Shulman, K. (2001, October). *If they ask you to put your course online over the weekend, tell them to take a hike*. Paper presented at the World Conference on the WWW and Internet Proceedings, Orlando, FL. Retrieved from http://eric.ed.gov/?id=ED467072.

Tolhurst, E. (2012). Grounded theory method: Sociology's quest for exclusive items of inquiry. *Forum: Qualitative Social Research, 13*(3). Available at: http://www.qualitative-research.net/.

Tomkins, A.J. & Ogloff, J.R. (1990). Training and career options in psychology and law. *Behavioral Sciences and the Law, 8,* 205-216.

Valparaiso University Law School. (2017). *J.D./M.A. in clinical mental health counseling.* Retrieved from http://www.valpo.edu/psychology/academics/graduate-programs/jdma-in-clinical-mental-health-counseling/

White, J.M., Klein, D.M., & Martin, T.F. (2015). *Family theories: An introduction* (4th ed.). London: Sage.

Wurdinger, S. (2005). *Using experiential learning in the classroom: Practical ideas for all educators.* Lanham, MD: Rowman and Littlefield.

Yearley, S. (2005). *Making sense of science: Understanding the social studies of science.* London: Sage.

Zimmerman, B. J. (2001). Theories of self-regulated learning and academic achievement: An overview and analysis. In B. J. Zimmerman & D. H. Schunk (Eds.), *Self-regulated learning and academic achievement: Theoretical perspectives* (2nd ed., pp. 1–37). Mahwah, NJ: Erlbaum.

APPENDIX A

INFORMED CONSENT DOCUMENT

Informed Consent

TITLE:	**MARRIAGE AND FAMILY THERAPY AND THE LAW: NAVIGATING BETWEEN TWO SYSTEMS TO FACILITATE HEALING IN FAMILIES AND COUPLES**
PRINCIPAL INVESTIGATOR:	**Jackie Williams-Reade, Ph.D.** **Assistant Professor and Director of Medical Family Therapy** **School of Behavioral Health, Loma Linda University** **jreade@llu.edu**
INTERVIEWER/ CO-INVESTIGATOR:	**Jason Richards, M.S., J.D.** **Ph.D. Student, Marital and Family Therapy** **School of Behavioral Health, Loma Linda University** **jcrichards@llu.edu**

WHY IS THIS STUDY BEING DONE?

The purpose of this investigator-initiated study is to examine marriage and family therapy (MFT) student views on the court system and its members, their role as professionals within that system, pros and cons of the current state of legal education for MFTs, and perceived competency with legal skills.

The rationale for this study is that gaining a better understanding of MFT student views about the legal system may make it easier to facilitate engagement between the fields of law and marriage and family therapy in the future.

You are invited to participate in this research study because you are an MFT student who has completed a course in Law and Ethics. This gives you a unique perspective which could help future generations of MFTs collaborate with the legal system more effectively.

Approximately 15-20 subjects will participate at LLU.

Your participation in this study will last the amount of time it takes to conduct the interview, which is approximately 1 hour.

HOW WILL I BE INVOLVED?

Participation in this study involves the following:

- Completion of the informed consent document.
- An interview with an investigator regarding your views on the court system, the current state of legal education for MFTs, and how you feel about legal aspects of your own practice.
- The audio (sound only) of the interview will be recorded.

WHAT ARE THE REASONABLY FORESEEABLE RISKS OR DISCOMFORTS I MIGHT HAVE?

This study poses little risk to you, though some participants may experience slight emotional discomfort in answering some of the questions. This risk is minimized by giving you the option of not answering a question if you do not wish to.

All records and research materials that identify you will be held confidential. Any published document resulting from this study will not disclose your identity without your permission. Information identifying you will only be available to the study personnel.

Your privacy will be protected by removing all identifying information when the audio recording of the interview is converted to text format.

WILL THERE BE ANY BENEFIT TO ME OR OTHERS?

Although you may not personally benefit from this study, your participation may help practitioners gain a better understanding of MFT student opinions and needs regarding the legal system. Future lawmakers and academic programs may use this information to better facilitate engagement between the fields of law and marriage and family therapy in the future.

WHAT ARE MY RIGHTS AS A SUBJECT?

Your participation in this study is entirely voluntary. You may decline to participate or withdraw once the study has started. Your decision whether or not to participate or terminate at any time will not affect your future academic, professional, or personal standing with the researchers.

If at any time you feel uncomfortable, you may refuse to answer questions or you may withdraw your interview from the study. You may take additional time to consider participation in this study and be interviewed at a later time if you wish.

WHAT COSTS ARE INVOLVED?

There is no cost to you as a participant in this study.

WILL I BE PAID TO PARTICIPATE IN THIS STUDY?

Interviewees will be entered into a random drawing for a $100 Amazon gift card at the conclusion of all interviews. Participation in this drawing is voluntary.

WHO DO I CALL IF I HAVE QUESTIONS?

Call 909-558-4647 or e-mail patientrelations@llu.edu for information and assistance with complaints or concerns about your rights in this study.

SUBJECT'S STATEMENT OF CONSENT

- I have read the contents of the consent form and have listened to the verbal explanation given by the investigator.
- My questions concerning this study have been answered to my satisfaction.
- Signing this consent document does not waive my rights nor does it release the investigators, institution or sponsors from their responsibilities.
- I hereby give voluntary consent to participate in this study.

I understand I will be given a copy of this consent form after signing it.

Signature of Subject	Printed Name of Subject

Date

INVESTIGATOR'S STATEMENT

I have reviewed the contents of this consent form with the person signing above. I have explained potential risks and benefits of the study.

Signature of Investigator	Printed Name of Investigator

Date

APPENDIX B

RECRUITMENT SCRIPT

Hello - My name is Jason Richards and I am a Ph.D. student in Marital and Family Therapy at Loma Linda University. I'm here to talk to you about participating in my research study. This is a study about MFT student views about the legal system. You're eligible to be in this study because you are a master's student in Marital and Family Therapy at Loma Linda University, and because you have completed the Law & Ethics course. You're not eligible if you have a legal background since this could potentially bias the results.

If you decide to participate in this study, you will spend some time talking with me about how you see your role as a professional with regard to the court system, the pros and cons of legal classes for MFTs, and how you feel about your legal skills. The interviews will be audio-recorded, but your identifying information will be removed once the recordings are typed out and converted to text for analysis. Your participation and interview responses will be confidential.

Your participation in this study is voluntary. You can choose to be in the study or not, and you can change your mind at any time. There is no class credit for participating.This decision will not affect your grade.. Each and every one of you is respected and valued. If you do decide to participate, you can be entered into a drawing for $100 Amazon gift card at the conclusion of the study if you wish.

If you would like to participate in this study, or you would like to know more, please contact me through email at jcrichards@llu.edu. Does anyone have any questions for me at this time?

If you have any more questions about this process or if you need to contact me about participation, feel free to contact me through email. You may also call 909-558-4647 or e-mail patientrelations@llu.edu for information and assistance with complaints or concerns about your rights in this study.

Thank you so much.

APPENDIX C

INTERVIEW GUIDE

General Topics

Please describe any prior experience with the legal system. Personal? Professional?

Please describe the family court experience you had from the Law & Ethics class. (Probe for specific details and emotions.)

Please describe your degree of comfort with the legal system. What sorts of thoughts and feelings come to mind when you think of the legal system? Lawyers? Judges? Mediators?

Please describe how you see the place of MFTs within the legal system--Currently? Ideally? What do you feel would help create more collaboration and closeness between these two systems? (Probe for specifics.) What would that do for healing in couples and families?

What was helpful to you in your legal education as an MFT? What wasn't helpful?

What do you think would help MFT programs teach the law to future students? Probe→ If you were to teach this course, what would you keep the same? What would you change?

Please describe any legal situations that you have experienced in actual practice. What do you wish you would have known? How do you think the legal issue impacted your clinical work?

On a scale of 1-100, how comfortable are you with (Probe→get specifics & emotions on each):

1) Your current knowledge of the law, as it relates to the MFT profession?

2) Recognizing legal issues in therapy?

3) Using legal forms, policies, and procedures if an issue does arise?

4) Informing clients of their legal rights and responsibilities, as well as your own?

5) Creating progress notes according to legal guidelines?

Closing Topics

Do you have any further thoughts?

Do you have any questions for me?

APPENDIX D

DEMOGRAPHIC QUESTIONAIRE

Demographic Data

1. **What is your gender?** *(Circle one)* 0 = Male 1 = Female

2. **What is your date of birth?** *(*Fill in - *Month / Day / Year.)*_____/____/_____

3. **Which year are you currently completing, in the MS program in MFT?:**

   (*Circle one*)

   0 = First 1 = Second 2=Beyond Second

4. **What is your racial or ethnic background?** *(Circle one.)*

   African-American..... 1

   Asian/Pacific Islander..... 2

   Hispanic..... 3

   Native American..... 4

   White, non Hispanic..... 5

   Other 6

   If other, please fill in: _____

APPENDIX E

LAW AND ETHICS COURSE SYLLABUS

LOMA LINDA UNIVERSITY

Department of Counseling and Family Sciences

Marital and Family Therapy Program

Counseling Program

COURSE:	MFAM/COUN 614 – Law and Ethics
UNITS:	3
DATE/TIME:	Tuesdays, 3:00 – 5:50 p.m.
PLACE:	Behavioral Health Institute 1102

COURSE DESCRIPTION:

This course is designed to address the legal and ethical standards for psychotherapists, in general, and Professional Clinical Counselors (PCCs) and Marriage and Family Therapists (MFTs), in particular. The content of the course will cover regulations governing professional ethics for PCCs and MFTs in California, and in the United States; it will also provide an overview of relevant state and federal law. Some emphasis also will be placed on school law, psychotherapy documentation, as well as a discussion of the code of ethics of the American Association of Christian Counselors. Sensitivity to race, age, gender, culture, ethnicity, religion, disability, and socio-economic status is

imperative in learning how to apply ethical standards in a positive and competent manner in all populations.

COURSE FORMAT:

The class will include discussion, lecture, and exercises. Ethical practice is a critical competence in PCC and MFT and is advanced through dialogue, and consultation with student/colleagues.

REQUIRED TEXTS:

Grosso, F. (Current Edition). *Complete applications of law & ethics: A workbook for California Marriage and Family Therapists*. Santa Barbara, CA: Frederico C. Grosso.

Wheeler, N. & Bertram, B. (Current Edition). *The counselor and the law: A guide to legal and ethical practice.* Alexandria, Virginia: American Counseling Association.

PROFESSIONAL ORGANIZATIONS AND ETHICAL CODES FOR PCC AND MFT:

1. ACA Code of Ethics for Professional Counselors or Counselor Educators

2. CALPCC[1]: The California Association for Licensed Professional Clinical Counselors

3. AAMFT Code of Ethics for Marriage and Family Therapists

4. CAMFT Ethical Standards for Marriage and Family Therapists in California

5. AACC Christian Counseling Code of Ethics

COURSE OBJECTIVES:

1) To explore ethical issues specific to PCC and MFT.

2) To understand and know the codes and regulations governing the practice of psychotherapy in California.

3) To examine the legal and ethical issues regarding documenting psychotherapy.

4) To examine the laws/ethics related to counseling in the schools.

[1] CALPCC is a new membership organization designed to protect the new license and to support Licensed Professional Clinical Counselors (LPCCs) in California.

5) To be familiar with the code of ethics of the American Association of Christian Counselors.

6) To be sensitive to race, age, gender, culture, ethnicity, religion, disability, and socio-economic status when applying ethical standards.

COURSE REQUIREMENTS:

1. Students must read the textbooks in preparation for class.

2. Attendance is required at each class session. More than one unexcused absence will impact your final grade.

3. Active participation in class discussion is required. **(25 points)**

4. **The Midterm exam is on November 3, 2015.** (**100 points**)

5. **Written Assignment (1) is due on October 27, 2015. (100 points)**

a. Attend Family Court for 6-8 hours and write a report on cases addressed. The report should include an analysis of each case and your personal reaction. (10 pages)

6. **Written Assignment (2) is due on December 8, 2015. (100 points)**

a. Write a paper on a legal/ethical issue related to the profession of Marital and Family Therapy. This paper should be typed, double-spaced, more than 10 pages (excluding table of contents and bibliography), and written in APA style.

7. **The Final exam is on December 15, 2015. (200 points)**

GRADING SCALE:

A	= 94-100	C+	= 75-79
A-	= 90-93	C	= 70-74
B+	= 87-89	C-	= 65-69
B	= 84-86	D	= 55-59
B-	= 80-83	F	= 54 and below

COURSE SCHEDULE:

Sept. 29 Course Requirements – Course Overview - Why study Law and Ethics? - Rights and Psychotherapist Responsibilities - Legal Precedents

Oct. 6 Confidentiality – Privilege – Subpoenas – Informed Consent – Important Legal Concepts

Grosso: 15-85; 375-428

Wheeler: 77-98

Oct. 13 Mandated Reporting – Identifying Abuse – Assessment of Abuse – Avoiding Liability When Reporting

Grosso: 87-143; 429-437

Wheeler: 99-110

Oct. 20 Supervision – Advertising – Fees – Referrals

Grosso: 145-256

Wheeler: 195-204

Oct. 27 **WRITTEN ASSIGNMENT 1 DUE**

Overview of Family Law - Laws Related to Minors

Grosso: 343-366

Wheeler: No reading assigned

Nov. 3 **MIDTERM**

Documenting Psychotherapy- Case Notes and Clinical Forms - Boundaries

Grosso: 257-294

Wheeler: 151-164

Nov. 10 Rights and Privileges – TBA - False Accusations - False Accusations and Where They Come From.

"Defending against Complaints by State Licensing Boards"

Grosso: 295-326

Wheeler: No reading assigned

Nov. 17 Insurance and Managed Care – Forensics - Telephone and Online Counseling -

Cultural Diversity

Grosso: 327-342

Wheeler: 111-124

Nov. 24 Responsibility to Students, Colleagues, & Research Participants – Practice Defensively – Psychopathology Practice Issues – New Trends in Legal and Ethical Aspects of Psychotherapy

Grosso: 417-480

Wheeler: 135-150

Dec. 1 Law and Ethics Unique to LPCC- Guest Speaker—Dr. Simpson

Dec. 8 **WRITTEN ASSIGNMENT 2 DUE**

Therapeutic Hot Spots – Linking Infantile Trauma – False Accusations and Where They Come From. "Defending Against Complaints by State Licensing Boards"

Dec. 15 **FINAL EXAM – CLASS PARTY**

AMERICANS WITH DISABILITIES ACT (ADA) POLICY: If you are an individual with a certifiable disability and need to make a request for reasonable accommodation to fully participate in this class, please visit the Dean's Office of your school. To view the Disability Accommodation Policy please go to: http://www.llu.edu/llu/handbook/6e.htm

ACADEMIC INTEGRITY POLICY: [Sample; pending approval of a university-wide policy] Acts of dishonesty including theft, plagiarism, giving or obtaining information in examinations or other academic exercises, or knowingly giving false information are unacceptable. Substantiated violations are to be brought before the dean for disciplinary action. Such action may include, but is not limited to, academic probation or dismissal from the program. To view the Standards of Academic Conduct Policy please visit: http://www.llu.edu//llu/handbook/6r.htm