

GOOD GRIEF

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ABSTRACT

This article analyses how clinical faculty can work with students to identify and address experiences of loss that occur throughout clinical work. Using the framework provided by therapeutic techniques associated with an ambiguous loss model, this article argues that clinical faculty can better support students in the development of their professional identities by naming loss experiences as they occur. This article then goes on to describe how clinical pedagogy already supports using therapeutic exercises and makes suggestions for incorporating those exercises into the clinical environment.

INTRODUCTION

Lawyering culture, more than any other, epitomizes a lack of comfort with – and distaste for – emotional vulnerability.¹ The legal profession has a normative set of beliefs, values, and behavioral expectations that include rationality, logic, detached analysis, and application of what are posited as neutral rules to every situation from contract terms to custody determinations. The profession values objectivity over subjectivity, rationality over emotion, and in many instances winning over collaboration. Lawyers are hired to fix problems because they are perceived to be infallible and invulnerable; there is a significant amount of pressure to hide emotions in the name of maintaining a professional demeanor.²

Loss and disappointment are inevitable in the practice of law. Yet

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¹ NANCY R. HOOYMAN & BETTY J. KRAMER, *LIVING THROUGH LOSS: INTERVENTIONS ACROSS THE LIFE SPAN* 78 (2006) (“Culture, defined broadly as a set of shared beliefs, values, behavioral norms, and practices that characterize a particular group of people with a common identity, as affects their grief experiences.”).

² Paul Brenner, *When Caregivers Grieve*, in *LIVING WITH GRIEF: AT WORK, AT SCHOOL, AT WORSHIP* 81 (Joyce Davidson and Kenneth J. Doka eds., 1999) (“The institution expects professionals to act ‘professionally,’ which means to behave competently, autonomously, and efficiently not troubled by personal problems or in reaction to patients or family members, and in particular, not creating problems for the institution.”).

lawyers and law students receive almost no training in how to respond on an emotional level when loss manifests itself during practice. To be certain, loss is guaranteed to happen in a variety of forms and those losses may impact both a lawyer's perception of self and her willingness to continue the work she is doing.³

Law school clinics, by their nature, expose their students to emotional experiences and loss in a variety of forms. Students experience loss in the client who does not have the capacity to proceed with his case and therefore stops calling or making meetings. Students experience loss at trial, in mediation, and in negotiation. They experience loss in the form of challenges to their ideas of what lawyering should "be" by both opposing counsel and the legal system itself. They experience loss at the end of the semester when they pass case files on to other students and when they say goodbye to their clients for the last time. These developing lawyers are rarely prepared for the potential long-term impact of these loss-related experiences; consequently, a student can be left feeling confused and frustrated while difficult emotions accumulate in a way that may lead to emotional isolation and eventually burnout.⁴

In 2003, Andrew Levin and Scott Griesberg published results from the first comprehensive study of secondary traumatic stress⁵ and

³ This paper is the result of an experience I had in the spring of 2013, while a visiting professor at the University of Baltimore Bronfein Family Law Clinic. On one of the last days of the semester we learned that a clinic student had died suddenly of a heart attack. The student was weeks away from graduating and had been an active and effective member of the clinic. The loss of this student was difficult for the 3 faculty members and the 12 remaining students. As we advised the student's clinical colleagues of his death, we offered suggestions for ways they could process the loss: seek out the counseling center, talk to the faculty, talk to each other. It occurred to me at the time, however, that the suggestions we made were somewhat inadequate. In the context of a fellow student's death, advising students to seek counseling felt insufficient. To the extent that we asked students to talk to us as faculty, what did we know about grief or loss and how to talk about it? What did we know about how to teach students to process feelings of loss effectively? And, if we were not teaching students those skills, were we contributing to the accumulation of unresolved emotional experiences that could ultimately impact the effectiveness with which our students lawyered in the future? As I considered our response to Bill's death, it occurred to me that the clinical setting, in its methodologies and relative safety, has the potential to offer a solid foundation in learning to address difficult emotions or feelings of unresolved loss.

⁴ JOHN W. JAMES & RUSSELL FRIEDMAN, *THE GRIEF RECOVERY HANDBOOK* 5 (2009). See also HOOYMAN & KRAMER, *supra* note 1, at 72; Dinah G. Anderson, *Coping Strategies and Burnout Among Veteran Child Protective Service Workers*, 24 *CHILD ABUSE & NEGLECT* 840, 846 (2000) ("[E]motionally exhausted CPS workers will exert disproportionate energy 'protecting' themselves psychologically rather than their clients.").

⁵ See, e.g., PETER A. LEVINE & MAGGIE KLINE, *TRAUMA-PROOFING YOUR KIDS: A PARENTS' GUIDE FOR INSTILLING CONFIDENCE, JOY, & RESILIENCE* 159-163 (2008) (discussing the differences between and relationship of grief to trauma and explaining that while grief can exist independent of trauma, trauma cannot exist independently of grief. This distinction is important because the therapeutic techniques for addressing grief as a

burnout in attorneys.⁶ Their research found that attorneys demonstrated higher rates of secondary trauma than mental health professionals, a result they attributed to higher case loads and a general lack of supervision around trauma and its effects.⁷ What the study did not explore, however, was how attorneys may experience direct feelings of loss separate from the occurrence of secondary or vicarious trauma, particularly in the manifestation of the attorney-client relationship; the study also did not explore how loss experiences can form the building blocks of attorney burnout.

This paper explores how loss experiences are universal across lawyering work in a way that is tied to but fundamentally different from a vicarious trauma response. It then argues that unless an attorney is adequately aware of and attends to his other emotions, unnamed and unaddressed loss experiences can impact his ability to be empathetic and to his commitment to the work of lawyering.⁸ In the same way that learning to work effectively with people is part of the practice of law, dealing effectively with difficult emotions that arise in response to those people and the situations they present is also a part of the practice of law. If an attorney wishes to monitor and address his reactions to clients in a manner that combats burnout, this emotional work is critical. Finally this paper suggests ways that various techniques used in grief therapy can be adapted for use in the law school clinical classroom. Using techniques developed in other healing professions and adapted for clinical pedagogy, this paper argues that the law school clinical environment can offer a foundation to developing lawyers for naming their experiences and addressing the negative emotions associated with those experiences, thereby combatting burnout and increasing their resiliency long-term.

I. LOSS AS A UNIVERSAL EXPERIENCE

While loss is an emotional reaction most commonly associated with death, it is also a response that some psychologists attribute to feelings associated with the end of a marriage, termination from or

stand-alone response to external stimuli are somewhat different than therapeutic techniques for addressing trauma.)

⁶ Andrew P. Levin & Scott Greisberg, *Vicarious Trauma in Attorneys*, 24 PACE L. REV. 245 (2003).

⁷ *Id.*

⁸ See KATHERINE WALSH, GRIEF AND LOSS: THEORIES & SKILLS FOR THE HELPING PROFESSIONS 30 (2012); Charles J. Ogletree, Jr., *Beyond Justifications: Seeking Motivations to Sustain Public Defenders*, 106 HARV. L. REV. 1239, 1241 (1993) (discussing how burnout can lead to a lessened commitment to the work of public defense). It is worth analogizing Ogletree's discussion of the constitutional imperative to zealously represent the criminal defendant to the call to serve the poor as articulated by the Model Rules of Professional Conduct.

change in employment, and other significant life events that signal the end of or change in important experiences or relationships in people's lives.⁹ Within this broader conceptualization feelings of loss can be seen as the result of events that are perceived as both negative and having the potential for long-term impact on a person's life.¹⁰

Many healing professionals premise their techniques for addressing loss on the understanding that, as a cultural norm, open displays of painful emotions make people uncomfortable.¹¹ Rituals around death and dying allow for emotional displays in socially accepted contexts. The rituals include, for instance, funerals, formal grieving periods, wakes, memorial services, and viewings. Rituals can help a grieving person through the transition of the loss of a loved one, creating socially defined and accepted space for expressions of sadness, anger, or joy and for strengthening feelings of support through social networks.¹² The formality and the structure of social rituals around death offer legitimacy not only to the feelings of the grieving person but also to public and outward displays of those feelings.

Some experiences of change that generate difficult emotional responses are not generally recognized as loss experiences. As a result they may remain unacknowledged in any kind of meaningful or reflective manner.¹³ Those same kinds of experiences, like the loss of trust, loss of feelings of safety, or loss of control over one's body are circumstances wherein an actor's experience may have an impact on her capacity to engage effectively with those around her.¹⁴ Because the events are not recognized as loss experiences in the same way that death is, there are no socially designed or accepted rituals for dealing with them. These losses may be minor¹⁵ or symbolic¹⁶ in many re-

⁹ JAMES & FRIEDMAN, *supra* note 4, at 3. See also Rachel Kessler, *Grief as a Gateway to Love in Teaching*, in *TEACHING, LEARNING & LOVING: RECLAIMING PASSION IN EDUCATIONAL PRACTICE* 138-39 (Daniel Patrick Liston & James W. Garrison eds. 2004) ("The cycle of grief can be triggered by significant change of any kind . . ."). See also WALSH, *supra* note 8, at 24.

¹⁰ HOOYMAN & KRAMER, *supra* note 1, at 2.

¹¹ *Id.* at 42. See also *id.* at 4 ("In a society that tends to deny fear and death, we often feel uncomfortable talking about grief and loss, wanting to avoid the pain and darkness.").

¹² PAULINE BOSS, *LOSS, TRAUMA, & RESILIENCE: THERAPEUTIC WORK WITH AMBIGUOUS LOSS* xiv (2006).

¹³ JAMES & FRIEDMAN, *supra* note 4, at 43 ("Grief is, by definition, the emotional response to loss. The cause of the loss is intellectual, but the reaction to it is emotional.").

¹⁴ *Id.* at 5.

¹⁵ BOB DEITS, *LIFE AFTER LOSS: A PERSONAL GUIDE DEALING WITH DEATH, DIVORCE, JOB CHANGE AND RELOCATION* 65 (2000) (arguing that even minor losses, if not addressed, accumulate over time and that reflecting on those minor losses as they occur may help prepare someone for inevitable "major" losses and to understand that loss is a part of life).

¹⁶ HOOYMAN & KRAMER, *supra* note 1, at 2 ("Symbolic loss refers to a change in one's psychological experience of a social interaction . . ."). See also *Id.* at 3.

spects but their potential impact over time is no less real. When grieving rituals cannot be performed because they would be deemed socially inappropriate (or in many circumstances, when the rituals do not exist), outward displays of difficult emotions are also deemed socially inappropriate.¹⁷ If no recognized rituals exist to support someone in a specific loss experience, how does that person address that loss in a meaningful way? A person living through a loss-related experience may develop a cycle of reluctance for showing normal feelings, failing to address the feelings, and neglecting to address the impact of the feelings.¹⁸ Consequently, difficult emotions compound and the fear of showing them increases.¹⁹

II. AMBIGUOUS LOSS AND LAWYERING

Pauline Boss developed a therapeutic construct she termed “ambiguous loss” as a result of her work with families living with Alzheimer’s Disease patients and with families who have a loved one who has been declared missing in action.²⁰ Boss defines ambiguous loss as an unclear loss that defies resolution and that can create long-term confusion in its lack of resolution.²¹ The loss is characterized as ambiguous because it requires one to hold competing and often contradictory ideas simultaneously while giving equal weight, value, and credence to each of those ideas.²² In Boss’ construct, for example, the relative of a patient in late-stage Alzheimer’s must live with the unresolvable conflicting realities that a person he loves is simultaneously physically present yet psychically absent; the loved-one is both here and not here. The ambiguous loss model identifies an emotional reaction to a loss stimulus not as an individual pathology²³ that must be cured but rather as a relational disorder that must be viewed within its unique context and for which interventions are tailored to specific needs; it is a model that focuses on adaptation as opposed to “fixing”

¹⁷ Boss, *supra* note 12, at xiv.

¹⁸ JAMES & FRIEDMAN, *supra* note 4, at 24-25. *See also Id.* at 51 (“Unresolved grief is always about undelivered emotional communications that accrue within a relationship over the course of time.”).

¹⁹ Pop psychology and the proliferation of internet websites that purport to help users deal with their loss may compound the problem by taking the definition of “complicated grief” as articulated in the DSM-V and applying it to any situation. *See* AMERICAN PSYCHIATRIC ASSOCIATION, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS: DSM-5 (2013).

²⁰ Boss, *supra* note 12, at xiv.

²¹ *Id.* at xvii.

²² *Id.*

²³ This characteristic distinguishes ambiguous loss from, for instance, complicated bereavement, a pathological inability to achieve closure after the death of a loved one. *See* J. WILLIAM WORDEN, GRIEF COUNSELING AND GRIEF THERAPY 1 (4th ed. 2008).

or correction.²⁴

Practicing law visits its own kinds of loss upon the emotional landscape, experiences that differ somewhat from those associated with general life changes or the more universally recognized grief felt after the death of a loved one. Loss in practice broadly covers a range of circumstances from the most obvious loss of a case or trial to the more amorphous direct challenge to an attorney's ideals by the legal system to the even less well-identified disappointment in the behavior of a client in the conduct of her case.²⁵ There are rarely organizational support opportunities available to attorneys to express their negative emotions. In addition, each loss necessarily creates a cascade of attendant losses. As the losses accumulate and pile atop the earlier experiences, attorneys may find themselves without either the support or the skills necessary to address and to recover from what is happening around them.

While the ambiguous loss model speaks to death or psychological or physical loss, it offers insights into the broader implications for how individuals perceive themselves as attorneys and the value and meaning one attaches to lawyering work.²⁶ Ambiguous loss is helpful when thinking about loss experiences in lawyering because the legal profession itself promotes the tendency to deny the ambiguity and unpredictability of the human condition, to ignore loss entirely, and to encourage a "get over it and move on" mentality.²⁷ For example, serving marginalized populations requires recognizing and giving equal weight to the diametrically opposed realities that working within the legal system can both help and hurt a client. It requires the attorney to reconcile that what we believe and value about the legal process can be simultaneously good and bad. Learning to live with and to integrate the ambiguity created by the realities of working with clients into one's world view is critical to avoiding feelings of defeat and continued feelings of loss, particularly in practice.²⁸

²⁴ Boss, *supra* note 12, at 3.

²⁵ Loss also occurs in attorneys' personal lives unrelated to their casework. This paper deals specifically with the impact of feelings of loss as part of the work of lawyering. And, while this paper was prompted by the death of a student, its focus is broader and intended to encompass a range of catastrophic experiences that can occur in a practice environment.

²⁶ See HOOYMAN & KRAMER, *supra* note 1, at 4 ("Loss always contains some ambiguity, even when it is anticipated, such as a relocation or divorce. Part of this ambiguity is being able to hold opposing ideas of absence and presence in our minds at the same time, to live concurrently with joy and sorrow. We learn that we can live with sadness and grief as well as with joy and grief.")

²⁷ BOSS, *supra* note 12, at 4.

²⁸ HOOYMAN & KRAMER, *supra* note 1, at 77 ("Sometimes, however, reasons that cannot be understood or questions that cannot be answered have to be integrated as just that: something that cannot be comprehended but must be accepted and tolerated."). This is particularly true for the idealistic attorney who has high and perhaps unrealistic expecta-

Ambiguous loss is also compelling as a model to examine the lawyering experience because it holds as its root uncertainty. Over time the uncertainty of a situation that defies resolution and that has context and impact outside of an attorney can wear that attorney down, resulting in burnout.²⁹ Even as ambiguous losses may not be easily identified or socially recognized,³⁰ they have real and lasting effects. To the extent that the attorney has lost some control over a case or a client, confusion and uncertainty about what to do may arise when there is no clear resolution of the problem. That confusion and uncertainty can lead to serious emotional consequences. In a profession such as lawyering where control and problem solving are paramount, many people will not tolerate well the inability to remain in control.³¹ Consequently loss of control becomes both demoralizing and a sign of incompetence; it is a loss not only of the outcome of the case itself, but also of the control of a situation.

III. AMBIGUOUS LOSS AND THE LAW STUDENT

Beginning in the first year of law school, students are taught the profession's expectation that emotions are separate from and potentially problematic for their work. They may be taught that expressing emotion in any context other than joy about winning is a sign of weakness and lack of professionalism.³² From the outset students are taught and expected to resolve any problems they encounter with logic and intellect.³³ Spontaneous and "illogical" emotional responses are eschewed in favor of neutrality and reason; it becomes a functional requirement of success as a law student to distance oneself emotionally from the many scenarios that present themselves throughout practice.³⁴

tions for his clients; without reflection, the very idealism that motivates the attorney potentially becomes problematic as a recurring source of disappointment.

²⁹ Boss, *supra* note 12, at 16.

³⁰ Despite not being recognized as a loss specifically, ambiguous losses are fundamentally different than losses that may lead to disenfranchised grief, another form of loss that society treats as "not losses." See WORDEN, *supra* note 23, at 3 (providing more information on disenfranchised grief).

³¹ BOSS, *supra* note 12, at 4.

³² Lisa Coplan, *Stress, Compassion Fatigue and Burnout: Occupational Hazards of Practicing Law*, 45 MDBJ 58 (2012).

³³ Kristin B. Gerdy, *Clients, Empathy, and Compassion: Introducing First-Year Students to the Heart of Lawyering*, 87 NEB. L. REV. 1, 25 (2008) ("Some lawyers may mistakenly believe that compassion detracts from their ability to practice law or even makes it impossible for them to do some of the things that lawyers frequently find that they must do in practice.").

³⁴ See Ogletree, *supra* note 8, at 1273 ("[A] popular conception among professionals of all persuasions that the attorney must distance herself from the personal problems of her client in order to maintain perspective and avoid exhaustion and frustration."); Gerdy,

And yet, even in law school, losses begin to manifest themselves in ways students may not expect. In fact, many students experience loss in the very first months of law school. One former student recounted such a situation. The student graduated from high school ranked seventh in her class and college *Magna Cum Laude*. She had always been at the top of her class and defined herself, in part, as someone who excelled academically; it did not occur to her before starting law school that she would be joining a group of students in a graduate program that only recruited people with such impressive credentials. When the school published grades at the end of her first semester, she found herself looking for the first time in her academic history at a string of Bs. This experience profoundly challenged her sense of self and self-esteem: who was she if she was not at the top of her class? She valued that identity yet had to learn to accept the challenge to it. In the competitive law school environment with its harsh grading structures, the reality is that some students fall to the middle of the pack, just as many fall to the bottom. The student was simultaneously a mid-level performing student and a high achiever. This potentially contradictory and confusing position did not mean that she was less intelligent or that she had less to offer. It did mean she had to adapt to a new way of perceiving her value to herself and to the larger community.³⁵

Law clinics are “nested” cultural communities that have the capacity to generate deeply emotional loss experiences. Generally, this means that the clinic is nested within a law school that is nested within a community of lawyers and professors that is nested within the broader culture of lawyering.³⁶ Each nest has its own set of expectations and norms, some of which are in conflict across the nests.³⁷ For law students, and clinical law students in particular, challenges to expectations of or assumptions about clients or the lawyering process are ambiguous loss experiences that can impact the ability to engage with clients or casework. Students can feel, and sometimes see, that impact rippling out into the broader communities in which the clinic is situated.

supra note 33, at 30.

³⁵ It is interesting to consider that law professors, too, may lack empathy for this experience. It is likely that if one finds oneself in the position of professor of law, one was probably not in the middle or the bottom of the law school pack.

³⁶ See HOOYMAN & KRAMER, *supra* note 1, at 65 (discussing nesting in the context of family structure, faith communities, race, and gender).

³⁷ For instance, empathy is not a value or trait necessarily taught or encouraged outside of the clinical experience; it may even be in direct conflict with expectations of students in other classrooms or in other employment situations.

IV. UNRESOLVED AMBIGUOUS LOSS AS A PRIMARY CAUSE OF BURNOUT

Burnout has been defined as many things from emotional and physical exhaustion³⁸ to a syndrome made up of a collection of emotional, behavioral, and physical responses relating to external stressors.³⁹ Burnout is extraordinarily difficult to measure although its effects can be obvious.⁴⁰ Emotional exhaustion, defined as emotional over-extension and exhaustion with one's work,⁴¹ can be the easiest effect to identify as it is reflected in both a lessened ability to care and an inability to experience or express empathy for a client and her situation or choices.⁴² As a result, burnout compromises one's ability to practice law effectively and can sharply impact the quality of the lawyer-client relationship.⁴³

Literature on burnout in the helping professions describes how professionals are vulnerable to stress as a result of their work and which is seen as a primary cause of burnout.⁴⁴ However, like burnout, little is known about what factors combine to constitute stress.⁴⁵ Models for dealing with attorney burnout that are stress-focused evolved from treatment schema focused on positive emotions and improving outcomes.⁴⁶ That is, first manage and change the problem causing the distress, and, second, manage the resulting emotions.⁴⁷

As stress-focused models for addressing burnout have developed, they have presumed that stress is the primary physical and psychologi-

³⁸ Barry A. Farber, *The Process and Dimensions of Burnout in Psychotherapists*, 13 J. PROF. PSYCH. 293 (1982).

³⁹ Anderson, *supra* note 4, at 840, (“[Burnout is] a syndrome of emotional exhaustion, depersonalization of clients, and feelings of reduced personal accomplishment.”); HOOYMAN & KRAMER, *supra* note 1, at 352 (“[Burnout is] physical, emotional, and psychological exhaustion accompanied by a sense of demoralization and diminished caring, creativity, and personal accomplishment.”).

⁴⁰ Anderson, *supra* note 4, at 842 (discussing Maslach's Burnout Inventory categories as emotional exhaustion, depersonalization, and personal accomplishment, and discussing that knowledge about the relationship between the categories as limited).

⁴¹ C. MASLACH & S.E. JACKSON, *THE MASLACH BURNOUT INVENTORY MANUAL* (2d ed. 1986).

⁴² Anderson, *supra* note 4, at 842.

⁴³ Ellen Fink-Samnick, *The Professional Resilience Program: Defining the Next Dimension of Professional Self-Care*, 14 PROF. CASE MGMT. 331 (2009) (discussing how a lack of interest in being at work and apathy are evident to people around the disengaged therapist).

⁴⁴ Like burnout, stress is arguably not an independent emotional response to external stimuli, but rather a result of the accumulation of inadequately addressed emotional experiences coupled with inadequate organizational or personal support systems. See generally THERESA RANDO, *GRIEF, DYING, AND DEATH: CLINICAL INTERVENTIONS FOR CAREGIVERS* (1984).

⁴⁵ Figley, *supra* note 5, at xiv.

⁴⁶ HOOYMAN & KRAMER, *supra* note 1, at 64.

⁴⁷ *Id.*

cal response in the actor.⁴⁸ Stress-focused models treat stress as an independent condition rather than identifying it as a syndrome made up of a variety of emotions such as anger, anxiety, guilt, or loneliness. As such, burnout interventions that reduce an entire psychological experience to “stress” negate the existence of the underlying emotions. This simplifies the analysis of how to improve the emotional situation of the actor without examining in detail any previous adaptation experiences or struggles.⁴⁹ Finally, stress-dominant intervention encourages a focus on individuals, individual characteristics, and individual coping processes rather than offering meaningful examination of how cultural, community, and social factors may impact one’s ability to adapt, i.e., it ignores the context in which the actor acts.⁵⁰ In addition, stress-focused interventions presume that the actor lacks the ability to deal with personal feelings or consequences of earlier negative or inadequate attachment and bonding experiences.⁵¹

A stress-focused framework for thinking about attorney burnout in particular is problematic on many levels. Lawyers experience a wide range of emotions, and stress is but one reaction among many. Attorney burnout is more than simply the result of being overwhelmed by stress for long periods of time.⁵² High caseloads in public interest work or high billable hour requirements are realities of legal practice. The stress associated with those expectations can definitely cause long-term health and motivation problems. However, stress has become a kind of boogiemán of lawyering, the thing to avoid or the lawyer’s world will collapse in an emotional, mental, and physical downslide. While stress can sometimes be cured with a vacation, deep emotional experiences often need significantly more to be adequately addressed.

Stress is also inadequate to explain attorney burnout because it implies some flaw in the actor, that is, an inability on the part of the lawyer to handle the realities of his work environment or to find the source of the problem and “fix” it. And, as stress-focused coping implies, there should be fixed answers to distressing circumstances that, once identified, can be corrected and managed, thereby eliminating the negative emotional response. Any stress-based interventions

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.* at 65. The concept of nesting helps to frame stress as a contextual event—the individual does not exist in a vacuum experiencing stress independent of both external factors and a broad range of cultural and familial experiences.

⁵¹ *Id.*

⁵² Coplan, *supra* note 32, at 54, 56 (“[Stress is the] non-specific response of the body to a change or demand (stressor) that results in a physical, mental or emotional adjustment or response.”).

seem to take as given that once you identify the stressor, you can manage the emotions. As the lawyering process is, fundamentally, made up of human beings and unpredictable human interactions, an attorney who presumes that all distressing circumstances can be identified, corrected, and managed is bound for disappointment. There is nothing about this framework that accounts for both positive and negative emotional experiences or both controllable and uncontrollable situations.

Feelings of loss (or grief in extreme circumstances) may arise both when one feels she has given without getting anything in return and when one feels her lawyering efforts are wasted. If those feelings accumulate over time and are not addressed in an effective manner, they can have a long-term negative impact on both the lawyer and her clients.⁵³ Lashing out, anger, depression, and other behaviors associated with burnout can be the result of the accumulation of loss-related feelings from the past that were not addressed or resolved, and possibly not even recognized at the time they occurred.⁵⁴ Feelings of loss themselves may be characterized as ambiguous because of a perceived conflict between an attorney's ideals and the realities of the lawyering experience. More than just the result of stress, attorney burnout can be characterized as a symptom of accumulated, unresolved loss.⁵⁵

As lawyers are trained to use logic and rationality to approach problems, loss can go unrecognized and therefore unaddressed. Unaddressed loss can lead to self-protection, can lessen an attorney's ability to build openness to and empathy for her clients, and can limit the ability to be open in the attorney-client relationship.⁵⁶ Unaddressed loss may then negatively impact not only the current client relationship but also the next client interaction.⁵⁷ Unresolved loss can also lead to physical symptoms,⁵⁸ emotional changes,⁵⁹ and behavioral

⁵³ JAMES & FRIEDMAN, *supra* note 4, at 56; HOOYMAN & KRAMER, *supra* note 1, at 348 (“[U]nresolved loss is cumulative and cumulatively negative.”).

⁵⁴ DEITS, *supra* note 15, at 7.

⁵⁵ Certainly within one understanding of burnout, the condition is described as developing upon the accumulation of stress (resulting from the aggregation of unresolved emotional experiences) and an erosion of idealism resulting from intensive contact with clients. See B.A. Farber & L.J. Heifetz, *The Process and Dimensions of Burnout in Psychotherapists*, 13 *PROF. PSYCH.* 293 (1982). See also Charles R. Figley, *Compassion Fatigue as Secondary Traumatic Stress Disorder: An Overview*, in *COMPASSION FATIGUE AND SECONDARY STRESS DISORDERS IN THOSE WHO TREAT THE TRAUMATIZED 1* (Charles R. Figley ed., 1995).

⁵⁶ JAMES & FRIEDMAN, *supra* note 4, at 9-10 (“Incomplete grief will create hyper vigilant self-protection from further emotional pain. Sadly, this excess of caution limits the ability to be open, trusting, and loving, dooming the next relationship to failure.”).

⁵⁷ *Id.*

⁵⁸ Physical symptoms can include fatigue, poor sleep, and headaches. Farber & Heifetz, *supra* note 55, at 283.

changes.⁶⁰ All of these symptoms can lead to poor job performance and attrition among practicing attorneys.⁶¹

V. BUILDING RESILIENCE AND COMBATING BURNOUT BY ADDRESSING LOSS

Resilience has been defined as “the behavioral patterns, functional competence, and cultural capacities that individuals, families, and communities use under adverse circumstances (in this case, loss) and the ability to make adversity into a catalyst for growth and development.”⁶² Thus, background, adversity, resources available to a person, and mental and physical well being all play a part in assessing whether someone is resilient.⁶³ Helping students to find a place in their emotional lives for difficult emotions supports them in building resiliency. With resiliency they can counteract the influence of unresolved ambiguous loss that may lead to burnout.⁶⁴

Resiliency is a personal characteristic—it is in part an innate trait, but it is also a skill that can be learned. High resilience is part of a broader nest of learned skills that are necessary for effectively combatting burnout.⁶⁵ We can argue that the resilient lawyer is hardened, the lawyer who does not allow emotion to influence her decision-making or analysis. The model rational and emotionless attorney is, however, a fallacy. No individual engaged in human interaction as potentially intimate⁶⁶ as the attorney-client relationship is immune

⁵⁹ *Id.* Emotional symptoms can include anxiety, irritability, depression, and hopelessness.

⁶⁰ *Id.* Behavioral changes can include aggression, cynicism, and substance abuse.

⁶¹ Farber & Heifetz, *supra* note 55, at 283. See also JAMES & FRIEDMAN, *supra* note 4, at 47 (“When grief is incorrectly defined, a griever is unwittingly discouraged from following the normal sequence of emotions and actions that can lead to recovery. Grief is the normal and natural reaction to loss.”); DEITS, *supra* note 15, at 73 (arguing that if you do not acknowledge even small losses and begin to work through them collectively or individually, the experiences will accumulate over time with negative consequences).

⁶² HOOYMAN & KRAMER, *supra* note 1, at 66 (emphasis in the original).

⁶³ *Id.* High resiliency includes an understanding of and focus on both positive and negative outcomes and takes into consideration the contextual framework of any experience, including family structure, attachment, coping styles, etc. See WORDEN, *supra* note 23, at 66-70.

⁶⁴ See WORDEN, *supra* note 23, at 52 citing THOMAS ATTIG, HOW WE GRIEVE: RELEARNING THE WORLD 189 (1996) (“We can continue to ‘have’ what we have ‘lost,’ that is, a continuing, albeit transformed, love for the deceased. We have not truly lost our years of living with the deceased or our memories. Nor have we lost their influences, the inspirations, the values, and the meanings embodied in their lives. We can actively incorporate these into new patterns of living that include the transformed but abiding relationships with those we have cared about and loved.”).

⁶⁵ The degree to which any individual is resilient is a reflection of their experience within nested communities. See WORDEN, *supra* note 23, at 66-70.

⁶⁶ I do not refer here to physical intimacy, rather the depth of knowledge about and work with the personal and sometimes previously secret details of another person’s life.

from the influence of her values on the character and conduct of that relationship. Instead, lawyers suffer loss when time upon time they are asked to ignore their value systems and emotional lives and when their personal and professional identities have been tested. The resilient lawyer understands how to unpack his emotional responses to lawyering events in meaningful and constructive ways. The resilient lawyer facing a work-related loss finds ways to balance her personal needs, her value system, and both the positive and the negative experiences lawyering generates.⁶⁷

Some have argued that lawyering itself can create resiliency. For example, Charles Ogletree argues that with sufficient motivation, public defenders can foster and protect the original commitment and idealism that leads to the work of public interest lawyering.⁶⁸ He posits that resiliency⁶⁹ comes from a deep belief in the “heroic nature” of the work. This, he claims, will sustain an attorney working with traumatized populations in a system stacked against those clients and will stem the tide of burnout⁷⁰ and reinvigorate the practice of law.⁷¹ However, Ogletree’s theory is problematic on several levels. First, without dealing with the underlying causes of the burnout, i.e., the feelings of loss experienced during the process of lawyering, the attorney will not learn how to adapt to the process of the work. In addition, Ogletree’s theory ignores the skills-building necessary to maintain commitment over the long-term; if the lawyer bases his practice motivation on the idea that he is a hero for his clients, what happens on the day that he cannot convince himself of that role any longer?

Second, the hero framework is problematic to the lawyer-client relationship. The narcissistic tendencies and savior complex that might attach to such a mentality can infantilize the client, stripping the client of voice and agency in the attorney-client relationship. There are significant boundary problems in the model of the empathetic hero Ogletree describes, boundaries that, if not clearly delineated, can lead to

⁶⁷ See, e.g., Marcia E. Lattanzi-Licht, *Grief in the Workplace: Supporting the Grieving Employee*, in *LIVING WITH GRIEF: AT WORK, AT SCHOOL, AT WORSHIP* 25 (Joyce Davidson & Kenneth J. Doka eds. 1999).

⁶⁸ See generally Ogletree, *supra* note 8.

⁶⁹ Ogletree did not use the word resiliency to describe his theory, but ultimately that is the meaning behind his work; public defenders that are empathetic and heroic are more resilient in the face of the challenges of public defense work.

⁷⁰ Ogletree, *supra* note 8, at 1268 (“I describe burnout as the failure of one’s moral justification for undertaking indigent defense work to provide day-to-day motivation for getting up each morning, putting on a suit, and going to the office.”).

⁷¹ *Id.* at 1277 (“If a lawyer is convinced of the heroic nature of her role, she may be able to argue more forcefully and persuasively for a certain result in trials, negotiations, and other contexts. Moreover, by extending the definition of heroism to encompass the listener, the lawyer may be able to convince the jury to adopt the course of action that will produce the noblest and most just result.”).

even more intense experiences of loss.⁷²

Social science and other literature suggest other ways attorneys can build their resiliency to avoid burnout.⁷³ These burn-out avoidance methods include eating healthy, setting appropriate boundaries, unplugging from technology, investing in the self,⁷⁴ and learning to manage stress.⁷⁵ While all of the suggestions offered do have independent value, they do not involve internal reflection about the experiences attorneys are having or the impact of those experiences. By focusing primarily on the external, these suggested methods do little to begin a healing process that is sustainable over the long-term. Attorneys need both self-awareness and a commitment to self-care to be effective over the length of a career. Knowing how to identify and address feelings of unresolved loss in legal practice is a valuable resource in any practitioner's resiliency tool belt and offers clinical law professors the opportunity to guide the emerging legal community in developing patience for and tolerance of the expected negative and difficult emotions they experience.⁷⁶

VI. BUILDING RESILIENCE IN THE CLINICAL ENVIRONMENT

The therapeutic process for dealing with ambiguous loss is an exercise in building resiliency through adaptation in the face of uncertainty. It includes the following steps: finding meaning; tempering mastery; reconstructing identity; normalizing ambivalence; revising attachment; and discovering hope.⁷⁷

Adapting and building resiliency in the face of accumulated, unidentified, and unresolved loss experiences has internal, external, and spiritual components. External adaptation refers to how an emotional experience affects one's functioning in the every day world.⁷⁸ Much of this external adaptation in the clinical setting can take the shape of teaching client-centeredness. Asking students to reframe how they interact with clients and build their client relationships is necessarily an external endeavor. However, this external analysis includes the inter-

⁷² *Id.* at 1277. See also Abbe Smith, *Too Much Heart and Not Enough Heat: The Short Life and Fractured Ego of the Empathic, Heroic Public Defender*, 37 U.C. DAVIS L. REV. 1203, 1224 (2004).

⁷³ See, e.g., Christie Sprowls, *Compassion Fatigue and Attorneys*, 73 TXBJ 656, 657-58 (2010); Coplan, *supra* note 32, at 58.

⁷⁴ Sprowls, *supra* note 73, at 658.

⁷⁵ Stress, once again identified as a thing to manage and control rather than unpack and understand as an accumulation of difficult emotional responses.

⁷⁶ BOSS, *supra* note 12, at 18; Farber, *supra* note 38, at 12 (arguing that bringing therapeutic techniques into the graduate school classroom allows pre-professionals the opportunity to address the potentially dysfunctional or stressful aspects of their work).

⁷⁷ BOSS, *supra* note 12, at 14.

⁷⁸ WORDEN, *supra* note 23, at 46-47.

nal feature as well, that is, defining what value a student holds that may need to be reexamined in light of the client's specific circumstances.

It is also important to identify that the student may not even be clear about what values or beliefs she is imposing upon the client. While it may be that a student resents having to redefine her perspective or develop new skills, for the external adaptation to occur, that student must be able to identify the value, make sense of any challenges to that value, and consequently any emotional experiences attached to that challenge, and find a benefit in both the challenges and emotional experiences. External adaptations reflect the ambiguous loss model steps of revising attachments and normalizing ambivalence.

Internal adaptation, associated with the ambiguous loss therapeutic step of tempering mastery, on the other hand, refers to how a loss experience affects one's sense of self. How does the loss affect a student's self-esteem, identity as an attorney or as a human being, or his sense of acting within a system that exists entirely independently of the student?⁷⁹ An important consideration in this part of the analysis is the degree to which the student feels she has control over the experience that led to the loss experience or how much control she might have in the future in similar circumstances.

Finally, spiritual adaptation asks the student to reflect upon and consider how a loss experience affects one's beliefs, values, and assumptions about the practice of law.⁸⁰ Key to success in both the therapeutic process and the clinical teaching process are the personal attributions of the student and that student's belief and value systems. Spiritual adaptation is tied to resiliency through the ambiguous loss therapeutic steps of finding meaning, reconstructing identity, and discovering hope. In the context of ambiguous loss therapy, finding meaning refers to the need to redefine the self and one's place in the world without the deceased.⁸¹ If a grieving person can find meaning in her loss, overtime she will be healthier physically and mentally.⁸²

Ironically, the process of addressing difficult emotions does bring us full circle back to a kind of mastery; we are teaching students and ourselves to master self-awareness and to master addressing the difficult emotions that self-awareness identifies. Loss can shake the foun-

⁷⁹ *Id.* at 48.

⁸⁰ *Id.* at 46. See also HOOYMAN & KRAMER, *supra* note 1, at 74 (defining spirituality as a way in which we invest life with meaning and explaining that something is spiritual when it is important to us).

⁸¹ WORDEN, *supra* note 23, at 4. See also HOOYMAN & KRAMER, *supra* note 1, at 75-77 (explaining that we must be able to make meaning of loss in order to integrate that loss into our daily lives and offering several examples of ways to make meaning).

⁸² Ogletree, *supra* note 8, at 1276.

datations of an attorney's ideas and ideals about the legal profession.⁸³ In the same way that death challenges one's perceptions of the world and one's personal identity, loss in practice or frustrating, sometimes disappointing attorney-client relationships can challenge an attorney's perceptions of the value of the work the attorney is doing and identity as an attorney, as well as his belief in the efficacy of the legal system as a whole. By helping students to redefine their expectations through close examination of their values, they give meaning to their experiences, redefine their expectations, and build resiliency.

The adaptation process focuses on learning how to tolerate distress while continuing to be an effective worker.⁸⁴ This process is already reflected in clinical teaching methodologies, particularly in the sense that the clinical student is asked to examine her judgments and assumptions about clients, client behavior, the legal process, other attorneys, and broader social and political justice issues. Ambiguous loss-related reflective processes are conceptually different, however, as they ask the student to engage in a deeper examination of her emotional responses to her work. For instance, if a client does not participate in collecting information and supporting documentation to aid in proving an element of a case, a student may feel angry or frustrated by a perceived lack of cooperation. In a more traditional judgments and assumptions analysis, the faculty member might ask the frustrated student to identify reasons why the client may not have the capacity to participate.

An ambiguous loss analysis, on the other hand, would ask the student to name the emotional response she is having and then unpack the source of that response: what does the client's lack of participation mean for the student (find meaning)? How does the client's lack of participation influence how a student perceives the degree to which she can control case outcomes (tempering mastery)? What piece of the lawyering experience or lawyer-client relationship does the lack of participation impact (reconstructing identity)? What is valuable to the student about that piece of the lawyering experience or lawyer-client relationship (normalizing ambivalence)? And finally, how is the value of that experience changed or tested by the client's behavior (revising attachment)? From there, the student can begin to

⁸³ Ogletree, *supra* note 8, at 1277. J. William Worden describes that most people have three basic assumptions about the world that they use to function: that the world is a benevolent place; that the world makes sense; and that the person is herself worthy. His theory applies to how grievors respond in the face of death, however there are broader implications for how one perceives oneself as an attorney and the value and meaning of the work. It is also interesting to think about how spiritual resiliency impacts how an attorney perceives the worthiness of a client to representation. WORDEN, *supra* note 23, at 46.

⁸⁴ Lattanzi-Licht, *supra* note 67, at 21.

explore her difficult emotional reaction and give it context within her broader understanding of the world.

One of the compelling therapeutic techniques associated specifically with ambiguous loss is the focus on both positive and negative outcomes.⁸⁵ In doing so, the therapist moves beyond diagnoses of individual pathology to building a foundation for resiliency. It is a process of reconstructing meaning and rebuilding value and identity. As clinical teachers we can weave this paradigm of moving away from concrete end goals into the clinical experience—we can help students to reframe their process from “getting over it” or “moving on,” to developing the skills needed to foster and maintain a healthy practice.⁸⁶ The ambiguous loss model also allows faculty to challenge their own assumptions about the nature of loss. In this way the clinical environment becomes rich with opportunities to instill in students that loss is normal, that the feelings associated with that loss are normal, and that the co-existence of any conflicting ideas does not have to be confusing; this will aid both in preventing burnout and in maintaining a commitment to lawyering in general.

James and Friedman in their work on loss discuss three additional therapeutic premises that may be relevant to the law school clinic. First, all relationships are unique and therefore all recovery is individual.⁸⁷ Second, a focus on the shared intellectual truth of a situation does nothing to promote recovery, or for the purposes of this paper, resiliency.⁸⁸ Finally, isolation by type of loss may have short-term value but does not encourage long-term solutions.⁸⁹

The uniqueness of the student, the unique nature of the lawyering experiences, and therefore the intervention a faculty member might offer, necessarily reinforce that there is no one answer or method for working with students who are experiencing loss related to their practice experiences.

There are many intellectual truths about student clinical practice, including that students may not be able to withdraw from cases, that students often do better next time they are faced with a similar circumstances, and that some legal or practice issues cannot be addressed and “fixed.” However, focusing on these “truths” does little to help students address the emotions they experience about the situation at the time they feel them. Over-intellectualizing the experience

⁸⁵ WORDEN, *supra* note 23, at 6.

⁸⁶ *Id.* at 4.

⁸⁷ JAMES & FRIEDMAN, *supra* note 4, at 21. *See also* HOOYMAN & KRAMER, *supra* note 1, at 76 (describing that meaning must be constructed from a loss in a way that is appropriate for the individual).

⁸⁸ JAMES & FRIEDMAN, *supra* note 4, at 21.

⁸⁹ *Id.*

encourages only more isolation and less reflection. So much of the well-meaning, intellectualized aspect of loss response is reflected in comments that unintentionally diminish or invalidate the actor's emotions.

As we teach students the skills of cross cultural competency,⁹⁰ and empathy for example, it is important that we allow the students the room to express and feel validated in the negative aspects of their client relationships or experiences as well as in the positive. When students complain about disappointment in client relationships or outcomes, directing them immediately, for instance, to a parallel universe thinking exercise⁹¹ to foster understanding of the client's behavior may lead them to believe that we, as faculty, do not think they should be allowed to be angry, annoyed, or disappointed. Rather, acknowledging that students have a right and a reason to feel those negative emotions is critical to building resiliency. Without the space and the freedom to acknowledge the negative emotional response, students cannot begin to build foundations for the skills that will help them address difficult emotions in the future.⁹²

Finally, isolating a loss experience into a category, rather than examining the broader implications of that experience to the practice of law continues a pattern of compartmentalization and lack of reflection that works in direct opposition to building resilience. "The client did not tell me something important so the client is a liar and I do not trust her. Because this client lied, I will not represent clients I believe will lie to me," is a response a student may have to one particularly common and frustrating scenario. Realistically, though, there are only so many times one can say, "I will not represent liars," before the pool of potential clients dries up.⁹³ The faculty member is in a unique position to work with the student to address why the lack of disclosure is problematic for the student. Reflective questions might include: What is it about the lack of disclosure that is troubling to you? Is there something in particular about the client's representation to you that leaves you feeling out of control? How does that lack of control impact the way you're experiencing the situation? If you are not in con-

⁹⁰ Susan Bryant, *The Five Habits: Building Cross-Cultural Competence In Lawyers*, 8 CLIN. L. REV. 33 (2001).

⁹¹ *Id.* at 70-72.

⁹² See JAMES & FRIEDMAN, *supra* note 4, at 53 ("We do suggest that it's almost impossible to complete the pain caused by death, divorce, or other significant emotional loss without looking at everything about the relationship, not just the positive.").

⁹³ Clients represent things to their attorneys in ways that reflect what they find valuable to them and their cases. The representations may not necessarily comport with the attorney's idea of "truth." "Truth" is often a matter of perspective and "lying" happens for a myriad of reasons. Interpretations for both are reflections not only of what the client finds important but also of the lawyer's value system.

trol of the situation, what steps can you take to continue to effectively represent the client? Does the client's lack of disclosure impact the way you perceive yourself as an attorney or your relationship to the client? And, finally, are there things you can do for yourself to help yourself stay trusting in your clients?

A. *Resistance to Addressing Loss*

Many students choose lawyering as a profession because of its rationality, logic, and seeming lack of emotion. Despite the seemingly rational nature of the law, the lawyering relationship lends itself to building deep connections on an emotional level. How one identifies her experiences in this apparent dichotomy is dependent upon a multitude of cultural factors, including religion, class, race, and gender. It is also dependent on the context of the students' lives, i.e., how they form and maintain attachments, how they generally deal with ambiguity in their world, and whether they identify themselves as actors in their environments or as passive recipients of forces outside of their control.⁹⁴

Difficult emotions exist on a spectrum that ranges from disappointment to loss to genuine grief; the extent of the impact on the student or attorney from the negative emotional triggers relates in part to the degree of attachment that person feels toward the value or belief being triggered.⁹⁵ As a result, some students might not identify their difficult emotional experiences as loss-related and might be disinclined to commit to the idea of using loss-related therapeutic techniques to unpack those experiences. For those people, the techniques described in this paper may seem less relevant.

For students who do, however, find themselves experiencing difficult emotions as a result of his practice experience, the techniques described in this paper can support long-term commitment to lawyering work. The techniques can help those students adapt to the ever-changing landscape of the attorney-client relationship, the posture of a case, and previously unrecognized experiences of loss in their practice. By introducing the techniques described in this paper, the clinical professor can use the experience and understanding of loss to open students to greater awareness of their values, to deeper sensitivity to themselves and their clients, and to increase empathy both in the

⁹⁴ HOOYMAN & KRAMER, *supra* note 1, at 73 ("Grieving implies acting rather than remaining passive. The individual level of human agency – the will to do or to be something – appears to be important to resiliency.").

⁹⁵ *Id.* at 3 ("Change in itself – whether positive or negative – always contains loss and learning to let go, although not all losses precipitate a grief response. Such a response depends on a wide range of personal, family, and community capabilities and the degree of attachment to the lost person or object."). See also WORDEN, *supra* note 23, at 66-70.

clinical setting and in practice after graduation.⁹⁶

Loss occurs as a matter of course in the lawyering relationship. However, there are no absolutes in how that loss manifests or how one will respond.⁹⁷ In other words, there is no one reaction to loss—only the guarantee that a loss will occur.⁹⁸ Whether or not students identify their emotional responses as loss, it is possible to use loss-based reflective techniques with them to tease out an understanding of the impact of difficult emotions on the work students do in clinic.

B. *The Clinical Professor*

Within any therapeutic framework it is necessary for the therapist to be deeply in tune with his own emotional responses to client revelations; the same is true for the clinical faculty member. As a supervisor working with students around loss, it is important to recognize one's own experiences of and one's own emotional reactions to loss. Without a fairly reflective understanding of and healthy relationship with one's personal history of loss, a faculty supervisor cannot necessarily provide a solid foundation upon which a student can build.⁹⁹ The extent of a faculty member's effectiveness in helping students address their difficult emotions relates directly back to that faculty member's self-awareness.

It is interesting to consider that as faculty supervisors, we are engaged in a constant process of self-supervision. That is, we are both monitoring our students during their practice experiences and monitoring and reflecting upon our reactions to those students. Self-supervision for the faculty member might be framed as a method of self-care.¹⁰⁰ The clinical faculty member can use the questions and exercises included here to promote her own reflection on loss and to challenge herself through a better understanding of her reactions to students, the work they do, and the clients they represent.

C. *Bringing Therapeutic Techniques into the Classroom*

Much like the varied responses students will have to loss in their practice, the therapeutic techniques described below allow for variation in how a clinical supervisor can address a student's experience; it is not a one-size approach but rather a flexible inquiry that encourages

⁹⁶ HOOYMAN & KRAMER, *supra* note 1, at 76.

⁹⁷ *Id.* (discussing that in relation to grieving, reconstruction of meaning cannot begin until the bereaved is ready to explore the issues).

⁹⁸ JAMES & FRIEDMAN, *supra* note 4, at 14-15.

⁹⁹ ELIZABETH CHENEY POMEROY & RENEE BRADFORD GARCIA, *THE GRIEF ASSESSMENT AND INTERVENTION WORKBOOK: A STRENGTHS PERSPECTIVE* 217 (2009).

¹⁰⁰ PATRICK J. MORRISSETTE, *SELF-SUPERVISION: A PRIMER FOR COUNSELORS AND HEALING PROFESSIONALS* xvii (2002).

students to address their loss experiences in real time while allowing them room to return to those experiences as needed.¹⁰¹

Whenever a clinical supervisor believes loss-related issues are beginning to impact a student, the first question that supervisor should consider is, “Does the student himself understand that he is having a loss experience?” It is important that the student understand not only that what she is feeling is a sense of loss but also that she is entitled to feel that loss. Without achieving that second piece, i.e., knowing that it is okay to have the emotional response, the student cannot access the support she may need to move through the process of addressing the difficult emotional reaction.¹⁰² For law students engaged in clinical practice, finding the internal permission to accept difficult emotions means challenging all of the expectations, realistic or unrealistic, they may have about lawyering, e.g., all the notions of lawyering being a profession of logic, neutrality, and reason without emotion. If we remain silent about negative emotions or pretend they do not or should not exist, we set the student (and the lawyer she will become) up for a career of not handling loss well.¹⁰³ As a result, the clinical supervisor should guide a student in identifying the source of her emotions and help her to be accountable for working through it.

A second critical piece in the process is learning to identify that when someone has a loss-related response, those feelings of loss are the direct result of a challenge to our values.¹⁰⁴ Loss affects one’s beliefs and assumptions about the world, our place in it, and the meaning we attribute to our experiences.¹⁰⁵ This is an important concept to remember as one thinks about the culture of lawyering. Accumulated unresolved loss can impact how an attorney approaches lawyering, a reaction that may be particularly acute when an attorney’s self-esteem, self-confidence, ideals, and idealism are challenged.

In direct contrast to the “traditional” lawyer as a neutral tool model, clinicians have worked to change the culture of lawyering, teaching that empathy¹⁰⁶ leads to better representation and greater

¹⁰¹ WORDEN, *supra* note 4, at 8.

¹⁰² *Id.* at 53.

¹⁰³ DEITS, *supra* note 15, at 73 (“As long as you tell yourself you shouldn’t feel as you do or pretend that you don’t hurt, the loss stays with you.”).

¹⁰⁴ WORDEN, *supra* note 23, at 53. *See also* HOOYMAN & KRAMER, *supra* note 1, at 8.

¹⁰⁵ WORDEN, *supra* note 23, at 46. *See also* DEITS, *supra* note 15, at 18-19.

¹⁰⁶ DAVID A. BINDER, PAUL BERGMAN, PAUL R. TREMBLAY, & IAN S. WEINSTEIN, *LAWYERS AS COUNSELORS: A CLIENT CENTERED APPROACH* 27 (3rd ed. 2012) (“Empathy has been broadly defined as understanding the experiences, behavior and feelings of others as they experience them. It means that lawyers must, to the best of their abilities, put aside their own biases, prejudices and points of view to understand as clearly as possible the points of view of their clients.”) (citations and quotations omitted).

understanding of client needs.¹⁰⁷ When we teach empathy as a tool of effective lawyering, we are teaching law students to feel for their clients, to care about what their clients are experiencing and to approach their clients non-judgmentally as they proceed with their case work. Empathy, in turn, can become a sustaining motivation in continuing difficult work.

Ironically, however, because empathy necessarily allows the lawyer to develop a deeper understanding of her clients' needs and sensitivity to the clients' experiences, it may lead to a stronger loss response in the face of disappointment, disillusionment, or actual direct loss.¹⁰⁸ As students increase their ability to be emotionally present with clients, they will be touched in personal ways, i.e., there will be an impact on their values and value systems. The relationship between loss responses and empathy is dynamic. Greater empathy may lead to heightened experiences of loss, and yet with adaptation and coping skills, those greater feelings of loss can lead to increased empathy and long-term positive impact. Teaching empathy in isolation from loss becomes insufficient in the clinical environment because as we teach the students to feel for their clients, we must also teach them to deal with their own feelings, both positive and negative. Teaching students to be aware of the difficult emotions associated with loss that can arise as they conduct the work of lawyering is just as important as teaching the student how to lawyer empathically.

Usually the cause of an ambiguous loss is external, meaning it is an experience that impacts the attorney, but it is not intrinsic to the attorney himself. Boss, for example, used the illness of Alzheimer's Disease to demonstrate external causation: the simultaneous presence and absence of the Alzheimer's patient is an external circumstance

¹⁰⁷ Countless studies have been done to measure what it is a client wants from her lawyer; what is almost universally true is that clients want to know that their lawyers care about them. See, e.g., Melissa L. Breger, et al., *Teaching Professionalism in Context: Insights from Students, Clients, Adversaries, & Judges*, 55 S.C. L. REV. 303, 327 (2003); Anne E. Thar, *What do Clients Really Want? It's Time You Found Out*, 87 ILL. B.J. 331 (1991); Gary A. Hengstler, *Vox Populi: The Public Perception of Lawyers: ABA Poll*, 79 A.B.A. J. 60 (1993); Stephen Ellman, *Empathy & Approval*, 43 HASTINGS L.J. 991, 994 (1992) ("The features that clients seek in their lawyers . . . include loyalty, respect, warmth, advice, and understanding."); WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 6* (Carnegie Foundation for the Advancement of Teaching 2007) (identifying that the current state of legal education fails to support the development of ethical and social skills). See also Ogletree, *supra* note 8, at 1274-75; Gerdy, *supra* note 33, at 16 ("In other words, while analyzing the law and using one's intellectual skills is the key to preparation, learning the law, conducting legal research, and analyzing problems, once the lawyer steps into the room with the client, her understanding, empathy, and compassion . . . become equally important.").

¹⁰⁸ HOOYMAN & KRAMER, *supra* note 1, at 360.

that creates contradictory and confusing feelings for the family member. In the law school clinical environment, the externality of the loss resides in the client's conduct or in the practice environment. As a result, because the loss is not initially defined as an intrinsic flaw or fault of the student, the faculty supervisor can look beyond whatever physical, emotional, or behavioral symptoms the student is exhibiting to focus on the student's existing strengths.¹⁰⁹ By fostering those strengths, the faculty member can support the student in understanding that there may be no formal resolution possible and that it is not the fault or responsibility of the student that resolution is elusive.¹¹⁰

The ambiguous loss model is helpful in the law school clinical teaching context because it provides clinical professors with another tool for teaching resiliency in dealing with ordinary as well as catastrophic experiences that may impact the work of lawyering. Joining the ambiguous loss model with other therapeutic techniques, the faculty member can work with the student to find meaning in situations that defy logic or understanding and to understand that building resilience is critical to long-term success.¹¹¹ Teaching methods aligned with ambiguous loss principles work to increase adaptation and resiliency. Adaptation and resilience focus on how to integrate competing or contradictory external factors into a working understanding of the world without pointing blame at the actor. Adaptation and resilience work together to help students understand that when a situation cannot be fixed in the commonly understood sense of finding a solution and moving on, the student still has the ability to identify ways to live with the anxiety caused by the lack of a solid, discernible answer.¹¹²

One critical value that accumulated unresolved loss can impact is that of professional identity. For the clinical students, even incidents as seemingly benign and commonplace as a client not returning tele-

¹⁰⁹ Feelings of loss related to external circumstances exist in a dynamic relationship with a student's intrinsic characteristics. An external event may reverberate within some value or value system an attorney holds. That reverberation causes a feeling of loss that is inherently internal or intrinsic. The attorney must reconcile the feeling or value with the external event in some capacity to begin working through it which necessarily returns the emotional experience to a place outside the attorney. It is an internal examination necessary for effective external functioning.

¹¹⁰ Boss, *supra* note 12, at 6. This of course is a different conversation with a student than the one that happens when a student simply did not do required work that, if it had been done, might have impacted the posture of a case. This paper works from the presumption that the student is working to capacity and is still finding herself frustrated and disillusioned.

¹¹¹ Boss, *supra* note 12, at 6.

¹¹² *Id.* at 11. Also, it helps the student to focus on the stress of the ambiguity rather than on the stress of the event itself, which also increases resiliency and the ability to adapt. Ellman, *supra* note 107, at 994 ("The features that clients seek in their lawyers. . . include loyalty, respect, warmth, advice, and understanding.").

phone calls challenge assumptions about professional identity, lawyering, the role of the lawyer, and the control over a client and case that a lawyer wields. Students can cling to ideas of what it means to lawyer in ways that faculty may or may not understand, ways that the students have built their understandings of lawyering upon. If a student, or any practicing attorney for that matter, has invested himself in the professional identity of “lawyer,” when that identity is challenged or the beliefs upon which that identity is founded are called into question, disillusionment can creep in.¹¹³ Over time, that disillusionment can infect every choice the student makes. Healthy adaptation, and hence resiliency, require rebuilding from that disillusionment such that we can see the lawyering world and clients in a better light. Healthy adaptation also helps the student to understand that disillusionment can exist simultaneously with all the positive experiences. Resiliency means identifying and processing this ambiguity that lies at the heart of the practice experience.¹¹⁴

There is a more pragmatic reason for helping students to build a foundation for addressing their grief: professional responsibility. The Model Rules of Professional Conduct¹¹⁵ articulate the responsibilities of the practicing attorney: competence, diligence, zealous advocacy, and effective communication. If attorneys are unable to identify for themselves when their emotional condition is negatively influencing their ability to work or the quality of their work in these realms, they cannot take steps to address that negative influence and correct any resultant problems.¹¹⁶ This can, in turn, lead to problems with grievance committees, malpractice claims, and maintaining employment in the long-term.

Working with students on processing loss is not unlike teaching them client-centered lawyering.¹¹⁷ At its heart, the therapeutic steps through which a therapist guides a client remain unfixed, that is, they

¹¹³ HOOYMAN & KRAMER, *supra* note 1, at 75.

¹¹⁴ *Id.* at 76.

¹¹⁵ MOD. R. PROF. CON. 1.1, 1.3, 1.4 (2012).

¹¹⁶ By “correcting resultant problems” I do not mean “fixing” the negative emotions. Rather, I mean fixing the correctable issues in a case that may have been caused by the student or attorney’s inability to work effectively.

¹¹⁷ WORDEN, *supra* note 23, at 53. Teaching client-centeredness in itself can help to externalize the focus of a student’s emotional reaction to a loss related to the attorney-client relationship. As we teach the student some of the basic tenets of client-centeredness, i.e., providing the client with information about legal options and allowing the client to make final decisions based on their own sets of values and needs (both legal and non-legal), or identifying that what we know about a client’s experience of the legal process and life in general is but the tip of the iceberg of our understanding of that client’s motivations, we can demonstrate for them that the source of the feeling of loss is external and not necessarily an internal flaw to the student. See also Katherine R. Kruse, *Fortress in the Sand: The Plural Values of Client-Centered Representation*, 12 CLIN. L. REV. 501 (2006).

are not rote steps that must be followed in a specific order. Rather the process is a series of tasks that can be revisited and worked through as many times as necessary.¹¹⁸ In addition, an ambiguous loss methodology begins with reflection and self-exploration, skills already integrally tied to clinical teaching methodology. Through reflection related to loss and the value systems students hold, reflection that downplays outcomes in favor of questioning and evaluation,¹¹⁹ student attorneys can learn to identify and name issues that may have a major impact on their client relationships. Students may then find that they can revise the weight they give to their experiences in the broader context and the meanings they give those experiences¹²⁰ which will, in turn, give them the ability to process their difficult emotions without or with a lessened negative impact on the current client or the next case.

D. Clinical Methodologies

Many legal scholars argue that practicing skills, particularly in a law school clinic, is as important as talking about them.¹²¹ By practicing, students can better see the dynamic relationship between their own internal value systems, their knowledge, and the reality of practice environments. Reflecting back on the therapeutic construct of nested communities, the law school clinic is nested within the larger law school community that is, in turn, nested within the even larger community of the legal profession. Within the clinic environment, students have the opportunity to identify what is meaningful for them and what values engendered by their colleagues and the profession they wish to foster and emulate. They also have the chance to decide what conduct they observe in other attorneys they do not want to emulate. As a result, the nested posture of the clinic provides solid ground for building professionalism, empathy, and lawyering skills.

Practicing skills also leads to the development of habits, both long and short term. Habits are formed when we do the same thing in the same way over and over. Physical behaviors as well as emotional be-

¹¹⁸ WORDEN, *supra* note 23, at 53. *See also* JAMES & FRIEDMAN, *supra* note 4, at 7 (positing that a part of learning to grieve and moving forward is recognizing that it is okay to return to the feelings of loss and talk about them no matter how those around the speaker react).

¹¹⁹ WORDEN, *supra* note 23, at 4.

¹²⁰ *Id.*

¹²¹ *See, e.g.,* Juliet M. Brodie, *Little Cases on the Middle Ground: Teaching Social Justice Lawyering in Neighborhood-Based Community Lawyering Clinics*, 15 CLIN. L. REV. 333 (2009); Alice M. Noble-Allgire, *Desegregating the Law School Curriculum: How to Integrate More of the Skills and Values Identified by the MacCrate Report into a Doctrinal Course*, 3 NEV. L.J. 32 (2002).

haviors can become habitual when we repeat them on a regular basis. When faced with negative emotions, people will often fall back on their habits, on their old ways of coping, in order to “move on.”¹²² Like most reflective processes, building new habits has some critical components, namely: becoming aware that you need a new habit; learning the component parts necessary to build that new habit; and practicing the new ideas so they can be turned into the new habit.¹²³ Teaching reflection on loss allows students to develop helpful “fallback” skills for handling and learning from their painful, disappointing, or simply confusing lawyering experiences.

1. Case Rounds

Case rounds are an ideal place to explore, in a directed manner, therapeutic techniques to discover whether feelings of loss are manifesting among students in the clinic. Rounds are a lawyering event in the same way other clinical experiences are lawyering events wherein the students can learn to identify and become comfortable with reaching out to colleagues as they struggle with complicated situations. Rounds are also analogous to interdisciplinary team meetings¹²⁴ as a place wherein student attorneys and clinical faculty can help identify when grief responses are occurring; in addition, the rounds space offers ways for student colleagues to recommend ways of addressing those grief responses.¹²⁵ Directed reflection during rounds on students’ values, challenging assumptions, negative experiences with clients, etc., can work to instill in students the disciplined self-awareness that will help them respond effectively to client needs.¹²⁶

The case rounds space can be used as time for students to listen supportively to each other and to help problem solve when emotional distress is negatively impacting another student’s ability to carry out important tasks.¹²⁷ In the Levin & Griesberg study,¹²⁸ responding attorneys indicated that the “lack of systemic education regarding the effects of trauma on their clients and themselves and the paucity of

¹²² See, e.g., Judith A. Ouellette & Wendy Woody, *Habit & Intention in Everyday Life: The Multiple Processes By Which Past Behavior Predicts Future Behavior*, 124 PSYCH. BULL. 54 (1998).

¹²³ *Id.* at 74.

¹²⁴ See, e.g., National End of Life Care Programme, *Optimizing the Role and Value of the Interdisciplinary Team Meeting* (2013), <http://capcsd.org/interprofessional/EoLC.pdf>.

¹²⁵ WALSH, *supra* note 8, at 28, 30. See also HOOYMAN & KRAMER, *supra* note 1, at 81 (“Similarly, a perception of positive social support is usually identified with a positive adaptation of loss (citations omitted).”).

¹²⁶ WALSH, *supra* note 8, at 20.

¹²⁷ HOOYMAN & KRAMER, *supra* note 1, at 82 (discussing how creating community with people who have experienced similar losses can be a helpful form of support).

¹²⁸ Levin & Griesberg, *supra* note 6, at 252.

forums for regular ventilation were significant contributors to the development of secondary trauma and burnout.”¹²⁹ While the study secured as its focus secondary trauma within the profession, the lesson is transferrable to an attorney’s direct experience of loss in his practice. Case rounds can provide an initial space for that missing “forum for regular ventilation”¹³⁰ of distressed emotions. It is a basic premise of case rounds that the group environment is beneficial for brainstorming and problem solving.¹³¹ It can also be a place where students explore the potential negative impact of difficult emotions on performance in the clinical setting and in practice long-term. In addition, allowing students to talk about their negative experiences with their colleagues gives both the student experiencing the loss and his classmates the opportunity to consider the precarious nature of and vulnerability of their profession and their clients.¹³² It also, consequently, provides yet another opportunity for students in the clinic to practice their own empathy skills in listening to their distressed classmate and responding in non-judgmental ways to the experiences of the professionals around them.

Case rounds can become a place where students practice what it feels like to share their difficult emotional experiences with their colleagues. As students move into practice environments outside of the relative safety of the clinical classroom, they may feel uncomfortable sharing those same kinds of experiences with colleagues. Rounds allow students to recognize that every professional can make a contribution to addressing loss because every professional has experienced a loss-related event at some point in their career.¹³³ It reflects the broader value of interdisciplinary collaboration, that is, sharing important information, making referrals, and reflecting on the circumstances without having a formal setting.¹³⁴

From the perspective of the faculty member, discussing loss experiences and difficult emotions can create an environment rich for

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Susan Bryant & Elliot S. Millstein, *Rounds: A “Signature Pedagogy” for Clinical Education*, 14 CLIN. L. REV. 195, 195 n. 1 (2007).

¹³² Farber, *supra* note 38, at 11. *See also* Anderson, *supra* note 4, at 841 (“Social support, especially the support of one’s colleagues and supervisor was identified as the coping strategy which offers the strongest preventative of burnout in child welfare workers.”).

¹³³ Farber, *supra* note 38, at 12 (discussing the benefits of professional support groups in creating room for problem solving and lessened isolation, and arguing that professional networks can foster an environment where individuals share with and learn from each other).

¹³⁴ Patricia Berendsen, *Staying Passionate: Five Keys for Keeping the Soul in Our Work*, 18 THE NEW SOC. WORKER 12 (2011) (arguing for the benefit of developing safety nets for the honest feedback from and the support of other committed professionals).

additional reflection. For instance, as part of rounds, the faculty supervisor can ask the remaining students questions such as: How comfortable are you listening to your colleague describe her difficult emotional experience? What is influencing your comfort level? What is hardest for you to listen to as you hear your colleague describe his difficult emotions? To what extent are your responses to your colleague influenced by your own experiences of difficult emotions with your cases and clients?¹³⁵

2. *Supervision*

Supervision provides an environment in which a faculty member can assess both the effectiveness of the work a student is doing and the effect of the work on the student.¹³⁶ It affords a myriad of opportunities to address professionalism concerns and offers the faculty member the opportunity to address in a very personal and individual way the needs of the distressed student. It is space wherein the supervisor can identify and take into account the student's physical, psychological, emotional, spiritual, and work-place self care needs through reflective questions, journaling, and other strategies. If the faculty member does not understand the values of her students, it is possible she will miss the source of unresolved loss symptoms. Questioning students about their reasoning and decision-making in supervision provides the faculty member the opportunity to explore whether unresolved feelings are impacting how the student is lawyering.¹³⁷ It

¹³⁵ Adapted from HOOYMAN & KRAMER, *supra* note 1, at 354. A risk of opening the loss conversation in case rounds with students inexperienced in and potentially uncomfortable with the topic, is that rather than a place of support, case rounds can devolve into an exercise in student "one-upmanship." Generally one-upmanship is used to describe circumstances where one participant in a conversation seeks to grab attention away from or invalidate the experience of another participant. However, the tendency to one-up can occur for many reasons including just not knowing what else to say. As a broader topic, one-upmanship in rounds is outside the scope of this paper, however, one can find excellent resources for handling group dynamics, including making clear the rules of the session and techniques for redirecting if one-upping occurs. *See, e.g.*, ED E. JACOBS, CHRISTINE J. SCHIMMEL, ROBERT L. L. MASSON, & RILEY L. HARVILL, *GROUP COUNSELING: STRATEGIES & SKILLS* (8th ed., 2015).

¹³⁶ WALSH, *supra* note 8, at 27.

¹³⁷ Lattanzi-Licht, *supra* note 67, at 24 ("Frequent supervision and problem-solving efforts can help the employee maintain self-esteem and a sense of contribution. Brief meetings, approximately 15-20 minutes every one to two weeks, to set mutually agreed upon short-term goals and where any difficulties the employee is having can be discussed, are an effective supervision strategy. Allowing the employee to identify the areas of adequate functioning and those where additional help may be needed builds trust and support and enhances functional potential for the employee."). This is by very definition supervision in the clinical context—working therapeutic grief techniques into supervision requires little to no expansion of the time required for supervision and the process of identifying places of good work as well as places needed for improvement. It offers support as well as accountability for the impact of the negative emotions in a structured environment to which the

also provides the faculty member the chance to begin guiding the student through addressing those feelings and identifying where those feelings are injecting themselves into the lawyering experience.¹³⁸

Reflection and self-evaluation in supervision are spaces rich with opportunities to practice self-awareness in emotional response. Taken together, reflection and self-evaluation, along with conversations in case rounds, can be classified as active coping strategies.¹³⁹ Active coping skills and strategies have been shown to reduce client depersonalization and increase the sense of accomplishment felt at work.¹⁴⁰ Conversely, avoidant strategies, defined as problem avoidance, wishful thinking, social withdrawal, and self-criticism,¹⁴¹ have been shown to reduce feelings of personal accomplishment, and increase emotional exhaustion and client depersonalization.¹⁴² Avoidant strategies seem to fall into the same category as traditional lawyering models that encourage rationality, logic, the suppression of emotions and a “get over it and move on” mentality.

Particularly within the ambiguous loss model, supervision allows both the student and the faculty member to consider what can and cannot be changed within both the context of the current circumstances and looking forward to future lawyering relationships. Context is critical to understanding more easily recognized experiences of loss and our responses to it;¹⁴³ it is also critical to understanding what the student might need to work through his responses to the more ambiguous loss experiences he will have in clinic. Supervision allows the faculty member to learn about the external influences that will affect how the student perceives and copes with difficult emotional reactions¹⁴⁴ including culture, history, economics, age,¹⁴⁵ race, gen-

student is accustomed.

¹³⁸ WALSH, *supra* note 8, at 20-21. A different question arises when the professor feels the student is having an emotional response that is disproportionate to the loss experience or that seems to indicate a deeper emotional struggle than the clinical environment is equipped to handle. In those circumstances, the faculty member should refer the student to a therapist or counseling service if the student is not already engaged with one. There are times when it is the appropriate response to acknowledge that the clinical supervisor does not have the skills necessary to work the student through her emotional experience effectively. Incidents of secondary trauma may fit this category, or indications that the student’s mental health is being compromised in unpredictable ways for whatever reason.

¹³⁹ Anderson, *supra* note 4, at 842 (defining active coping strategies as problem solving, cognitive restructuring, social support, and expressing emotions).

¹⁴⁰ *Id.* at 845.

¹⁴¹ *Id.* at 842.

¹⁴² *Id.* at 845.

¹⁴³ *Id.* at 841 (“Available resources, including intra-individual, interpersonal, and environmental, as well as the specific nature of the stressful episode all contribute to coping efficacy.”).

¹⁴⁴ Boss, *supra* note 12, at 2-3.

¹⁴⁵ Age is interesting to consider when thinking about loss. Generally, adults over the

der,¹⁴⁶ and any previous experiences the student may have had with marginalized communities. Having this broader perspective on the student is necessary to effectively helping that student work through the lawyering experience to build resiliency.

Students may not always recognize when anger or avoidance is a direct reaction to a loss experience that is happening as a result of a lawyering experience. The supervisory relationship allows the faculty member to work with students to identify the sources of the anger. It also creates a supportive environment where students can recognize that anger, disillusionment, and disappointment walk hand in hand with the practice of law. Helping students to both expect and address difficult emotions can be a step toward limiting the chances that hostility and resentment might fester.¹⁴⁷

age of 60 are better prepared to deal with loss—loss tends to increase with age and is to some extent anticipated. This does not mean, however, that older individuals are better able to handle the losses once they occur and in fact there is research to support that accumulated unresolved losses over a lifetime can negatively impact an individual's ability to cope. See HOOYMAN & KRAMER, *supra* note 1, at 70. See also Boss, *supra* note 12, at 4 (“In addition, each loss typically has cumulative and secondary consequences, reverberating across generations and social systems. When we experience related losses, we tend to ‘regrieve’ our earlier losses from a different perspective.”).

¹⁴⁶ There are significant gender stereotypes that are applied to grief response: 1) intuitive grief response, wherein grief is expressed in an affective manner, i.e., outwardly directed feeling-oriented manner, is stereotyped as female; 2) the instrumental manner in which grief is expressed physically or cognitively is stereotyped as male. Although the manners of grieving are different, whether or not they are gender-based, both are to be respected as effective means of addressing and expressing grief. See HOOYMAN & KRAMER, *supra* note 1, at 69.

¹⁴⁷ See, e.g., Berendsen, *supra* note 133. One way students may take things personally is by feeling guilt: guilt at not being able to “help;” guilt at not having the right answer immediately; guilt over the result that was ultimately reached in a matter. There is a significant difference between feeling guilty about not getting the work done in time or well and feeling guilty about an outcome over which the student had, ultimately, no control. Over time, misplaced guilt that is really a reflection of lack of control can become a source of anger and frustration that harms the lawyering relationship. Feelings of guilt derive from an internal ability to affect change; guilt presumes a measure of responsibility to and control over a process that may or may not be appropriate. It is an emotional response tied to the notions of mastery and control that are so endemic to lawyering culture and, as such, becomes an emotional response akin to loss that a faculty supervisor can tackle. One method for addressing guilt, developed by James and Friedman, is to ask, “What do you wish had been different, better, more?” Wishing that something could be different, better, or more is not the same as experiencing guilt. When the source of the loss is external and we help the student to recognize that externality, we can help reduce the self-blame that is often subsequently projected onto the client or the object the student perceives as being the source of the loss. We can also increase the student's tolerance for not having a definitive answer, i.e., we allow the student to experience that it is acceptable to not be able to master a situation in its every respect. This is not to say, however, that we should not guide the student to accepting responsibility for their emotions and their emotional responses. The client did not make the student angry by behaving in a certain way, for instance. Rather the student is responsible to acknowledge, without judgment, that anger is the response she had to the client's behavior - this is the work of completing our relationship to

Finally, discussing loss in supervision may offer a way to teach the compartmentalization that is critical to effective functioning in the workplace. Compartmentalization is not the kind commonly thought of, e.g., how to separate and quash difficult emotions from examination. Rather, it is the compartmentalization that aids the student in adapting and in reconciling the conflicting ideologies and cultures of lawyering. The faculty member can do this by exploring with students how their difficult emotions may be influencing their interactions with or assumptions about clients across their caseload. Isolating the negative response to the circumstances of one client's behavior is critical to ensuring that the emotional reaction does not impact work for other clients occurring simultaneously. The faculty member can help students begin to set aside personal concerns so that the work that needs to get done gets done. However, that does not mean setting the feelings aside and ignoring them, it includes working with the student to accept accountability for addressing the emotions. Setting aside difficult emotions can be an effective coping strategy as long as it is paired with deliberate strategies for eventually addressing them.¹⁴⁸ Working on "temporarily setting aside" provides an opportunity for the faculty member to help the students become aware of their responses, develop their self-awareness, and recognize when they need help.

3. *Journaling & Reflective Writing*

Reviewing personal experiences of loss outside of the context of death allows practitioners to respond effectively to their clients. It also helps to ensure that the residual effects of those earlier loss experiences do not creep into the work a practitioner is currently doing.¹⁴⁹ Reflection through journaling or reflective writing (as well as through direct question and answer in supervision) is another tool clinical supervisors can use to develop awareness about personal values and addressing challenges to those values. In the context of dealing with negative emotions, journaling the events that have led to the emotions gives them significance; it validates for the student that those emotions are a response to what is happening in practice. Ask-

the pain, disappointment, anger, and frustration caused by what has happened. James & Friedman argue that the "different, better, more" question gets at the source of the loss or value that has been impacted by the loss. It is similar to, although different from, asking a student, "what did you do well and what could you have done differently?" as it speaks directly to student values without making that connection immediately obvious. See JAMES & FRIEDMAN, *supra* note 4, at 61-64. See also BOSS, *supra* note 12, at 16; Fink-Samnick, *supra* note 43, at 330 ("One's ability to take ownership for reexamining, redefining, prioritizing, and then committing to achieving their life goals is . . . essential.").

¹⁴⁸ Lattanzi-Licht, *supra* note 67, at 21 (discussing other personal responsibilities including self-awareness and recognition of personal limitations).

¹⁴⁹ WALSH, *supra* note 8, at 20.

ing the student to then make a plan for how to address the experience that led to the difficult emotion, together with the difficult emotion itself, encourages the student to look forward rather than to harbor and suppress the emotional response he is having.¹⁵⁰

Thinking back to the preliminary therapeutic question discussed above, “Does the student recognize that she is having a loss experience?” the clinical faculty member can begin the reflection process with a writing exercise. Working with the student on a journal piece that addresses the following questions can initiate and support the process of developing increased self- and emotional awareness:

1. Describe what has happened that has left you feeling conflicted. When did this happen?
2. Write about the importance that person or event held for you.
3. Do you feel something was lost in the experience? What do you feel has been lost?
4. Describe your feelings about the event in as much detail and with as many feeling words as you can.
5. How does this event impact your life overall? Have you felt an impact on anything else in your life as a result?
6. Looking over your answers to the questions above, what can you learn about what you valued in either the client or the event itself?
7. Considering your response to Question 6, what emotional responses do you feel would be appropriate and why?¹⁵¹

From that point, the faculty member can continue the process through journaling if the student responds well to the methodology.

Bob Deits, M.Th., developed another writing exercise for people grieving the death of a loved one that faculty can adapt to the clinical environment. Deits argues that if you have experienced grief, you have someone to forgive.¹⁵² It may be that students need to learn to forgive clients for whatever event or choice started the negative emotional response. This is not to suggest that the client necessarily needs to be forgiven because the client has done something “wrong.” Rather, it is to suggest that one of the fundamental emotional responses someone may experience as a result of loss is a feeling of betrayal. This feeling of betrayal is an emotional response, not a logical

¹⁵⁰ DEITS, *supra* note 15, at 157.

¹⁵¹ Adapted from an exercise in DEITS, *supra* note 15, at 154-155. Katherine Walsh describes a similar journaling exercise used to walk a student of grief therapy through past experiences of death and loss. Her exercise focuses not only on the reactions of the therapist to the past experiences but also on the reactions of the therapist’s nested communities. She also has the student explore how the experiences might have created unresolved feelings of vulnerability. Depending on the clinical student, this exercise may also be appropriate to adapt for a reflective writing exercise. See WALSH, *supra* note 8, at 20.

¹⁵² DEITS, *supra* note 15, at 180.

or rational response, and is not uncommon in a wide variety of loss scenarios from death to failing to get a promotion. It is a response related to, at heart, having to redefine the self or self-identity in the face of changed circumstances over which the person may have little or no control.

Students who are continually disappointed by choices a client makes or by the operations of the legal system may be less likely to express empathy over time for that client. While they may be willing to engage at the outset in effective parallel universe thinking and lack of judgment, over time that willingness fades to exasperation and anger as the student feels at conflict with the client and possibly alienated. The lack of empathy can then extend to later lawyering relationships. Exasperation and anger are loss-related responses and the negative emotions are the student's fallback substitute for empathy. The students consciously or subconsciously choose the emotion that will wear them down over time because in the immediate instance it hurts them less.¹⁵³ Working with students not only to identify the anger and frustration but also to forgive the client can bring the emotional response back to a more empathetic tone. Over time, it can help the student to build the habit of sustained empathy. Deits' exercise, adapted here, looks something like this:

1. How do you perceive your relationship with the client?
2. How long have you been the client's attorney? How long has the case been active in the clinic?
3. Do you feel angry or resentful toward the client? Why?
4. Do you blame the client for the choices the client has made? Why?
5. Is your emotional response having an impact on how you are handling this or other client interactions or your casework responsibilities?
6. Are the client's choices having a direct impact on you and how? Are you suffering as a result of the client's choices?
7. Do you feel like you need to forgive the client for what has happened? How would you express that forgiveness? Would you express this to the client directly and in what way?
8. If you do not think forgiveness is appropriate, consider your anger. Is your self-esteem or self-confidence affected by your anger?
9. Can you share with someone you trust your struggle with the client?
10. Is there a deeper reason for your emotional response - what value do you hold or perception of self is reflected in your reaction to the client?

¹⁵³ See Ouelette, *supra* note 122, at 74.

11. Is forgiveness now an appropriate action to take in this situation? How would you engage in that forgiveness?¹⁵⁴

It has long been understood that reflective writing, when done with openness and intentionality, can bring students to an increased awareness of how their judgments and assumptions about clients impact the attorney-client relationship.¹⁵⁵ Adding to those reflective writing exercises components that address difficult emotions allows for an intentional exploration of loss-related experiences. It also adds a dimension to the development of the professional persona that equips a student with the skills needed to cope with similar experiences across the lawyering career.¹⁵⁶

CONCLUSION

Clinics have long focused on the relationships student lawyers can build with their clients and communities. To improve the client relationship clinical faculty ask students to identify when their own values may be impacting how they perceive and/or judge their clients. Faculty members emphasize these external relationships, working with students to realize how client relationships and representation can be improved through empathy and non-judgmental approaches to client circumstances. Less attention, however, is paid to the internal relationship the student lawyer has with his own values, beliefs, and desires in a way that improves their relationship with themselves, that is, to see how their past experiences with a range of emotions can impact how they experience practicing law on an emotional level. In particular, we do not always teach students to identify when they may feel a sense of loss in clinic and how clinic losses may predict future losses in practice. As loss is an inevitable aspect of the human experience generally, loss and disappointment are inevitable in the practice of law.

When students are introduced early to the understanding that loss and negative emotional experiences are part and parcel of the lawyering process and the lawyer-client relationship, this understanding may help them in adapting to the losses as they occur, thus building resiliency and combatting burnout.¹⁵⁷ Rather than ignoring

¹⁵⁴ Adapted from DEITS, *supra* note 15, at 180-81.

¹⁵⁵ See, e.g., William P. Quigley, *Reflections from the Journals of Prosecution Clinic Students*, 74 MISS. L.J. 1147 (2005).

¹⁵⁶ WALSH, *supra* note 8, at 21.

¹⁵⁷ See, e.g., Robert A. Neimeyer & Joseph M. Currier, *Grief Therapy: Evidence of Efficacy & Emerging Directions*, 18 CURRENT DIRECTIONS IN PSYCH. SCIENCE 352 (2009) (arguing that grief is not only inevitable but also it is likely to be experienced multiple times over the course of a life); Brenner, *supra* note 2, at 84 (“Dying and death are acknowledged not as a medical failure but as a fundamental part of the human experience, from

negative emotions that may arise in practice, actively teaching students about loss and how to address their emotions supports students; it helps them to prepare for what will come in the days ahead, to develop skills that will help them adapt, and offers them the opportunity to be in control of the process of adapting.¹⁵⁸ It also allows them the opportunity to practice how to integrate past experiences into future lawyering relationships. Loss, while generally characterized as difficult or negative, does not have to remain so.

Like grieving the death of a loved one, a student's experience with loss in clinic or over the course of a life in practice will vary. Some students will not identify their emotional reaction to an experience as loss, and they should be respected in that.¹⁵⁹ Yet, it is also the case that a greater awareness of and respect for difficult emotions will increase our ability to treat clients with empathy - as the student learns to acknowledge her emotional landscape, so she becomes better at recognizing the complexities of her clients' emotional experiences as they move through the legal process. If students address the inescapable reality of loss in the practice of law they are better able to identify when clients may be feeling loss. Clinical faculty members can provide students with the tools to continuously assess their distress in loss-related situations, the result is only positive.

Teaching students self-awareness associated with loss and professional distress allows students to build empathy for both clients and themselves. This process allows students to identify how their own background, personal strengths, family structure, and other characteristics may impact their experience of the client, their experiences of losses in practice, and their responses to those experiences. It also allows students to examine in depth their perception of the prevention of and responsibility for that loss.¹⁶⁰ Learning how to integrate loss into expectations of legal practice and lawyering relationships allows students to continue to grow and develop as an effective empathic attorneys over the course of their professional lives.¹⁶¹ Ultimately, when we learn to recognize our own responses of grief and address those responses, we expand our possibilities, increase our effectiveness, and become better lawyers.

which one has the possibility of learning much about life and living.”).

¹⁵⁸ DEITS, *supra* note 15, at 200.

¹⁵⁹ See WORDEN, *supra* note 23, at 4 (warning the therapeutic grief counselor against naming a grief experience or initiating a meaning-making process if it does not happen spontaneously with the client). See also Kessler, *supra* note 9, at 140 (arguing that grief is not only feelings of sadness but also a process of acceptance).

¹⁶⁰ HOOYMAN & KRAMER, *supra* note 1, at 65.

¹⁶¹ *Id.*

