USING PSYCHOLOGICAL TYPE THEORY TO HELP LAW STUDENTS DEVELOP PROFESSIONAL IDENTITY

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INTRODUCTION

Two recent events have challenged American law schools to more comprehensively engage and motivate students to learn and apply knowledge, skills, and values to help them develop professional identity. The comprehensive examination of the preparation of lawyers in law schools published by the Carnegie Foundation for the Advancement of Teaching in 2007 was the first prominent event.¹ Emphasizing daily teaching and learning practices, comparing them to approaches used by other professions, and applying “contemporary understanding of how learning occurs,”² this Report articulated a three pillar framework for effective legal education consisting of “legal analysis,” “practical skill,” and “professional identity.”³

The Carnegie Report concluded that while American law schools impressively create a legal analysis pillar, they do not build the remaining columns effectively.⁴ The Report determined that American law schools typically pay relatively little attention to direct instruction in the practical skills required for competent, ethical, and professional practice.⁵ It also

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¹ See WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 13–14 (2007) [hereinafter CARNEGIE REPORT]. Also published in this same year was another important book drawing on learning theory and experiences of other common law countries to support its recommendations. ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 1 (2007). Both works made complementary claims arguing for greater focus in legal education on preparation for professional and ethical practice and experiential education. See CARNEGIE REPORT, supra, at 160; STUCKEY ET AL., supra, at 62.

² CARNEGIE REPORT, supra note 1, at 1–2.

³ CARNEGIE REPORT, supra note 1, at 12–14. The report defines professional identity as encompassing “professionalism, social responsibility, [and] ethics” with the main purpose of “draw[ing] to the foreground the purposes of the profession and the formation of the identity of lawyers guided by those purposes.” Id. at 14.

⁴ Id. at 185–88.

⁵ See id. at 188. A major study published in 1992 showed that law schools devoted nine percent of total instructional time to direct instruction in these practical skills. Task
concluded that American law schools typically failed to complement their successful efforts to develop legal analysis with adequate attention to and support for “developing the ethical and social dimensions of the profession” effectively.  

Seven years later, the American Bar Association provided additional encouragement to American law schools to emphasize professional identity development by changing its accreditation standards to require greater emphasis on knowledge relevant to competent exercise of professional and ethical responsibilities. Because of this change, Accreditation Standard 301 now requires schools to prepare students “for effective, ethical, and responsible participation as members of the legal profession.” These amendments also refocused Accreditation Standard 302 by requiring law schools to establish learning outcomes that encompass helping every student internalize and exercise minimum competency in exercising “proper professional and ethical responsibilities to clients and the legal system” and “[o]ther professional skills needed for competent and ethical participation as a member of the legal profession.”

Reinforcing this shift to focusing specifically on what students should learn, the ABA amendments added new accreditation Standard 314, requiring assessment of student learning that uses “both formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students.” This comprehensive accreditation change also added to the existing requirement that successful completion of at least one two-credit professional responsibility course must also encompass substantial instruction in the legal profession’s “history, goals, structure, values, and responsibilities.” This addition requires satisfactory completion of at least one six-credit experiential course that “integrate[s] doctrine, theory,
skills, and legal ethics” while engaging students in performing one or more core professional practice skills.13

A professional identity encompasses multiple dimensions, making it difficult to define precisely. It embraces intellectual, practical, and ethical attitudes and behaviors, as well as personal and professional values.14 It includes, yet transcends, ethics and professionalism.15 It also embodies the exercise of wisdom to resolve dilemmas when ethical standards are either ambiguous or conflicting while also leading a fulfilling, satisfying life.16 A simplistic but useful approach conceptualizes professional identity as stories law students and lawyers tell themselves about who they are and what they do.17

The Carnegie Report proceeded on the non-controversial assumption that law schools influence the stories that law students tell themselves about the roles they assume as lawyers and how they will behave as they become and act as attorneys.18 The report also recommended that law schools be more intentional and thoughtful about the stories they help students learn regarding the complex roles lawyers play,19 necessary commitments to social justice,20 and foundational behaviors underlying ethical decision-making.21 Both the Carnegie Report and the 2014 ABA

12 Id. Standard 303(a)(3).
13 Id. Interpretation 302-1. Interpretation 302-1 defines these as the core skills that fulfill this requirement: “interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.” Id. In addition, law schools must provide students with “substantial opportunities” for faculty supervised clinical courses and field placements and participation in “pro bono legal services” or “law-related public service activities.” Id. Standard 303(b).
18 See CARNEGIE REPORT, supra note 1, at 129 (arguing that “law schools shape the minds and hearts of their graduates in enduring ways” in thinking habits and developing “professional purpose and identity”).
19 See id. at 131–32 (arguing that legal education should introduce students to complex roles and the nuances of those roles linked to the type of lawyering involved).
20 See id.
21 See CARNEGIE REPORT, supra note 1, at 30; see also Madison & Gantt, supra note 16, at 382 (suggesting that these behaviors encompass “self-awareness,” sensitivity
Accreditation Standards amendments reaffirm that it matters to learn what lawyers who are demonstrating appropriate professional identity do.

Carefully examining the most effective ways to teach law students what lawyers do is important to ensure that students learn and comply with minimum conduct rules and understand the broader issues of character and morality. Lawyers and law students demonstrate their professional identity and reveal their understanding about who they are by the ways they act. They have general obligations under the ABA Model Rules of Professional Conduct to act honestly, competently, and diligently. They also demonstrate morality and character by their actions when confronting situations where conduct rules are silent, ambiguous, or conflicting.

This Article argues that using psychological type theory helps law students learn and perform actions that develop and demonstrate their professional identity. This Article first describes psychological type theory and the Myers-Briggs Type Indicator (MBTI). The MBTI is a simple, easily administered question-and-answer instrument that suggests type preferences users may hold. This Article shares the Authors’ experiences drawn from more than seventy combined years working with law students in academic support contexts, experiential learning discerning and analyzing ethical issues, “cultural competency,” relational skills, and abilities to reach practical judgments resolving competing values regarding ethical dilemmas).

22 See Carnegie Report, supra note 1, at 129.
23 See id. at 31.
24 See, e.g., Model Rules of Prof’l Conduct RR. 2.1, 3.3, 3.4 (2013). The preamble to these rules requires that lawyers shall be “competent, prompt, and diligent” in all that they do. Id. at pmbl. In addition, most law schools have rules regarding basic honesty and trustworthiness regarding academic issues prohibiting cheating and misrepresenting. See Carnegie Report, supra note 1, at 129–30.
26 Id. R. 1.3.
27 See infra notes 39–44 and accompanying text that describe psychological type theory.
28 See infra notes 55–56 and accompanying text for an explanation of the concept of type preferences.
30 Martha M. Peters & Don Peters, Juris Types: Learning Law Through Self-Understanding, at xi–xii, 274 (2007) [hereinafter Juris Types]. Co-author Martha Peters developed the Law Student Resources Program, one of the first academic support programs
approaches in clinical courses involving actual clients, and simulation-based professional skills classes. Applying these experiences, this Article examines how using this theory helps law students become more aware of their behavioral tendencies regarding actions essential to demonstrating professional identity.

This Article also analyzes how this self-knowledge facilitates the development of professional skills for competent and ethical lawyering. It focuses on the contexts of teaching and learning effective “interviewing, counseling, negotiation, . . . conflict resolution, . . . collaboration, . . . and self-evaluation.” It illustrates how this knowledge enhances formative assessment and provides safe ways to discuss learning dilemmas and resolution options regarding ethical and moral challenges. By examining the MBTI scale relating to decision-making in the critical context of building and maintaining lawyer-client relationships, this Article also

in this country at the University of Florida College of Law in 1984, launched the Academic Achievement program at the University of Iowa College of Law in 1999, and as a founding faculty member of Elon University’s School of Law in 2006 worked with the MBTI as a tool for developing leadership skills as well as awareness of individual learning strengths and challenges. Faculty Description, GLOBAL ALLIANCE FOR JUSTICE EDUC., http://www.gaje.org/martha-m-peters/ (last visited Apr. 11, 2015); see JURIS TYPES, supra, at xi–xii, 274. She shared many of her specific experiences using psychological type theory in this context in Juris Types: Learning Law Through Self-Understanding, JURIS TYPES, supra, at xi. She remains active, consulting and presenting workshops at law schools in this country and abroad since taking Emerita status in 2012.

Faculty Description, supra note 30. Don has frequently taught simulation based courses emphasizing developing professional skills in negotiation, mediation, and mediation advocacy, and both Don and Martha have taught simulation based interviewing and counseling courses. JURIS TYPES, supra note 30, at 274. They have described some of their experiences using psychological type theory in these contexts in several articles. See Don Peters, Forever Jung: Psychological Type Theory, the Myers-Briggs Type Indicator, and Learning Negotiation, 42 Drake L. Rev. 1, 11–12 (1993) [hereinafter Forever Jung]; Don Peters, Mapping, Modeling, and Critiquing: Facilitating Learning Negotiation, Mediation, Interviewing, and Counseling, 48 Fla. L. Rev. 875, 877–78 (1996) [hereinafter Mapping, Modeling]; Don Peters & Martha M. Peters, Maybe That’s Why I Do That: Psychological Type Theory, The Myers-Briggs Type Indicator, and Learning Legal Interviewing, 35 N.Y.L. Sch. L. Rev. 169, 174–75 (1999) [hereinafter Maybe That’s Why I Do That].

2014–2015 ABA STANDARDS FOR APPROVAL OF LAW SCH. Standard 302(d), Interpretation 302-1 (2014); see infra notes 78–86 and accompanying text.
demonstrates how knowledge of natural tendencies helps law students learn both complex role dimensions and specific actions that will enable them to develop and exercise behaviors manifesting appropriate professional identity. Finally, this Article examines how the knowledge and use of psychological type theory helps students acquire and improve the skills that are foundational to ethical dilemma recognition and resolution such as self-awareness, self-reflection, and empathy.

I. PSYCHOLOGICAL TYPE THEORY AND THE MYERS-BRIGGS TYPE INDICATOR

Lawyers encounter and deal with personality differences daily. Because people differ, they commonly manifest different actions resulting from variations in perceptions, positions, interests, interpretations, values, beliefs, expectations, experiences, traditions, communication approaches, and decision-making methods. Many of these differences generate problems, and some of these problems escalate to disagreements, disputes, and conflicts. Perhaps more than other professionals, a lawyer’s professional identity must include competent abilities to anticipate, recognize, and deal with differences as a foundation for helping their clients sidestep and solve problems, avoid and resolve disputes, and end or manage conflicts.34

Theories of psychological type show patterns of fundamental differences in various important contexts and how these differences affect various approaches used to perform common actions.35 The theoretical foundations of different human types extend back twenty-six hundred years to Hippocrates’ theories of social temperaments.36 More recently, Carl Jung, a Swiss psychologist, provided the contemporary impetus for using a theory of psychological types to understand common behavioral

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34 The importance of these abilities is reflected by ABA’s listing of “negotiation,” “conflict resolution,” and “collaboration” as examples of skills needed for “competent and ethical” law practice in its Accreditation Standards. 2014–2015 ABA STANDARDS Standard 302(d), Interpretation 302-1. Problem-solving was listed first in a list of “fundamental lawyering skills” in an ABA Task Force Report directed at improving legal education and professional development. MacCrate Report, supra note 5, at 135, 141–42. The Task Force’s analysis of problem solving emphasized the underlying component of dealing well with differences when identifying and diagnosing . . . problem[s],” “generating alternative solutions and strategies,” “developing a plan of action,” “implementing . . . plan[s],” and remaining open to new information and ideas throughout. Id. at 141–48.

35 Forever Jung, supra note 32, at 10.

variations.\textsuperscript{37} He did this by publishing a typology regarding similarities and differences he observed in common action patterns.\textsuperscript{38}

Jung worked with clients from similar ethnic and economic backgrounds in normal and clinical situations, and his work led him to believe that what appeared to be random human behaviors were actually the result of those people’s different attitudes and mental functions.\textsuperscript{39} Jung then “grouped these common but different behavioral patterns into a theory of psychological types.”\textsuperscript{40} Jung’s objective was “to identify patterns of characteristic behaviors to facilitate self-understanding” through self-awareness of cognitive inclinations, action tendencies, and challenges.\textsuperscript{41} He did not intend the typology to be used to stereotype individuals,\textsuperscript{42} and he strongly warned against assuming that type preferences determine specific behaviors.\textsuperscript{43}

“A psychometric indicator designed to make Jung’s theory of psychological types accessible and useful emerged in the 1950s from the

\textsuperscript{37} \textit{Forever Jung}, supra note 32, at 10; see also \textsc{Gordon Lawrence}, \textsc{People Types and Tiger Stripes: A Practical Guide to Learning Styles} 6 (2d ed. 1982).

\textsuperscript{38} See \textsc{C. G. Jung}, \textit{Psychological Types}, in \textsc{The Collected Works of C. G. Jung} 542, 548 (Herbert Read et al. eds., H.G. Baynes trans., 1971); see also \textsc{Lawrence}, supra note 37, at 6. Jung integrated these behavioral similarities and differences into formal principles to create his theory of psychological types. \textsc{Angelo Spoto}, \textit{Jung’s Typology in Perspective} xvii (Sisa Sternback ed., 1989). Jung’s other theoretical formulations include “the collective unconscious, archetypal psychology, . . . synchronicity, and the individuation process.” \textit{Id.} at 4. According to one commentator, Jungian theories including his view of psychological types have largely fallen into disfavor by contemporary psychologists. Richard \textsc{E. Redding}, Book Review, \textit{58 J. Legal Educ.} 312, 318–19 (2008) (reviewing \textsc{Martha M. Peters & Don Peters}, \textsc{Juris Types: Learning Law Through Self-Understanding} (2007)).

\textsuperscript{39} Jung, supra note 38, at 6 (theorizing that his experiences showed typical differences regarding attitudes toward mental functions involved in perceiving and deciding in addition to the distinctions between introversion and extraversion). See \textsc{Lawrence}, supra note 37, at 6 (noting that Jung saw patterns in ways people oriented their energy outwardly or inwardly and prefer to perceive and make judgments).

\textsuperscript{40} \textit{Forever Jung}, supra note 32, at 10. Jung’s theory discussed attitudes and functions. Jung, supra note 38, at 330; \textsc{Spoto}, supra note 38, at 20. Attitudes connote a fundamental orientation toward or away from external environments, which he labeled extraversion and introversion. \textit{Id.} at 21. Functions dealt with perception and judgment and Jung labeled them in the following two ways: sensation and intuition affecting perception, and thinking and feeling influencing decision-making. \textit{Id.} at 20.

\textsuperscript{41} \texti{Forever Jung}, supra note 32, at 10; see \textsc{Isabel Briggs Myers & Peter B. Myers}, \textit{Gifts Differing: Understanding Personality Type} 24 (1980); see also \textsc{Spoto}, supra note 38, at 15.

\textsuperscript{42} Jung, supra note 38, at 554–55 (“It is not the purpose of a psychological typology to classify human beings into categories—this in itself would be pretty pointless.”).

\textsuperscript{43} See \textsc{C. G. Jung}, \textit{The Development of Personality}, in \textsc{The Collected Works of C. G. Jung} 7 (Herbert Read et al. eds., R.F.C. Hull trans., 1954); infra notes 328–33 and accompanying text.
work of Katharine Briggs and Isabel Briggs Myers.” After Myers and Briggs amassed data from over ten thousand high school and medical students, the Educational Testing Service published the Myers-Briggs Type Indicator (MBTI). “The MBTI is the simplest, most reliable way to determine a person’s Jungian [psychological] type” preferences. It is used widely in organizational development contexts to promote self-awareness and facilitate leadership instruction, team building, and other effective workplace communication skills.

Although some psychometricians and psychologists question the validity and reliability of the MBTI, this instrument meets all

44 Forever Jung, supra note 32, at 11.
45 Mary H. McCaulley, The Myers-Briggs Type Indicator: A Jungian Model for Problem Solving, in Developing Critical Thinking and Problem-Solving Abilities 37, 38 (James E. Stice ed., 1987); see also Otto KroeGER & JANET M. THUESEN, Type Talk at Work: How the 16 Personality Types Determine Your Success on the Job 6 (1992).
46 Forever Jung, supra note 32, at 11 n.39.
48 “Validity in this context usually means whether the information an instrument reports is accurate. See Forever Jung, supra note 32, at 21–22 n.88. Like the disagreement regarding validity, disputing claims apparently exist in the psychometric and contemporary psychological world concerning reliability. Compare 3D MBTI MANUAL, supra note 29 at 159–69 (discussing the extensive research supporting the reliability of the MBTI), with Redding, supra note 38, at 318–19 (citing Robert R. McCrae & Paul T. Costa, Jr., Reinterpreting the Myers-Briggs Type Indicator from the Perspective of the Five Factor Model of Personality, 57
requirements for psychological assessment instruments. The MBTI has also “withstood more than 50 years of scientific scrutiny” and has been deemed useful by “thousands of organizations and millions of people worldwide.” This instrument easily and quickly indicates degrees to which persons express preferences for the aspects of attitudinal and mental functioning that Jung’s typology articulates. The MBTI lets users indicate their psychological type preferences on four indexes that reflect the person’s predispositions regarding his perception, judgment, orientation toward external or internal interactions, and tendencies to seek closure or new information.

A completed MBTI assesses psychometric weightings of choices in each of these four areas based on the user’s answers to simple questions involving everyday situations and indicates which preference from each pairing users select. Psychological type preferences that are indicated by

J. Personality 17, 18 (1989) (“Psychometricians are troubled by the conception of psychological types and the limited evidence that the MBTI measures anything other than quasi-normally distributed personality traits.”) (citations omitted)). These validity and reliability disagreements reflect different world view perspectives favoring either trait-based measurements, which are more quantitative and work better in scientific management contexts, or instruments like the MBTI, which are more qualitative and work better in human development contexts by giving more personal insights and more awareness for modifying behavior.


Id. This view of the MBTI’s usefulness was affirmed by an overwhelming majority of the law students, faculty groups, and law firm members with whom the authors have worked in the United States, Malaysia, Poland, Taiwan, and Uganda.

3D MBTI Manual, supra note 29, at 5–6.

These are the four psychological type preferences indicated by the Myers Briggs Type Indicator. Juris Types, supra note 30, at 1. They address aspects of “perception, judgment,” outward or inward emphasis, and a “lifestyle orientation” toward planning or remaining flexible. Id. An external or internal orientation is indicated by E for extraversion and I for introversion. Id. at 14. Perception is indicated by S for sensing and N for intuition. Id. Judgment is indicated by T for thinking and F for feeling. Id. Finally, a life style orientation featuring openness or closure is indicated by P for perceiving or J for judging. Id.

See 3D MBTI Manual, supra note 29, at 16, 116–17. Trait theories are currently ascendant in the personality literature, and some view them as superior to typologies. See Redding, supra note 38, at 320 (arguing that modern psychology conceptualizes personality as consisting of complex traits which exist along a continuum). Trait-based personality measures hypothesize the existence of categories and then measure variation along a continuum. See McCrae & Costa, supra note 49, at 23. The MBTI “seeks to identify a respondent’s status on either one or the other of two opposite personality categories.” 3D MBTI Manual, supra note 29, at 5 (emphasis omitted). The MBTI’s focus “is on its usefulness to respondents.” Id. Because trait theories lack the underlying theoretical background provided by Jung and incorporated by the MBTI, many organizational
the MBTI refer to the innate predispositions that Jung originally identified rather than conscious selection of attitudes and action tendencies that persons might desire or deem most useful.\textsuperscript{55} A preference indicates feeling so “comfortable with a particular way of behaving and experiencing” that this influences behaviors most but not all of the time.\textsuperscript{56}

An analogy to handedness is often used to explain psychological type theory’s use of the term preference in this specialized context.\textsuperscript{57} Virtually everyone is oriented to primarily use either their right or left hand for tasks such as using pens and pencils, throwing balls and other objects, manipulating cutlery, and many other actions.\textsuperscript{58} Like type preferences, this orientation is usually deeply ingrained, has existed for years, and cannot be explained easily. This orientation is revealed in the behaviors it influences, just as type preferences often are.

In addition, handedness, like type preferences, does not necessarily warrant evaluative judgment as right, wrong, better, or worse. Left- or right-handedness is simply different. Similarly, the type preferences in the four indexes are different from, but not superior or inferior to, each other.\textsuperscript{59} Moreover, type preferences, like a handedness orientation, influence default actions when individuals are reacting to surprise, experiencing strong stress, or failing to pay attention to their behavioral choices.\textsuperscript{60} This aspect is very important to learning lawyering roles, skills, and other foundational professional identity abilities.\textsuperscript{61}

II. PSYCHOLOGICAL TYPE THEORY’S VALUE ADDED IN DEVELOPING PROFESSIONAL IDENTITY

Understanding the influences that psychological type preferences often exert on actions helps law students learn and improve the behaviors needed to develop and demonstrate professional identity and supplies its value-added reason for using this approach.\textsuperscript{62} Like a handedness preference, psychological type theory preferences tend to influence certain actions and discourage other ones.\textsuperscript{63} Although humans can and frequently

\textsuperscript{55} \textit{Forever Jung}, supra note 32, at 12.
\textsuperscript{56} \textit{Rowan Bayne, Psychological Types at Work: An MBTI Perspective} 19 (2004).
\textsuperscript{57} \textit{Id}.
\textsuperscript{58} \textit{See Sandra Hirsh \& Jean Kummerow, Lifetypes} 4 (1989).
\textsuperscript{59} \textit{See Kroeger \& TheuSen, supra} note 45, at 18–19.
\textsuperscript{60} Jung, \textit{supra} note 38, at 536.
\textsuperscript{61} \textit{See 3D MBTI Manual, supra} note 29, at 260 (explaining that an understanding of psychological type can be important for students in a classroom setting).
\textsuperscript{62} \textit{See id}.
\textsuperscript{63} \textit{See Jung, supra} note 38, at 536; \textit{supra} notes 57–59 and accompanying text.
do perform contrary to natural preference-influenced actions, they tend to use preference-influenced behaviors more often. These psychological preference influences tend to provide a broad framework for an individual’s best developed behavioral repertoire. Performing tasks that would normally be influenced by non-preferred attitudes and functions typically takes more conscious effort to perform. It also usually requires substantial practice to develop proficiency performing these actions as effectively as done when following preference-influenced tendencies.

For example, virtually all nondisabled adults are able to use both their right and left hands, but they typically perform tasks first and more skillfully with the hand they prefer. Consequently, humans typically develop more proficiency performing preference-influenced actions. For example, right-handed persons tend to write and throw primarily with their right hand. Although most right-handed persons are able to write and throw with their left hand, doing this typically requires more conscious effort, feels much less comfortable, and initially produces less proficient actions. Even those who are somewhat proficient at performing actions with their non-preferred hand may revert to using their preferred hand for relevant behaviors when they are surprised or strongly stressed.

Many factors motivate and influence human behavior. No psychological theory, including Jung’s ideas regarding a preferences typology, can capture the full range of complexity involved in what motivates and influences human behavior. Consequently, no direct
causal relationship between psychological type theory and specific behaviors exists. Psychological type preferences indicated by the MBTI only suggest behavioral tendencies that may result from favored ways of acting and are potentially influenced by the aspects of mental attitudes and functions described by psychological type theory.  

Substantial research supports Jung’s belief that behaviors are often influenced by psychological type preferences. Research relevant to law practice showed that participants who preferred introversion and intuition, both alone and in combination, were more prone to accept post-event information about a situation they had observed. Our study of legal interviews in a law school clinic showed that extraverted students who preferred sensing perception on the MBTI, as predicted, used specific approaches to information gathering. These students asked more questions than introverted students who preferred intuitive perception on the MBTI and would use, according to the theory, more general, and less specific approaches to inquiry.

The behaviors influenced by psychological type preferences usually do not connect to specific professional actions in the direct ways that particular motor actions are often affected by handedness. The four areas addressed by psychological type theory encompass favoring external or internal interactions; emphasizing specific or general orientations to perceiving and communicating about information; preferring step-into,

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72 *Forever Jung*, supra note 32, at 23–24.

73 A study of 96 students showed those who preferred sensing perception performed significantly better achieving the lowest production costs than students who preferred intuitive perception. Donald L. Davis et al., *An Experimental Application of Personality Type As an Analogue for Decision-Making Style*, 66 PSYCHOL. REP. 167, 172–73 (1990). Another study found that students who preferred a subjective decision-making approach rated significantly higher than students who favored an objective decision-making approach in applying participative management concepts to a hypothetical management problem. Christa I. Walck, *Training for Participative Management: Implications for Psychological Type*, 21 J. PSYCHOL. TYPE 3, 4–5 (1991) (examining how feeling personality types outperformed thinking personality types in a study); see generally Roger A. Kerin & John W. Slocum, Jr., *Decision-Making Style and Acquisition of Information: Further Exploration of the Myers-Briggs Type Indicator*, 49 PSYCHOL. REP. 132, 132 (1981) (explaining how feeling personality types “prefer analyzing subjective impressions when arriving at a decision” while thinking personality types “view information objectively and impersonally weigh facts when arriving at a decision”).

74 Roger A. Ward & Elizabeth F. Loftus, *Eyewitness Performance in Different Psychological Types*, 112 J. GEN. PSYCHOL. 191, 196 (1985). The participants accepted both misleading and consistent post-event information. *Id.* at 190. “A sensing preference signals primary reliance on observable facts or happenings through one or more of the five senses.” *Id.* at 175–76.

75 *Maybe That's Why I Do That*, supra note 32, at 190. “An intuitive preference, in contrast, focuses on patterns, possibilities, and meanings when attending to and gathering information.” *Id.* at 176.
subjective or impersonal, objective decision-making; and desiring structured, planned approaches to external interactions rather than flexible, spontaneous approaches and supply the broad contours of what psychological type preferences influence.\textsuperscript{77} Although these impulses potentially influence specific aspects of the complex behavioral sequences required to represent clients competently and resolve ethical dilemmas professionally, these connections usually need to be explored when discussing theories of effective actions and reviewing individual application of those theories.\textsuperscript{78} Relying solely on broad descriptions of potential type preference-influenced behaviors that typically accompany distributing MBTI results is seldom sufficient.\textsuperscript{79}

Learning potential behavioral influences by adding psychological type theory to skills components of professional identity development fits well with a learning theory premise that humans design behaviors that they use when interviewing, counseling, negotiating, and performing other professional tasks needed to represent clients competently and ethically.\textsuperscript{80} Nothing that lawyers do in these contexts depends on premises that occur inherently in the nature of the universe.\textsuperscript{81} Instead, lawyers design and select their actions "even if they often are not aware of the reasons underlying these choices."\textsuperscript{82} Many implicit and explicit reasons

\textsuperscript{77} See id. at 175–77.

\textsuperscript{78} See Forever Jung, supra note 32, at 27, 105 (describing how potential type influences on student negotiation experiences should occur when the entire class discussed assigned negotiation and in small groups of students who participated in each session, noting that using videotaped clips enhances both).

\textsuperscript{79} These descriptions have been criticized as being "so broad as to have little explanatory . . . value" and "sufficiently vague to apply to a large number of people in a wide variety of situations." Redding, supra note 38, at 322. Despite these criticisms, the authors’ experiences have been that law students find their MBTI results very helpful after they receive information introducing them to MBTI concepts, use specific examples and contextualized descriptions, and follow this with frequent discussions about how they might connect to evolving learning and lawyering action theories. See Juris Types, supra note 30, at 5–6; Maybe That’s Why I Do That, supra note 32, at 179–180; Forever Jung, supra note 32, at 102–04; Mapping, Modeling, supra note 32, at 903–04. Demonstrating these values, students in Don’s negotiation courses described their experiences using the psychological type theory and the MBTI to help them learn, noting: “[the MBTI] seems to help me climb into my own head and find insights I might not have otherwise acknowledged;” “[I] was particularly intrigued with the MBTI’s usefulness as a tool for self-correction;” and “MBTI theory . . . provides a framework for self-analysis and post-negotiation analysis.” Forever Jung, supra note 32, at 105 n.521.

\textsuperscript{80} Mapping, Modeling, supra note 32, at 878–80; Chris Argyris & Donald A. Schön, Theory in Practice: Increasing Professional Effectiveness 17–18 (6th prtg. 1980).

\textsuperscript{81} Argyris & Schön, supra note 80, at 17.

\textsuperscript{82} Mapping, Modeling, supra note 32, at 880. Neuroscience, however, is increasingly demonstrating that everything humans feel, think, and do starts with meanings they assign to their perceptions, and portions of these perceptions are first processed by limbic brain
support both common, existing practices in performing these professional tasks and more effective approaches to performing them. These action theories, these constructs provide ways to act that are likely to produce specific effects. These action theories underlie skills that are best understood as simply actions that produce intended outcomes.

Focusing on the constructed nature of behavior in this way illuminates the element of choice and emphasizes the possibilities for altering and improving future actions. Action theories help students understand complex interactions, explain behaviors that worked in the past, and provide ways to analyze how these choices could be improved to achieve better future outcomes. They give law “students frameworks for preparing, organizing, and evaluating experiences” as they engage “in actual and simulated lawyer situations.”

Action theories provide useful bases upon which to build specific learning objectives and outcomes, such as those the ABA now requires law schools to establish to help students internalize and demonstrate competence in exercising ethical responsibilities, other essential core lawyering skills, and professional identity. Using action theories systems that generate emotions. Jeremy Lack & François Bogacz, The Neurophysiology of ADR and Process Design: A New Approach to Conflict Prevention and Resolution?, 14 CARDOZO J. CONFLICT RESOL. 33, 38 (2012). This challenges the essentially cognitive focus that this article adopts in the many contexts where emotional responses potentially influence behavior initially until the prefrontal cortex may intervene. See Earl K. Miller & Jonathan D. Cohen, An Integrative Theory of Prefrontal Cortex Function, 24 ANN. REV. OF NEUROSCIENCE 167, 171 (2001).

Mapping, Modeling, supra note 32, at 880.

Argyris & Schön, supra note 80, at 17 (discussing how experiential learning focused on behavior helps students adopt new action strategies). For an examination of how neuroscience’s important discovery of the human brain’s abilities to develop new neuroconnections leading to different behaviors, called neuroplasticity, see infra notes 150–56 and accompanying text.

Mapping, Modeling, supra note 32, at 880.

2014–2015 ABA STANDARDS FOR APPROVAL OF LAW SCH. Standard 303(a)(3) (2014). Both authors commonly require students in their clinical and simulation-based professional skills course to record all of their interactions with clients and colleagues in role plays. Then students must listen to their recordings and chart the specific action choices they made on a document that forces them to assess what they actually did. These charts
reinforces a three step process for experiential learning.91 The ABA accreditation standards now strongly encourage this process92 “through purposeful, self-reflective practice.”93 Law students using this process “will prepare, act, and then reflectively evaluate.”94 Ideally, they repeat this sequence frequently in order to learn and develop competence performing the actions needed to accomplish necessary tasks.95

Simply understanding action theories cognitively and emotionally does not necessarily create abilities to produce the behaviors the action theories endorse.96 Skills acquisition and improvement requires individualizing pedagogy to give students opportunities to make, perform, and examine action choices and behaviors.97 Doing this “engages both cognitive and affective [learning] dimensions and creates a sense of personal discovery” and development.98 It requires students to engage with and create meaning from their actions and outcomes and realize potential future implications.99 It also requires fluid response sequences that usually create “important personal insights that are not foreseen by instructors.”100 Engaging repetitively in this process allows students to interpret experiences according to their own personal learning needs.101

Law students who are learning skills relevant to developing personal identity must develop sufficient self-awareness to recognize where they are and where they need to travel to acquire competent professional, ethical, and moral behavioral habits. Students inevitably “start at different places, possess different strengths, and find different challenges” when they journey to skill competence and professional identity.102 Combining action theories with psychological type theory can help students understand themselves and others, plan where they need to go

**Footnotes**

91 Argyris & Schön, supra note 80, at 99.
93 Mapping, Modeling, supra note 32, at 886.
94 Id.
95 Id.
97 Mapping, Modeling, supra note 32, at 883.
98 Id.
100 Mapping, Modeling, supra note 32, at 884 n.18.
102 Mapping, Modeling, supra note 32, at 892.
considering their strengths, develop awareness of likely challenges and obstacles, and learn.

Doing this promotes awareness of differences, and these perceptions help students understand potential variations between their own and their colleagues’ approaches and behaviors.\textsuperscript{103} It often engenders an appreciation of advantages and disadvantages of different action theories and behaviors.\textsuperscript{104} It enhances opportunities for effective collaboration\textsuperscript{105} and solving problems using strengths of different perspectives.\textsuperscript{106} This approach is frequently recommended for resolving challenging ethical and moral dilemmas.\textsuperscript{107} Awareness of the strengths and differences signaled by psychological type theory and learning to value them often permits the constructive framing of conflicts as potentially positive occurrences and counters common tendencies to negatively judge others for not acting like oneself.\textsuperscript{108} Promoting better understandings of and collaborations with clients, colleagues, counterpart counsel, judges, and other legal system personnel provides important collateral benefits to using psychological type theory.\textsuperscript{109}

“Helping students map their way from where they are to where they want to be requires constant attention to both developing and refining action theories that guide purposeful behavioral choice.”\textsuperscript{110} Frequent inquiries and conversations about action theories help provide knowledge for planning actions, evaluating their effectiveness, and making spontaneous revisions of earlier plans needed to respond to unexpected

\begin{footnotes}
\footnote{103 See Forever Jung, supra note 32, at 112.}
\footnote{104 See id. at 114–15 (discussing how pairing students in teams in a negotiation class often helps students learn to value differences and identify when and how different actions are effective).}
\footnote{105 See infra notes 214–26 and accompanying text for an analysis of the importance of collaborative, client-centered approaches to client relationships in forming and demonstrating professional identity.}
\footnote{106 Robert F. Cochrane, Jr. et al., The Counselor-at-Law: A Collaborative Approach to Client Interviewing and Counseling 246 (2d ed. 2006) (arguing that effective problem solving involves all four mental functions described by psychological type theory; both sensing and intuitive approaches to perception and judging and feeling approaches to decision-making).}
\footnote{108 See Kroeger & Thuesen, supra note 45, at 156 (explaining how psychological type theory’s natural affirming quality helps user recast personality differences and provides a basis for solving problems constructively and effectively).}
\footnote{109 See Raymond B. Marcin, Psychological Type Theory in the Legal Profession, 24 U. Tol. L. Rev. 103, 117 (1992) (discussing how “knowledge of type . . . often . . . promote[s] understanding and tolerance” in human relations).}
\footnote{110 Mapping, Modeling, supra note 32, at 895.}
\end{footnotes}
situations effectively. Adding psychological type theory to these inquiries and conversations stimulates the development of crucial professional identity abilities such as self-awareness and self-evaluation.

Psychological type theory often provides insights about preferences and their accompanying action tendencies. Gaining these insights enhances an essential step in experiential learning approaches by “investigating . . . both what was done and why it was done.” Doing this is often difficult because much of what informs common actions involved in asking questions, listening, perceiving and communicating information, and making decisions is seldom made explicit. Doing this also promotes self-illumination—Jung’s justification for his psychological type theory—by helping persons become aware of their behavioral inclinations and challenges.

For students, learning psychological type theory and their preferences frequently offers them insight into what behaviors, roles, and attitudes come naturally to them when they exercise professional skills in interviewing, counseling, negotiating, mediating, and problem-solving interactions. These natural tendencies often reflect implicit action theories. Such insights into implicit action theories helps students understand many of their action theories, role choices, and resulting behaviors.

Identifying a preference for extraversion, for example, has helped many students in our clinical and professional skills courses become aware of “tendencies to interrupt others and talk when [feeling] uncomfortable.” Learning of a preference for introversion has also

111 Id.
112 This is one of the foundational skills needed for ethical dilemma recognition and resolution. See infra notes 299–306 and accompany text.
113 This is one of the professional skills mentioned by the ABA as important to include in law school instruction. 2014–2015 ABA STANDARDS FOR APPROVAL OF LAW SCH. Interpretation 302-1 (2014).
114 Forever Jung, supra note 32, at 100.
115 Id.
116 Id. at 100–01; see also ARGYRIS & SCHÖN, supra note 80, at 9–11 (examining how humans do not always manifest their psychological type in their behavior).
117 See Forever Jung, supra note 32, at 101.
118 See ARGYRIS & SCHÖN, supra note 80, at 12–13.
119 Research regarding how professionals develop competence suggests distinguishing between explicit or espoused action theories, consisting of what actors say they intend to do, and implicit or in use theories comprising what underlies how students actually behave. See Kreiling, supra note 96, at 291; see also ARGYRIS & SCHÖN, supra note 80, at viii; SCHÖN, supra note 84, at 255.
120 Forever Jung, supra note 32, at 103.
121 Id.
helped many students with whom we have worked discern “why reacting quickly to unexpected comments and tactics was hard for them to do.”\textsuperscript{122}

Students in our courses reported similar experiences in regards to the other dimensions of Jung’s psychological type theory.\textsuperscript{123}

Students developing essential professional identity skills need to frequently experience the importance of fitting behaviors to contexts, a process that action theories repeatedly emphasize.\textsuperscript{124} Using psychological type theory meets this need because humans commonly use type preference-influenced behaviors produced naturally and seemingly automatically that are effective in some contexts and counterproductive in others. Effective experiential learning demands that professors help students sort which is which. This process connects directly to now ABA mandated use of formative feedback that engages students, reinforces knowledge, and identifies opportunities for corrective practice.\textsuperscript{125}

Confidence is important in education, and students can build confidence by determining when their action tendencies produce effective actions.\textsuperscript{126} By experiencing when tendencies influence context effective actions, students are provided opportunities to receive positive formative feedback from colleagues, instructors, and themselves.\textsuperscript{127} Research demonstrates that specific positive feedback regarding what was done effectively motivates learning more than constructive criticism.\textsuperscript{128} Identifying effective decisions and actions also reinforces self-awareness and self-evaluation because it suggests what behaviors should be repeated in identical or similar contexts.

Experiencing contexts in which actions influenced by students’ type preference-related behavioral tendencies produce contextually ineffective behaviors also provides valuable learning experiences. This sometimes

\textsuperscript{122} Id. at 103–04.

\textsuperscript{123} See id. at 104–05 n.519.

\textsuperscript{124} See id. at 105.


\textsuperscript{126} Forever Jung, supra note 32, at 106.

\textsuperscript{127} The ABA defines formative feedback as measurements during different points of time during courses and educational experiences that provide meaningful feedback to improve student learning, 2014–2015 ABA STANDARDS Interpretation 314-1. Regular and periodic formative feedback supports students’ feelings of competence and growth. It also combats natural feelings of insecurity and occasional overconfidence that arise from lack of feedback.

occur because students have not identified an action likely to accomplish their objective before acting.\(^{129}\) Acting without a guiding theory demonstrates psychological type theory’s premise that preferences frequently manifest themselves in habitual behaviors.\(^{130}\)

Connections between type preference influences and contextually ineffective actions are also frequently identified when students perform actions that do not coincide with their plans to use different behaviors based on selected action theories.\(^{131}\) “Existing behavioral tendencies strongly influence action choices” and often override initial intentions to behave differently.\(^{132}\) Habitual behavioral patterns commonly create more difficulties acting consistently with pre-selected action theories than complexities in these frameworks.\(^{133}\) Many essential action components of the core tasks in competent questioning, listening, and organizing which undergird effective interviewing, counseling, negotiating, and advocacy, are not inherently complex.

Knowing type theory and students’ behavioral tendencies linked to their preferences helps students identify when they experience “difficulty acting consistently with their intentions.”\(^{134}\) These situations create learning dilemmas and opportunities that strongly motivate students to seek improvement.\(^{135}\) This is consistent with neuroscience discoveries that dopamine neurons in human brains “constantly generate patterns [and predictions] based on experience[s]” and distill “if this, then that” occurrences “into models of correlation that allow the brain to anticipate what will happen next.”\(^{136}\) Unexpected or otherwise surprising results

\(^{129}\) See Forever Jung, supra note 32, at 106–07. Students must have a theory of effective action in order to learn to integrate it with behavior. See Lee Bolman, Learning and Lawyering: An Approach to Education for Legal Practice, in ADVANCES IN EXPERIENTIAL SOCIAL PROCESS 111, 131 (Cary L. Cooper & Clayton Alderfer eds., 1978). This can also occur when students have a theory that proves to be ineffective, demonstrating how experience-based learning allows professionals to test and evaluate theory. Forever Jung, supra note 32, at 107 n.531.

\(^{130}\) Recent neuroscience research suggests that much of what humans do occurs without conscious thought by accessing and following scripts about how to act in specific contexts that are stored in memory. Daniel T. Willingham, Why Don’t Students Like School? 6–7 (2009).

\(^{131}\) Id. at 924; see also Argyris & Schón, supra note 80, at 100; Kreiling, supra note 96, at 292–93.

\(^{132}\) Id.; Argyris & Schón, supra note 80, at viii; see also Roger Fisher et al., Getting To Yes: Negotiating Agreement Without Giving In 147 (Bruce Patton ed., 2d ed. 1991).

\(^{133}\) Mapping, Modeling, supra note 32, at 924.

\(^{134}\) Id.; Argyris & Schón, supra note 80, at 100 (examining dilemmas as an essential aspect of skills learning).

\(^{135}\) Jonah Lehrer, How We Decide 37 (2009).
motivate brains to understand what happened and what needs to be revised to adjust expectations accordingly.  

This rapid neural activity that occurs outside conscious awareness motivates most students toward acquiring and demonstrating behavioral competence by seeking consistency between their action goals and behaviors. The recent ABA amendments reinforce the critical importance of achieving skill competency and require law schools to frame learning outcomes in terms of competent exercise of professional responsibilities and other skills needed for ethical lawyering. They also require that achievement of competency be central to institutional evaluation efforts law schools undertake.

Recent research demonstrates that satisfying these aspirations for behavioral competence and effectiveness substantially contributes to a sense of subjective well-being. Self-Determination Theory, a comprehensive explanation of human behavior broadly supported in psychological research over forty years, posits that all humans have “basic psychological needs” such as feeling “competent [and] effective.” Research shows that many of the well-documented negative effects on well-being that American law students experience result from decreases in their abilities to satisfy their fundamental needs for competence along with their desires for autonomy and relatedness to others. This scholarship also shows that experiencing competence, autonomy, and connectedness strongly predicts subjective well-being in lawyers.

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137 See id. at 41.
138 See id.; ARYGRIS & SCHÖN, supra note 80, at 99–100; Kreiling, supra note 96, at 292 n.29 (explaining that most people value consistency, congruence, and predictability more than inconsistency, incongruity, and unpredictability).
140 Id. Standard 315.
143 What Makes Lawyers Happy?, supra note 142.
Learning dilemmas stemming from ineffective behaviors also directly “challenge students to grapple with what motivates their inconsistent actions;” this usually provides a formidable task because much of what motivates human action lies obscured by mimicry of others and habitual behavioral patterns, some of which may have been transferred to implicit procedural memory. Once action scenarios and ways to address them are learned and stored in memory, human brains access these memories to generate actions that then happen immediately and effortlessly. Type preference-influenced behavioral choices may facilitate this type of procedural memory creation and encoding.

Every experience changes a human brain, and a discovery called neuroplasticity demonstrates that new neural pathways can be created by engaging in learning processes. Learning different perspectives and action theories, and practicing them in experiential settings with formative feedback, can update brain connections and activate new behaviors or apply previously learned behaviors in new contexts. This challenging process starts with learning and then focusing on clear images of the different perceptions and actions desired.

These necessary clear images are supplied by combining readings, discussions, and demonstrations of action theories with psychological type theory-based insights on existing cognitive inclinations and behavioral tendencies. Psychological type insights provide value because they often reveal an underlying behavioral pattern that could be used or that is interfering with developing new, more effective action sequences. Focusing simply on trying to undo old habits entrenches them more solidly in brain connections by giving them more attention. Although thinking

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146 Mapping, Modeling, supra note 32, at 924–25.
147 Memories are encoded in the neural processing that results from experiences. See Fred Travis, Your Brain is a River, Not a Rock 132–33 (Kindle ed. 2012). This processing includes implicit memory encompassing procedural knowledge about how to do things. See Rick Hanson, Hardwiring Happiness: The New Brain Science of Contentment, Calm, and Confidence 25 (2013).
148 Willingham, supra note 130, at 6–7.
149 Travis, supra note 147, at 9, 38–46 (“The pattern of connections between your neurons changes continuously. This is called neural plasticity, and is one of the most revolutionary findings in the past century.”).
150 Jill L. Kays et al., The Dynamic Brain: Neuroplasticity and Mental Health, 24 J. Neuropsychiatry & Clinical Neuroscience 118, 120 (2012) (“Multiple studies have documented neuroplastic changes in healthy human brains as a result of normal processes, such as learning.”).
151 See Travis, supra note 147, at 9.
153 Travis, supra note 147, at 45.
through new action theories and steps activates new brain connections, actual experience with them is needed for them to stick. These experiences must be repeated continuously until these new theories and actions become automatic and effortless.

Psychological type theory affords a way to identify and understand habitual behavioral patterns which signal needs to change neural connections. Knowing type theory and preference-influenced behavioral tendencies may help students take an extra step beyond simply identifying inconsistencies between what they intended to do and what they actually did, and developing alternative strategies for resolving these mismatches. Called double loop learning, this extra step examines why the inconsistent behavior occurred. Finding connections to type preference-influenced behavioral tendencies often helps students persevere in learning how to perform important actions that they initially find difficult to produce. It also often helps students develop strategies for modifying their contextually ineffective behavioral tendencies.

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154 Id.
155 Id.; see also Norman Dodge, The Brain That Changes Itself: Stories of Personal Triumph from the Frontiers of Brain Science 47 (2007) (“[P]racticing a new skill, under the right conditions, can change hundreds of millions and possibly billions of [neural] connections between the nerve cells in [a human] brain.”).
156 This is sometimes called single loop learning and is typically where clinical and other skills instructors stop the discussion and move on to discussing alternative actions that are likely to be more effective and consistent with intention. See Michael Moffitt & Scott R. Peppet, Action Science and Negotiation, 87 MARQ. L. REV. 649, 653 (2004).
157 Id. This approach posits that humans have mental maps regarding how to act in situations, and they guide the actions regarding planning, implementing, and reviewing their behaviors more than their stated reasons for behaving. Don Peters, Critiquing Clinical Performances, in A HANDBOOK ON CLINICAL LEGAL EDUCATION 204, 205 (N.R. Madhava Menon ed., 1998). Scholars have labeled these stated reasons for behaving as implicit or theories in use as opposed to explicit or espoused theories of action. Id. Double loop learning challenges students to probe beyond the surface of their actions and seek to “bring ‘into consciousness the often inchoate, pre-conscious’” reasons for the inconsistent behaviors they produced. See Mapping, Modeling, supra note 32, at 890–91 n.30 (quoting Phyllis Goldfarb, A Theory-Practice Spiral: The Ethics of Feminism and Clinical Education, 75 MINN. L. REV. 1599, 1650 (1991)).
158 Mapping, Modeling, supra note 32, at 925–26 n.112.
Doing the hard work to recognize and change action habits is usually essential to developing competence through knowledge of and abilities to exercise the behavioral dimensions of professional identity. Many critical tasks in interviewing, counseling, negotiating, fact-finding, advocating, problem-solving, and discerning and resolving ethical dilemmas require actions that connect to and are potentially influenced by multiple dimensions of type theory. This means that students who are learning to identify and perform each of these tasks inevitably encounter some actions that link to their type preferences and some that require behaviors that are more likely influenced by type dimensions they do not prefer. Effective problem solving, for example, requires skilled actions predictably influenced by all four perceiving and decision-making type theory preferences. The foundational action choices and behaviors involved in asking questions and performing passive and active listening responses also require behaviors potentially influenced by all eight type theory dimensions.

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160 See McCaulley, supra note 45, at 45. This type-based model for solving problems incorporates all four of Jung’s theorized four mental functions. It proceeds from gathering facts by using sensing perception to identify what is known in a specific, concrete way to developing potential solutions by using intuitive perceptions to generate possible alternatives and solutions. It then analyzes objectively by using thinking judgment to identify and consider the causal and logical consequences of each option. The model concludes by using feeling judgment to assess and weigh the impact of alternatives on the people involved and other relevant subjective considerations. Id. at 44–45.

161 Maybe That’s Why I Do That, supra note 32, at 196. “Asking questions effectively . . . requires attending to a sensory [perception] orientation to identify the immediate situation with sufficient specificity to decide what the next response should be. If a closed question is appropriate, [sensing perception’s] detailed focus . . . helps determine what specific aspect of which concrete topic [the question should] pursu[e]. The contrasting intuitive preference is needed to” ascertain whether an open question would be more appropriate and how to phrase it effectively. “[T]he thinking function allows assessment of the logical consequences of the various possible” phrasing options and facilitates choosing and using logical, cause-and-effect focused language. The feeling preference allows assessing effects question phrasing options are likely to have on clients and evolving relationship dimensions with them. Extraversion stimulates “the external interaction[s] needed to pose the questions and monitor non-verbal responses to them.” Intuition permits engaging in pre-act planning and post question reflecting. Judging facilitates using an organized, moderately structured questioning approaches and achieving appropriate closure. Finally, perceiving allows flexibility in structure, organization, approach, and adaptability to unexpected information and other surprising developments when they occur. Id.

162 Id. Sensing perception permits attending to immediate situations to assess what responses make the most sense and to paraphrase or summarize accurately whatever content or emotions clients communicate. Intuitive perception facilitates identifying possible meanings communicated and is particularly important when strong emotions are communicated in vague or ambiguous ways requiring identifying possibilities for acknowledging these feelings. Thinking judgment allows assessing likely information gathering consequences of listening responses while feeling judgment orients toward client agendas and easies using active listening to attend to relationship dimensions of evolving
The addition of psychological type theory insights facilitates formative assessments, which are now required by the ABA so that law schools can measure and improve student performance. By requiring formative assessment, the ABA confirmed educational theorists’ insistence “that feedback is essential to meaningful learning because it is extremely difficult to assess and change behavior without it.” Formative assessment “facilitates learning by encouraging [students performing professional identity relevant actions] to assess [them] against: (1) action theories predicting why the behaviors they sought to use would accomplish [appropriate] intended effects; (2) whether they acted congruently with their [chosen action] theories; (3) whether [these] theories and actions produced [effective] outcomes; and (4) [if effective outcomes did not occur,] what aspects of theories or actions [or both] should be changed” and why.

Humans are not impartial observers of their behavior and often remember it inaccurately. Formative assessment containing specific, behavior-based feedback combats common positive illusion biases that make it difficult for humans to identify and evaluate their actions accurately. Humans, for example, routinely see themselves as more fair, reasonable, cooperative, and competent than average. Specific, interactions. Extraversion provides impetus to listen by talking while introversion promotes abilities to resist interrupting clients and occasionally use silence coupled with non-verbal prompts to encourage continued client communication. A judging orientation facilitates planning and organizing while a perceiving orientation allows openness to client agendas, unexpected information, and surprising developments. Id. at 196–97.

164 Mapping, Modeling, supra note 32, at 919.
165 Id. at 920.
166 WILLINGHAM, supra note 130, at 151. Lacking confidence, some inaccurately remember their behavior as more ineffective than it was. Far more inaccurately remember their behavior as more effective as part of general tendencies to interpret their experiences more favorably to themselves. Id.
167 Id. Substantial evidence demonstrates that humans are likely to make judgments in ways that create positive presentations of self. RUSSELL KORBIN & CHRIS GUTHRIE, Heuristics and Biases at the Bargaining Table, in THE NEGOTIATOR’S FIELDBOOK 351, 354 (Andrea Kupfer Schneider & Christopher Honeyman eds., 2006). One of the world’s top professional tennis instructors found that his extensive research did not find one top player who was “consistent in knowing and explaining exactly what he does.” MALCOM GLADWELL, BLINK: THE POWER OF THINKING WITHOUT THINKING 67 (2005).
168 JENNIFER K. ROBBENWOLT & JEAN R. STERNLIGHT, PSYCHOLOGY FOR LAWYERS: UNDERSTANDING THE HUMAN FACTORS IN NEGOTIATION, LITIGATION, AND DECISION MAKING 70, 387 (2012). Research shows that humans systematically express and exhibit more confidence in their abilities than is warranted objectively. RUSSELL KOROBIN, NEGOTIATION THEORY AND STRATEGY 100 (2002).
behavior-based formative feedback regarding actions influenced by their tendencies helps students view themselves more objectively.\footnote{Robbennolt & Sternlight, supra note 168, at 82–83.}

Knowledge of psychological type theory’s contextual dimensions “may help students identify conflicts between what they wanted to accomplish and what they did” when discussing and developing these understandings.\footnote{Forever Jung, supra note 32, at 109.} This knowledge reinforces important messages that “detailed analysis, careful preparation, and reflective practice” are needed to demonstrate professional identity by competent behaviors.\footnote{Id.; see Kreiling, supra note 96, at 305.} Blending type theory insights into formative assessment discussions also reaffirms “the value of linking preparation, presentation, and evaluation of behavior to espoused theories of competent task performance.”\footnote{See Forever Jung, supra note 32, at 107, 109.}

The MBTI’s approach of providing only positive descriptions of different psychological type preferences and many of their common behavioral tendencies generates a nonjudgmental framework that often lessens the anxieties and defensiveness law students naturally experience when confronting contextually ineffective actions that they performed.\footnote{See Mapping, Modeling, supra note 32, at 922, 925–26.} It can also help students demonstrate patience when struggling to perform important actions that seem to come easily to colleagues.\footnote{See id. at 927–28.} Additionally, the MBTI approach can reduce frustrations that can block learning new skills by providing insights into strengths as well as reasons for their challenges.\footnote{See id. at 925–26; see also Paul T. Wangerin, Learning Strategies for Law Students, 52 ALB. L. REV. 471, 476–77 (1988).} It can also help students view these challenges as requiring countering behavioral tendencies rather than surrendering to “unalterable parts of their personalities.”\footnote{See Mapping, Modeling, supra note 32, at 928.}

Discussing and developing these understandings help students acquire habits of reflecting on their theories and behaviors so that they can identify and correct ineffective choices on their own when they

\footnote{See Mapping, Modeling, supra note 32, at 927–28.} 

\footnote{See id. at 925–27; see also Paul T. Wangerin, Learning Strategies for Law Students, 52 ALB. L. REV. 471, 476–77 (1988).} 

\footnote{See Mapping, Modeling, supra note 32, at 928.}
practice. These understandings supply “a necessary step in the process of becoming competent in taking action and simultaneously reflecting on that behavior in order to learn from it.” These discussions and understandings also satisfy the ABA’s new requirement that all students be afforded opportunities to develop concepts underlying the professional skills they learn, that is, action theories to experience multiple performance interactions, and to engage in self-evaluation.

III. TYPE THEORY’S DECISION-MAKING PREFERENCES AND DEMONSTRATING PROFESSIONAL IDENTITY IN LAWYER-CLIENT RELATIONSHIPS

Lawyer and client relationships present many role, objective, and action challenges, and responding effectively to them contributes significantly to developing appropriate professional identity. Learning to competently exercise the behaviors that demonstrate appropriate professional identity comes to life most vividly when experiencing the multiple crucial aspects of building and maintaining relationships with and fulfilling responsibilities for clients. These activities supply the core of lawyering.

Studies show that lawyers spend more time interacting with clients than they devote to any other set of tasks. Lawyer surveys also verify the importance of competent performance of actions required to create and sustain effective client relationships, and the belief that law schools can and should help lawyers learn these skills. Twenty-five ABA Model

177 See id.
178 Forever Jung, supra note 32, at 101.
180 CARNEGIE REPORT, supra note 1, at 129.
181 These interacting task sets include interviewing, counseling, and preparing clients. A survey of more than 1,000 lawyers practicing in five federal judicial districts in California, New Mexico, Pennsylvania, South Carolina, and Wisconsin showed lawyers typically spent 16% of their time confering with clients, a greater percentage than they devoted to any other task set. David M. Trubek et al., The Costs of Ordinary Litigation, 31 UCLA L. REV. 72, 80–81, 91 tbl.3 (1983).
182 A survey of 634 California lawyers showed the following percentages listing action theories and implementing actions as essential or important: 82.9% for interviewing and 86.4% for counseling. Robert A.D. Schwartz, The Relative Importance of Skills Used by Attorneys, 3 GOLDEN GATE U. L. REV. 321, 324–25 tbl.4 (1973). Over 800 Chicago lawyers gave these rankings of skills as very important or important: 97.6% for oral communication; 71.6% for fact gathering; and 62% for counseling. Bryant G. Garth & Joanne Martin, Law Schools and the Construction of Competence, 43 J. LEGAL EDUC. 469, 473 tbl.1 (1993). This same survey showed these percentages believing the theories and behaviors associated with these skill sets could be taught effectively in law schools: 77% for oral communication; 65% for fact gathering; and 57% for counseling. Id. at 479 tbl.4.
Rules of Professional Conduct affect lawyer-client relationship issues; this is a much larger number of regulations than are directed to any other lawyering context.\(^1\)

One psychological type preference category, judgment, measures how persons prefer to make decisions about their perceptions using one of two methods: thinking or feeling.\(^2\) These preferences encompass and influence methods for evaluating information and making decisions.\(^3\) Both thinking and feeling preferences influence rational ways of analyzing, prioritizing, and evaluating information in order to make decisions, but the methods are different.\(^4\) Because these preferences tend to “exert the most influence on attitudes and behaviors regarding relationship issues,”\(^5\) this section examines their value in helping students learn roles and competent behaviors demonstrating appropriate professional identity in critical lawyer-client contexts.

“Thinking judgment is objective and impersonal.”\(^6\) A thinking preference often influences actions that analyze and evaluate information, situations, and tasks by considering objective factors first and giving them highest priority.\(^7\) Thinking preference-influenced actions frequently encompass stepping away from situations to make impersonal

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1. See Model Rules of Prof’l Conduct RR. 1.1–1.18, 2.1, 2.3, 3.2, 4.2–4.4, 6.4 (2013).
4. Id. The labels used for these concepts, “thinking” and “feeling,” are terms of art and are intended to convey different meanings from connotations given them in other contexts. Maybe That’s Why I Do That, supra note 32, at 176 n.27. Both thinking and feeling in Jungian type theory describe rational, non-emotional approaches to analyzing and evaluating perceptions and making decisions regarding them. Id. at 176. A feeling preference does not connote the use of emotions in making decisions, but rather describes a subjective, value-based approach “which is neither exclusively nor necessarily based on emotion.” Id. at 176 n.27.
5. Forever Jung, supra note 32, at 51. Many behavioral influences flowing from this thinking-feeling dimension of psychological type theory are more subtle than those stemming from other dimensions. Id. “This preference does not influence easily observable behaviors such as an emphasis on facts or possibilities” when perceiving or communicating, demonstrating external or internal energy direction, and acting in planned, decision or spontaneous, flexible ways. Id. These behavioral influences often “must be discerned . . . from verbal communications . . . that provide clues about how [lawyers and clients] have made decisions about data, situations, and approaches to tasks.” Id. at 51–52. They also often surface in oral and written comments on and reactions to and formative assessment feedback regarding interpersonal encounters. Id. at 52.
6. Juris Types, supra note 30, at 17; see also 3d MBTI Manual, supra note 29, at 24 (explaining that thinking decision-making relies on cause and effect principles and tends to apply reason objectively and impersonally).
7. 3d MBTI Manual, supra note 29, at 24 (“Thinking judgment relies on impartiality and neutrality with respect to the personal desires and values of both the decision maker and the people who may be affected by the decision.”).
judgments. These actions emphasize critical analysis and criticism. These behaviors also tend to disregard relational concerns, de-emphasize or ignore emotions, and express empathy rarely. A thinking preference usually influences actions that emphasize logical consequences and objective connections.

Feeling judgment, on the other hand, is “subjective and personal.” A feeling preference tends to influence actions that analyze, evaluate, and make decisions about information, tasks, and approaches by considering subjective factors first and giving them highest priority. It influences a process that steps into situations, identifies with the people involved, and uses “subjective, values-based standards” to discern and assess options.

Feeling preference-influenced actions frequently express appreciation, communicate positive feedback, and avoid criticism. These actions tend to emphasize relational concerns, acknowledge emotions, and express empathy frequently. A feeling preference often influences a decision-making process that attends to what matters to the people who are involved in situations, emphasizes “human as opposed to the technical aspects of problems,” and seeks to create and preserve “harmonious relationships.”

Although it is estimated that the general U.S. population divides equally with half preferring thinking and half indicating a feeling preference, this psychological type measure is the only one “that shows significant gender differences.” Research suggests that 60 to 65% of men indicate a preference for thinking decision-making while 60 to 65% of women indicate a preference for feeling decision-making.

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190 See COCHRAN ET AL., supra note 106, at 240; BAYNE, supra note 56, at 23.
191 MBTI MANUAL, supra note 29, at 24 (explaining that thinking decision-making tends to reflect “analytical inclination, objectivity, [a primary] concern with principles of justice and fairness, criticality, an impassive and dispassionate demeanor, and an orientation to time that is linear”).
192 See id.
193 Maybe That’s Why I Do That, supra note 32, at 176.
194 JURIS TYPES, supra note 30, at 17.
195 See MBTI MANUAL, supra note 29, at 24 (explaining that feeling decision-making relies on understandings of personal and group values).
196 JURIS TYPES, supra note 30, at 17–18.
197 See Maybe That’s Why I Do That, supra note 32, at 176. See generally MBTI MANUAL, supra note 29, at 24 (describing characteristics of feeling preferring people).
198 MBTI MANUAL, supra note 29, at 24–25 (explaining that feeling decision-making reflects more attunement to feelings and values of others and desires for “affiliation, warmth, and harmony”).
199 Id.; Maybe That’s Why I Do That, supra note 32, at 176.
200 Forever Jung, supra note 32, at 17.
women show a feeling preference. MBTI samples of lawyers and law students, however, show an overwhelming preference for thinking judgment regardless of gender. American lawyers and law students frequently manifest this disproportionate thinking judgment type preference by displaying abstract, impersonal, and analytical approaches to persons and problems in law practice. An estimated ninety percent of American law students and lawyers are “left brain dominant,” indicating impersonal, analytical decision-making inclinations. Researchers often use lawyers when measuring an occupational group that is analytical and objective in its typical behaviors regarding perceiving, deciding, and acting. As noted in the MacCrate Report, these tendencies are extensively reinforced by contemporary American legal education.

The Carnegie Report specifically encourages law schools to introduce students to nuances of the complex roles lawyers play with their clients...
as students develop a professional identity and the relevant competence in interviewing, counseling, and exercising other client-focused behaviors. Thinking-feeling preferences potentially influence both broad role choices and specific action decisions in lawyer-client interactions.

For example, strong, unrestrained thinking influences may lead to adopting leading and controlling as the most appropriate roles for lawyers to play in their client interactions. These influences may incline law students and lawyers to view recommending best options and telling clients what to decide as their primary role when helping clients make decisions. These influences may also impact tendencies to view substantive legal knowledge, relevant facts, and likely legal outcomes as the most important factors that should drive client decisions.

Extreme forms of these behaviors resulting from these roles are unprofessional and violate the collaborative, client-centered approach that the ABA Model Rules of Professional Conduct mandate. Model Rule 1.4 requires that lawyers help clients make decisions by providing sufficient information to allow them to produce informed choices. Model Rule 1.0(e) explains that the information required for making informed decisions encompasses providing adequate information explaining proposed conduct options along with their material risks and reasonably available alternatives and their risks.

These role conceptions also facilitate unprofessionally extending the authority Model Rule 1.2 gives to lawyers to decide means of representation issues while respecting client autonomy to decide the ends and objectives of legal representation. A comment to Model Rule 1.2 requires lawyers to consult with clients regarding means of representation

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209 See Carnegie Report, supra note 1, at 128.
210 See Cochran et al., supra note 106, at 2 (explaining that lawyers embracing an authoritarian approach to counseling assume that they are able to be disinterested and make objective decisions).
211 See Thomas L. Shaffer et al., Legal Interviewing and Counseling in a Nutshell 54, 56 (4th ed. 2005). These roles flow from carrying legal knowledge and expertise to their logical extremes and concluding that the reasons clients hire them is to do what they are told. These roles encompass deciding what clients should do and insisting on rigid client compliance with these commands. Id. at 57. They also frequently include sharing “unsolicited advice,” making “grandiose claims and arguments,” and frequently referring to legal aspects that are beyond their clients’ understanding. Id.
212 See Cochran et al., supra note 106, at 2–3 (discussing how authoritarian lawyers assume solutions are primarily technical and lawyers are experts in the technical information needed to arrive at correct decisions).
213 See id. at 4.
215 Id. R. 1.0(e).
216 Id. R. 1.2.
decisions regarding expense issues and impacts on others not actually involved.\textsuperscript{217}

This ends-means distinction in Model Rule 1.2 has been criticized as not realistically reflecting the majority of decisions that lawyers help clients make in multi-issue deal-making and dispute-resolving situations.\textsuperscript{218} These multi-issue contexts are seldom sufficiently linear to draw clear ends-means distinctions. Instead, most decisions lawyers must help clients make inevitably require weighing consequences and choosing between differing sets of advantages and disadvantages presented by multiple pertinent options.\textsuperscript{219}

This reality has led many scholars to recommend a collaborative, client-centered role, which gives clients autonomy to make all decisions that have a substantial legal and non-legal impact on them and their situations.\textsuperscript{220} This approach best respects the neuroscience research showing that human brains are wired to need autonomy, and that persons are motivated to possess and exercise the ability to make decisions affecting them.\textsuperscript{221} It also reflects the reality that clients are better situated to identify and assess non-legal consequences, which usually contribute more to their personal satisfaction regarding outcomes than legal consequences do.\textsuperscript{222} Substantial uncertainties invariably exist, and clients, not lawyers, should decide acceptable risk levels regarding them.\textsuperscript{223} In addition, different and potentially conflicting interests between lawyers and their clients regarding economic and reputation issues exist in most,
if not all, difficult decisions. These potentially conflicting interests provide another justification for lawyers to defer regarding all choices carrying substantial legal or non-legal impacts.

Typical feeling preference action inclinations may help law students learn and exercise behaviors that better demonstrate this collaborative client-centered role perspective regarding lawyer-client decision making. These behavioral tendencies may influence adopting and performing actions that consistently empower and appropriately follow client leadership regarding all decisions having substantial non-legal and legal impacts. They may help law students adopt a primary role that emphasizes informing clients and facilitating decisions that best maximize client satisfaction. These inclinations also may help law students understand that subjective, non-legal factors are usually equally or more important than predicted legal outcomes in achieving maximum client satisfaction.

Beyond fundamental role adoptions and actions demonstrating them, developing professional identity in client relationships requires competent performance of many specific behaviors pursuing two goals simultaneously. Legal interviewing scholars suggest that these objectives are: “(1) building and maintaining an effective working relationship with clients; and (2) acquiring complete and accurate information about their situations and desires.”

A preference for thinking, for example, may influence generally ineffective actions that result in dominating topic selection and

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225 Binder et al., supra note 218, at 321 (explaining that lawyers and clients often have conflicting interests, creating strong temptations for lawyers to influence decisions that advance their personal interests); see Robert H. Mnookin, Scott R. Peppet, & Andrew S. Tulimello, Beyond Winning: Negotiating to Create Value in Deals and Disputes 10, 74–76 (2000) (arguing that potential conflicting interests exist by virtue of inevitable differences in information and incentives when clients delegate tasks to lawyers). Research suggests that all too often lawyers put their own self interests ahead of their client’s concerns. See, e.g., Lerman, supra note 224, at 662; Kevin McMunigal, Rethinking Attorney Conflict of Interest Doctrine, 5 Geo. J. Legal Ethics 823, 831 (1992).

226 Maybe That’s Why I Do That, supra note 32, at 171; see also Bastress & Harbaugh, supra note 220, at 62; Organizing Matrimonial Interviews, supra note 31, at 259. The primary value advocated in clinical interviewing and counseling literature is that lawyers conducting interviews should act in ways that build effective relationships with their clients. Organizing Matrimonial Interviews, supra note 31, at 260. Relationship goals include building “an interactive dynamic that facilitates the development of mutual trust, confidence, and respect between client and lawyer.” Id. at 260–61; see also Mark K. Schoenfield & Barbara Pearlman Schoenfield, Interviewing and Counseling 1 (1981); Shaffer et al., supra note 211, at 77.
conversation agendas. It can influence choosing to phrase questions and comments as initiatives to persuade and control rather than as efforts to inform and motivate. A psychological type preference for thinking may also influence ineffective actions that emphasize expertise, authority, and insider status and diminish or ignore non-legal factors and interests.

227 Lawyers often begin controlling their representation of clients by dominating their interviews with them. COCHRAN ET AL., supra note 106, at 14. This control encompasses the topics discussed and the sequence in which they are explored. Id. Research suggests that this frequently occurs in practice. See, e.g., id. at 16 (“Lawyers, particularly those unaware of their own cognitive tendencies, [often channel] conversation into areas of the law that are more familiar to and more comfortable for the lawyer.”); Carl J. Hosticka, We Don’t Care About What Happened, We Only Care About What Is Going to Happen: Lawyer-Client Negotiations of Reality, 26 Soc. PROBS. 599, 600–01, 604 (1979) (explaining that legal services lawyers often exercised control by selecting topics, changing topics, and initiating who should speak); Gary Neustadter, When Lawyer and Client Meet: Observations of Interviewing and Counseling Behavior in the Consumer Bankruptcy Law Office, 35 BUFF. L. REV. 177, 207 (1986) (discussing how lawyers often demonstrated a predisposition for one form of bankruptcy and did not even explore other forms).

228 Questions may be used to dominate and control. See BASTRESS & HABRAUGH, supra note 220, at 288 (noting that lawyers often view their role as gathering facts toward their selection of the most advantageous option, which typically reflects what best enhances the lawyer’s profit and status). Questions that are phrased narrowly to seek only a specific detail in a particular context or suggestively by containing the answer they seek are most commonly used to control and persuade. Research suggests a tendency of lawyers to control interviews by primarily using closed inquiry. See, e.g., Gary Bellow, Turning Solutions into Problems: The Legal Aid Experience, 34 NLADA BRIEFCASE 106, 112–13 (1977); Hosticka, supra note 227, at 606; Neustadter, supra note 227, at 229. Extensive use of closed questions diminishes client engagement in “identifying problems and actively participating in their resolution.” BINDER ET AL., supra note 218, at 71. Hosticka’s study of legal services interviews showed that over 90% of the lawyers’ statements were instances of topic control and 21.8% were leading questions that suggested desired answers. Hosticka, supra note 227, at 605.

229 COCHRAN ET AL., supra note 106, at 17 (suggesting that lawyers often steer interviewing conversations toward their status as legal system insiders and sell this insider status rather than their legal knowledge); see Austin Sarat & William L.F. Felstiner, Lawyers and Legal Consciousness: Law Talk in the Divorce Lawyer’s Office, 98 YALE L.J. 1663, 1664 (1989).

230 American legal education strongly influences law students and practicing lawyers to perceive and act through “law-based, rights-oriented lenses.” Don Peters, It Takes Two to Tango, and to Mediate: Legal Cultural and Other Factors Influencing United States and Latin American Lawyers’ Resistance to Mediating Commercial Disputes, 9 RICH. J. GLOBAL L. & BUS. 381, 406 (2010) [hereinafter Two to Tango]; see Guthrie, supra note 205, at 160. These lenses translate complex, multi-factor situations into manageable frames for adjudicatory resolution. See Guthrie, supra note 205, at 158, 174–75. They encourage interviews focused on legally-authorized causes of action; facts which substantiate or refute them; and key damage, evidence, and proof matters. See id. at 174–75. They also tend to discourage interviewing regarding interests, non-monetary considerations, and relational issues, such as reorienting parties to each other and promoting respect, affinity, and autonomy. See id.; Leonard L. Riskin, The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and their Clients, 7 HARV. NEGOT. L. REV. 1, 16 (2002).
A feeling preference, on the other hand, can influence generally effective actions that encourage clients to select conversation agendas and topics. 231 It may influence actions and the phrasing of comments and questions in efforts to empower and inform. 232 It can also influence actions that emphasize clients’ situational expertise and non-legal concerns and interests. 233

Demonstrating that type inferences may often influence effective as well as ineffective behavioral inclinations, a thinking preference may influence necessary actions that fully explore topics that clients are likely to experience as difficult or uncomfortable. 234 Thinking judgment likely helps law students and lawyers inform clients fully regarding potential disadvantages of decision options and give other forms of bad news. 235 The natural impersonal stance a thinking judgment preference encourages helps maintain appropriately objective perspectives and avoid over-identifying with clients or their situations in counterproductive ways. Finally, tendencies to criticize rather than appreciate are likely to help law students and lawyers share constructive feedback regarding client actions that are ineffective or contextually inappropriate.

Similarly, a feeling preference may influence ineffective behavioral inclinations that lead law students and lawyers to over-identify with clients or their situations and lose necessary objective perspectives. 236 The influences of feeling judgment may challenge law students and lawyers to explore difficult, potentially uncomfortable topics fully and to provide complete information regarding potential disadvantages. 237 A feeling preference may also influence reluctance and discomfort creating less than effective actions giving bad news, confronting clients appropriately, and providing warranted constructive feedback. 238

Thinking or feeling psychological type preferences potentially influence core actions dealing with and responding to communicated

231 See Forever Jung, supra note 32, at 64–65 (“Significant correlations exist between a feeling preference and the use of cooperative behaviors”).
232 See id. at 65.
233 See COCHRAN ET AL., supra note 106, at 240 (noting that students and lawyers preferring feeling tend to look for solutions that fully meet all the needs of their clients).
234 See id. (discussing how law students and lawyers preferring thinking have natural tendencies to question case strengths and push their clients to shore up potential weaknesses).
235 See id.
236 Id. (explaining that law students and lawyers preferring feeling run risks of over-identifying with their clients).
237 See id. (noting that law students and lawyers preferring feeling “can have difficulty standing back and objectively critiquing the case or challenging the client on difficult issues or inconsistent facts”).
238 See id.
feelings, and emotions comprise an essential aspect of all relationships, including those between attorneys and clients. All human decisions are influenced by emotions. Neuroscience demonstrates that all human cognitive, emotional, and behavioral activities start with perception. Consequently, everything felt, thought, and done starts with meanings humans attribute to their perceptions. Substantial portions of these perceptions are first processed by limbic brain systems, which generate emotions. These initial emotion-based assessments operate quickly and independently of prefrontal cortex systems. They also provide interpretations that influence immediate behaviors or subsequent cognitive assessments and resulting actions in complex ways.

Contemporary neuroscience’s insight that suppressing emotions during lawyer-client interactions is neither possible nor productive encourages action theories and behaviors that are likely to engender positive rather than negative emotional reactions. Humans possess core concerns that are present in all interactive contexts and that usually “stimulate positive emotions,” if met, and negative feelings, if ignored. These concerns reflect basic human needs and reflect how humans want to be treated. How humans assess others’ responses to these core concerns usually manifests as emotions, and these feelings often influence subsequent behaviors.

Action theories underlying many of the specific effective and ineffective behaviors described earlier are designed to demonstrate sensitivity to these core concerns. They enhance likelihoods that resulting emotions will be positive and influence productive, non-defensive behaviors. Three of these important concerns are appreciation, affiliation, and autonomy.
A concern for feeling appreciated encompasses experiencing that one’s emotions are acknowledged and one’s interests, perspectives, and comments are perceived to have merit.\textsuperscript{251} “Being heard and understood [usually] makes speakers feel better both about the person with whom they are communicating and the process of talking with him or her.”\textsuperscript{252} These experiences also typically motivate further information sharing.\textsuperscript{253}

A concern for affiliation incorporates a sense of connectedness with others and makes working together easier.\textsuperscript{254} Recent neuroscience discoveries demonstrate that humans are neurally wired to connect, making connecting one of the human brain’s capacities.\textsuperscript{255} Neuroscience research also shows that humans manifest increased abilities to trust and empathize with others with whom they affiliate genuinely.\textsuperscript{256} The core concern of autonomy was described earlier.\textsuperscript{257}

Needs to respond positively to core concerns of appreciation, affiliation, and autonomy are encountered in all lawyer-client interactions, and listening usually supplies the most effective actions to accomplish these objectives.\textsuperscript{258} Two approaches to listening are passive and active.\textsuperscript{259} Passive listening requires remaining silent and encouraging others to talk without interruption.\textsuperscript{260} Active listening requires making verbal responses that paraphrase or summarize the content of what speakers say or that acknowledge communicated emotions without judgment, analysis, or reassurance.\textsuperscript{261}

Using active listening responses by making statements that acknowledge emotions communicated demonstrates understanding and merit by recognizing and valuing the sharing of these intimate human

\textsuperscript{251} Id. at 15, 17.


\textsuperscript{253} Organizing Matrimonial Interviews, supra note 31, at 279.

\textsuperscript{254} Id.


\textsuperscript{256} Lack & Bogacz, supra note 82, at 44.

\textsuperscript{257} See supra notes 143–44, 214–26 and accompanying text.

\textsuperscript{258} See Fisher & Shapiro, supra note 245, at 28–29, 33–35, 57–58, 84–89.

\textsuperscript{259} Organizing Matrimonial Interviews, supra note 31, at 277.

\textsuperscript{260} Id. Effective passive listening actions also encompass “maintaining attentive [and culturally appropriate] eye contact” and providing quasi-verbal and “non-verbal encouragement to communicate.” Id.

\textsuperscript{261} Binder et al., supra note 218, at 46–47, 50, 55, 57. Described as “the ‘most effective talk tool that exists for demonstrating understanding and reducing misunderstanding,’” active listening is the “process of picking up [speakers’] messages and sending them back in reflective statements.” Id. at 46–47.
When made in response to strong emotional communications, these statements may calm amygdala-stimulated fight or flight response tendencies and actions, activate pre-frontal cortex neural paths, engage cortical inhibitory systems, and ameliorate further negative emotion-influenced actions. Making active listening statements that neutrally paraphrase or summarize the non-emotional content of what clients communicate expresses merit by valuing others sufficiently to demonstrate hearing and understanding what they said. They also decrease misperceptions and misunderstandings by giving clients opportunities to correct them.

These active listening responses supply the most effective ways lawyers can experience and express empathy. Empathy involves understanding the experiences, views, behaviors and feelings of others and expressing these understandings neutrally without judgment or analysis. Perhaps because emotions reflect core limbic brain responses stimulating intimate, often intense universal human experiences of fear, anger, sadness, surprise, happiness, and disgust, genuine statements acknowledging these emotions express empathy powerfully.

Acknowledging strong emotions stimulates prefrontal cortex consideration of the existence and accuracy of feelings identified. This may afford opportunities for prefrontal activity talking back to and analyzing negativity bias-influenced action tendencies and amygdala hijacking impulses. It may create prefrontal influences resulting in different ways to react, and may also lessen the need to express negative emotions further because they have been heard and understood. It may produce a form of resilience that is reflected in more productive future actions. See id. at 243–44.

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262 See Binder et al., supra note 218, at 28.
264 Binder et al., supra note 218, at 27–28.
265 Id. at 46, 51.
266 Id. at 47–48; see Barkai & Fine, supra note 252, at 506–07; Organizing Matrimonial Interviews, supra note 31, at 280. Closely focusing on and attending to non-verbal and verbal communications sufficient to permit responses that paraphrase and summarize the non-emotional dimensions and acknowledge the feeling components provides the optimal way for lawyers to set aside their agendas, assumptions, and expectations in order to understand another’s experiences, views, behaviors, and feelings. See Binder et al., supra note 218, at 47–48.
268 Research shows that these are basic emotions found in all humans even though individuals differ in how they experienced and are strongly influenced by cultural rules regarding displaying them. Paul Ekman, Emotions Revealed: Recognizing Faces and Feelings to Improve Communication and Emotional Life 15, 213–16 (2003).
statements acknowledging the emotional content of a speaker’s communication accurately and non-judgmentally demonstrates that law students and lawyers can enter their clients’ world and see it from their perspectives.\textsuperscript{269} It proves that these law students and lawyers are, in a powerful sense, feeling with, not for, their clients. This is the crucial distinction between empathy and sympathy.\textsuperscript{270}

Even though research shows that professional “success in law [practice] correlates significantly more with relationship skills than it does with knowledge of substantive law,”\textsuperscript{271} American law schools are not doing much to teach their students how to properly recognize and deal with emotions.\textsuperscript{272} Reflecting the overwhelming predominance of thinking over feeling preferences, studies show that American law students and lawyers have relatively underdeveloped interpersonal and emotional capacities.\textsuperscript{273} Not surprisingly, research also shows that many lawyers seldom express empathy in their client interactions.\textsuperscript{274}

\textsuperscript{269} Humans usually “want and need to have their feelings heard and understood[,] rather than analyzed, judged or minimized.” Organizing Matrimonial Interviews, supra note 31, at 281. The message clients usually receive when their lawyers do not listen actively to acknowledge their feelings is that their emotions “are not important.” Id. at 281–82. This unfortunate message directly contradicts the crucial importance of emotions to humans, which are critical to humans’ decision making processes. See LEHRER, supra note 136, at 15–17.

\textsuperscript{270} While the concept of empathy traces back to Plato, the current word derives from a translation of “Einfühlung, a German word meaning ‘feeling into’ in an aesthetic sense.” Organizing Matrimonial Interviews, supra note 31, at 280 n.74.

\textsuperscript{271} Nancy A. Welsh, Looking Down the Road Less Traveled: Challenges to Persuading the Legal Profession to Define Problems More Humanistically, 2008 J. Disp. Resol. 45, 56. Empirical data suggests that clients are most satisfied with lawyers who possess the best personal skills. Stephen Feldman & Kent Wilson, The Value of Interpersonal Skills in Lawyering, 5 LAW & HUM. BEHAV. 311, 311 (1981).

\textsuperscript{272} Two to Tango, supra note 230, at 411.

\textsuperscript{273} Guthrie, supra note 205, at 156. American lawyers and law students are “less interested in people, in emotions, and interpersonal concerns.” Susan Daicoff, Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism, 46 AM. U. L. REV. 1337, 1405 (1997). For example, limited empirical research suggests relatively infrequent use of active listening responses during initial interviews. In an analysis of 23 actual interviews in a clinic representing low-income clients seeking to end their marriages, “the average use of active listening responses . . . , compared to all inquiry and other listening responses, was seventeen percent.” Maye That’s Why I Do That, supra note 32, at 191–92 (citation omitted).

\textsuperscript{274} BINDER ET AL., supra note 218, at 48 (noting lawyers generally “pay too little attention to clients’ feelings”). Lawyers and law students “are prone to seeing themselves as rational fact-gatherers and decision-makers” and “tend to perceive feelings as either irrelevant or as unwelcome impediments to what should ideally be . . . completely rational” processes and interactions. Id.; see also ROWAN BAYNE, IDEAS AND EVIDENCE: CRITICAL REFLECTIONS ON MBTI THEORY AND PRACTICE 55 (2005) [hereinafter IDEAS AND EVIDENCE] (noting persons preferring thinking decision-making tend to believe that emotions interfere with good decisions, cloud effective judgments, and should be kept in their place).
Although more empirical knowledge about how lawyers actually behave in client interactions is needed, indications exist that these underdeveloped interpersonal and emotional capacities influence behaviors that fail to demonstrate appropriate professional identity. Research suggests that lawyers routinely have difficulty giving up control, listening, not interrupting, and empathizing. Many lawyers often tell clients what to do. Many also commonly over-emphasize expertise, insider status, and legal rights-based inquiry and de-emphasize or ignore exploring non-legal interests. Less than competent communication skills often appear as the basis of client complaints about attorneys. These complaints encompass failing to solicit or listen to client concerns before proceeding and handling legal matters without fully informing clients of risks.

Insights derived from type theory’s thinking-feeling dimension may help law students develop more competent action habits regarding general relational and specific empathy challenges. Skilled active listening and empathizing require actions generally more influenced by feeling than thinking behavioral tendencies. These skills require giving up control, stepping into rather than away from situations, valuing speakers’ emotional and content agendas, and avoiding forming and expressing logical, impersonal analysis and judgment.

A common behavioral tendency influenced by a feeling preference is greater initial sensitivity to the subjective relational aspects than to the objective task dimensions of interpersonal interactions. The

276 See supra notes 228–29, 274 and accompanying text.
278 See supra notes 230–31 and accompanying text.
281 See, e.g., BARR & BARR, supra note 47, at 104 (suggesting persons preferring feeling judgment tend to focus “first with the agreeable-disagreeableness of an interaction” and then focus on specific tasks); HIRSH & KUMMEROW, supra note 58, at 46–47 (noting that persons preferring feeling judgment typically consider “underlying values and human needs when making work-related decisions”); KROEGER & THUESEN, supra note 45, at 74 (observing that
comparatively small number of law students and lawyers who prefer feeling decision-making are likely to experience more behavioral tendencies to use active listening responses because doing this requires valuing others.282 Because of their probable heightened sensitivity to others' affective agendas, they are also likely to be drawn to and more comfortable making active listening responses that acknowledge strong emotional expressions.283 Research in a law school family law clinic setting found that law students who prefer thinking judgment missed twice as many opportunities to acknowledge emotions during interviews with clients seeking to end their marriage than did students preferring feeling judgment.284

Research suggests that following the recommendations from the Carnegie Foundation and the ABA Accreditation Standards for more instruction and practice to develop competent skills in lawyer-client contexts will produce more knowledge and effective actions in these contexts.285 With appropriate instruction and practice opportunities, law students have improved their active listening, emotion recognition, and acknowledgment skills in clinical courses.286 They also have improved their questioning skills.287

persons preferring feeling judgment want work goals that reflect concern for everyone involved).  
282 *Forever Jung*, supra note 32, at 65; see *Ideas and Evidence*, supra note 274, at 55 (stating that persons preferring feeling judgment often perceive that logic misses main points and that emotions are central to effective decisions because they signal what matters most).  
283 *Forever Jung*, supra note 32, at 66.  
284 *Maybe That's Why I Do That*, supra note 32, at 170, 174–75, 195 & n.91 (reflecting on analysis of data taken from transcriptions of twenty-three actual interviews with clients seeking representation in the Virgil Hawkins Civil Clinic at the University of Florida College of Law). Demonstrating the unreliability of using type theory to predict behavior, the twelve students preferring thinking in the study averaged three feeling acknowledgement responses per interview, one more than the eleven students preferring feeling. *Id.* at 194 n.89.  
285 See infra notes 286–87 and accompanying text.  
286 Barkai & Fine, supra note 252, at 508, 526–27 & nn.63–64 (observing that students increased empathy scale measurements from a pretest mean of 2.46 to a 4.91 on the Truax Accurate Empathy Scale after four hours of instruction); *Maybe That's Why I Do That*, supra note 32, at 192 (noting that students increased their use of active listening from an average of 7% of total responses on a pretest simulated interview to 17% during their actual interviews); see also Benjamin Pope, *The Mental Health Interview: Research and Application* 358 (1979) (concluding that empathy is teachable).  
287 Students have increased their use of open inquiry, using questions phrased to invite broad, minimally restricted responses to instructional units emphasizing the value of these actions in interviewing contexts. *Organizing Matrimonial Interviews*, supra note 31, at 264, 284 & nn.23 & 84 (finding that students used an average of 7% open inquiry in actual client interviews after 20 hours of instruction, as compared to 2% before); Paula L. Stillman et al., *Use of Client Instructors to Teach Interviewing Skills to Law Students*, 32 J. LEGAL
Substantial neuroscience evidence suggests that human brains possess neural circuitry that potentially operates in social interactions and facilitates experiencing and expressing empathy. Mirror neurons “sense both the move another person is about to make and their feelings, and instantaneously prepare us to imitate that movement” and empathize with these emotions. Mirror neurons also “prime circuitry that connects the [brain’s] insula and premotor cortex with the limbic system” and facilitates reading and responding to emotional messages in another person’s tone of voice. Different neurons in the fusiform area of a brain’s temporal lobe help humans recognize and interpret emotions from facial expressions. Simply learning of this existing brain circuitry may help students start to counter non-empathic action inclinations potentially influenced by their thinking judgment preference with more empathic behaviors.

The large percentage of law students who prefer thinking judgment are likely to benefit from instruction and practice that identifies and challenges their potentially type-influenced behavioral tendencies to avoid or deemphasize recognizing and acknowledging emotions when interviewing clients and helping them make decisions. Providing opportunities to see more relationship and emotion-sensitive behaviors demonstrated by colleagues who prefer feeling and instructors who have acquired these action habits often helps students who prefer thinking see their value. It helps them perceive acquiring these action habits as necessary, though admittedly often difficult, challenges to embrace and overcome.

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289 See SOCIAL INTELLIGENCE, supra note 255, at 9, 324.

290 Id. at 324–25.

291 Id. at 325.

292 For example, one of co-Author Don Peters’s students who preferred thinking wrote at the end of a negotiation course: “At first, these tools [active listening and process comments] seemed like little more than time wasters employed to stroke a counterpart’s ego, which shouldn’t need stroking. In the end, though, I began to understand a few things: People’s egos need occasional stroking regardless of whether they should.” FOREVER JUNG, supra note 32, at 66 n.316 (alteration in original).

293 See FOREVER JUNG, supra note 32, at 111. Another thinking-prefering student with whom Don Peters worked in a negotiation course wrote: “I found [active listening] difficult to implement as a deliberate planned response [because it required] fighting against my
Experiencing and receiving formative assessment-feedback regarding these core relationship-relevant actions from colleagues, instructors, and themselves in journaling, action-based rubrics, and other self-reflection contexts increase likelihoods that these students will change their professional identity stories. These educational processes increase chances that students will tell themselves professional identity stories that include collaboration, connection, and empathy. These experiences and formative assessments also will make it harder for students to continue telling themselves professional identity stories that emphasize the emotional detachment assumed to be essential to acting exclusively as professional technicians who handle files impersonally.

CONCLUSION

Change, like the modifications advocated by the Carnegie Report and mandated by the 2014 amendments to the ABA Accreditation Standards, is never easy. Replacing existing perceptions, patterns, practices, and structures requires time, determination, perseverance, and continuous experimentation, reflection, and assessment.

Making progress implementing the recommendations of both the Carnegie Report and the 2014 amendments to increase emphasis on and support for developing professional identity will require adding more experiential learning opportunities to existing curriculums. Research demonstrates that using effective experiential teaching approaches frequently employed to develop skill competence essential to ethical practice may “influence the moral development of [law] students.” These experiential learning processes work best when they emphasize extensive engagement and role taking, cooperative, student-centered instruction, supportive small groups, and encouragement of free expressions of emotions.

This Article advocates that adding psychological type theory knowledge and insights to these learning efforts facilitates critical objectives regarding developing and enhancing self-awareness generally and empathy specifically. Self-awareness or self-knowledge supplies a foundational basis upon which law students can build professional skill.

established responses to stimuli that are ingrained and emerge . . . when I react instinctively in the moment.” Id. at 111 n.545 (alterations in original).

294 See supra note 5 and accompanying text.

295 Moral Development, Ethical Conduct, supra note 267, at 167.

296 Steven Hartwell, Promoting Moral Development Through Experiential Teaching, 1 CLINICAL L. REV. 505, 505, 531–32 & n.90 (1995) [hereinafter Promoting Moral Development]. Carl Rogers argued persuasively that the only important learning is that which significantly influences behavior and results from efforts that are self-discovered and self-appropriated. CARL R. ROGERS, ON BECOMING A PERSON: A THERAPIST’S VIEW OF PSYCHOTHERAPY 276 (1961).
competence and identity. Preceding sections explained how self-knowledge of cognitive patterns and tendencies during learning activities enhances developing “behavioral interventions leading to new [action] habits that improve [law] study approaches and understandings.” Law students also gain valuable insights about their values and identity by learning their behavioral inclinations. They become aware of their strengths, challenges, and needs for contextually modifying their actions to achieve identified objectives. This form of self-awareness also aids students in developing skill competence essential to professional identity by helping them connect their behaviors to explicit action theories. This helps them discern action theories that they might otherwise dismiss or avoid because the recommendations require behaviors influenced by psychological type dimensions they seldom use. It also enhances developing contextual adaptations necessary to perform effectively and useful responses to unique situations where theoretical knowledge is neither sufficient nor easily accessible.

Psychological type theory’s underlying premise that individuals commonly display significantly different approaches to conceptualizing and performing central interactive behaviors helps students understand their behavioral inclinations. These understandings give students insights into their implicit theories of action, which drive their customary, often virtually automatic behaviors. Developing and using behaviors based on these insights facilitates competence in performing actions while simultaneously reflecting on these behaviors to learn from them. This critical step in learning to learn from experience begins with self-awareness and leads directly to self-evaluation. It also enhances

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297 See STEVEN PINKER, HOW THE MIND WORKS 134 (1997) (noting that self-knowledge, while important, “is no more mysterious than any other topic in perception and memory”).

298 See JURIS TYPES, supra note 30, at 5.

299 See ROBBENOLT & STERNLIGHT, supra note 168, at 387.

300 See FOREVER JUNG, supra note 32, at 106–07.

301 See id. at 101.

302 Id.

303 See ARGYRIS & SCHÖN, supra note 80, at 18–19.

304 Changing legal education in response to the Carnegie and ABA accreditation amendment recommendations should improve student abilities to learn from experience. Important social science research from scholars investigating how professions learn competence shows that the most common general sets of behaviors displayed by lawyers, business executives, industrial managers, and public administrators reflect actions and implicit action theories that inhibit abilities to learn from experience. See id. at 68–69, 73, 81, 83–84; SCHÖN, supra note 84, at 256–59. These behaviors and implicit action theories orient interpersonal actions toward achieving unilaterally defined objectives, defining situations as exclusively win-lose, consistently seeking to win and avoid losing, and minimizing the open expression of feelings. SCHÖN, supra note 84, at 256. These implicit
learning to appreciate clients and colleagues who customarily behave differently.\footnote{305}

Taking this step significantly contributes to developing and demonstrating intrinsic values of self-understanding, appreciation of others, and self-improvement that contribute to a lawyer’s well-being.\footnote{306} These intrinsic values logically lead to actions that promote introspection, honesty, and cooperation with and respect for others.\footnote{307} They also encourage behaviors consistent with ethical professional identity that promote integrity, candor, and, because they have developed more appreciation for different perspectives, attitudes, and behaviors others naturally possess, respectful interactions with clients, counterpart counsel and clients, and others.\footnote{308}

Self-awareness, demonstrated by recognizing feelings as they happen, supplies “the keystone of emotional intelligence,”\footnote{309} which enhances empathic abilities and behaviors.\footnote{310} Psychological type insights often help students learn to value and exercise empathy, which, in addition to building effective lawyer-client relationships,\footnote{311} also underlies ethical sensitivity and supplies a core component of professional identity.\footnote{312} The roots of morality lie in empathy because the capacity to put oneself in another’s place motivates helping actions and decisions to follow moral principles.\footnote{313}

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\footnote{305} See supra notes 109–10 and accompanying text.

\footnote{306} See Undermining Effects on Law Students?, supra note 141, at 264; see also supra notes 144–45 and accompanying text.

\footnote{307} What Makes Lawyers Happy?, supra note 142.

\footnote{308} Id.

\footnote{309} DANIEL GOLEMAN, EMOTIONAL INTELLIGENCE 43 (1995) [hereinafter EMOTIONAL INTELLIGENCE].

\footnote{310} Emotional intelligence has been defined as abilities to (1) “perceive accurately, appraise, and express emotion;” (2) “access . . . feelings when they facilitate thought;” (3) “understand emotion and emotional knowledge;” and (4) “regulate emotions to promote emotional and intellectual growth.” EMOTIONAL INTELLIGENCE: KEY READINGS ON THE MAYER AND SALOVEY MODEL 35 (Peter Salovey et al. eds., 2004).

\footnote{311} See supra notes 263–71 and accompanying text.

\footnote{312} See EMOTIONAL INTELLIGENCE, supra note 309, at 104–05 (arguing that to feel for another is to care for another).

\footnote{313} Id. at 105; Martin L. Hoffman, Empathy, Social Cognition, and Moral Action, in HANDBOOK OF MORAL BEHAVIOR AND DEVELOPMENT 275, 276 (William M. Kurtines & Jacob L. Gewirtz eds., 1991).
Empathy influences lawyers to appreciate that their representational actions affect not only themselves and their clients but others as well. This stimulates assessing actions by considering consequences to everyone while also integrating their personal needs to act consistently with internal principles. This empathy-influenced approach tends to resolve ethical dilemmas in ways that avoid unnecessary harms to others. It also reflects a post-conventional stage five of moral reasoning articulated by Lawrence Kohlberg because it demonstrates capacities “to differentiate and integrate conflicting ethical [and moral] responsibilities.”

As explained earlier, influences from a feeling judgment preference naturally produce behavioral inclinations toward empathic understandings and actions. On the other hand, influences from a thinking judgment preference produce behavioral tendencies that resist forming subjective, situational understandings and encourage performing actions that are objective, impersonal, and non-empathic. Students and lawyers performing actions influenced by their thinking preference may be more likely to resolve ethical dilemmas by using Kohlberg’s stage four of conventional reasoning. Stage four reflects tendencies to comply with literal text of formal ethical rules because they are impartial, impersonal guidelines. “Most lawyers probably reason . . . [morally] at Stage Four.”

Using psychological type theory effectively to develop and improve behavioral competence demonstrating professional identity requires ethical application of this knowledge. Ethical use of psychological type theory requires providing frequent reminders that everyone is an individual, that their type preferences are important elements in their individuality, and that these preferences often influence but certainly do not mandate, restrict, or limit future behaviors. Psychological type theory preferences should be used only to provide potential explanations of, not rationalizations for, past behavior. Understanding psychological type theory and MBTI results offers valuable possibilities of drawing into conscious awareness reasons why students acted the ways they did and permits modifying future behaviors appropriately. Affording brief

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316 See Promoting Moral Development, supra note 296, at 539.
317 See supra notes 282–86 and accompanying text.
318 See supra notes 273–75 and accompanying text.
319 See Promoting Moral Development, supra note 296, at 510.
320 Id.
321 BAYNE, supra note 56, at 5.
glimpses of some personality elements and how people often differ regarding them, psychological type theory also can help law students and lawyers better understand other's past behaviors and facilitate more effective future communication with persons who seem to perceive and act differently.

Working ethically with psychological type theory to develop professional identity and related skill competence requires honoring Jung’s insistence not to use any aspect of this knowledge in restrictive or heavy-handed ways. Using psychological type theory to predict specific future behavior applies this useful knowledge rigidly and unethically. It stereotypes individuals, insulting them by denying them their individual autonomy to behave as they desire. It turns psychological type theory into an inflexible form of behaviorism totally inconsistent with Jung’s objective to promote awareness and self-growth. Jung embraced a wide variety of behavioral inclinations within his typology and emphasized that every individual was an exception to, as well as a reflection of, their type preferences.

Because human brains are designed to avoid the slow, hard, uncertain tasks thinking carefully requires, they prefer and frequently use mental shortcuts based on their memory. This often makes it relatively easy for persons encountering and understanding psychological type theory superficially to overgeneralize and stereotype others by assuming how they will behave in the future and making decisions based on these assumptions.

Jung warned future users of these risks by

322 See SPOTO, supra note 38, at 4, 13, 125.

323 See FISHER ET AL., supra note 133, at 167. Beyond unethical stereotyping, future predictions based on type preferences are not likely to be reliable for several reasons. Type is only one of many factors that influence human behavior. Gilchrist, supra note 71, at 603 (noting that the MBTI does not explain all the complexities of human behavior); KROGEL & THEUSEN, supra note 45, at 48–49 (explaining that gender, ethnicity, socioeconomic factors, and many other factors contribute besides type preferences). Assuming type preferences are known or predicted accurately, people differ broadly in the degree to which they have developed effective behaviors influenced by their non-preferences. Moreover, most important lawyering tasks are complex and require effective exercise of actions potentially influenced by most, if not all, type preferences. See supra notes 161–63 and accompanying text.

324 Jung, supra note 38, at 516. Explaining the psychological type theory that underlies the MBTI, Jung wrote:

[Ev]ery individual is an exception to the rule. Hence one can never give a description of a type, no matter how complete, that would apply to more than one individual, despite the fact that in some ways it aptly characterizes thousands of others. Conformity is one side of a man, uniqueness is the other. Id.

325 WILLINGHAM, supra note 130, at 4.

326 Id. at 5, 7.

327 See Marcin, supra note 109, at 104 (arguing that superficial understandings and inept uses of type theory generate stereotyping "that can cause and exacerbate social and individual wounds").
acknowledging that “[t]heories in psychology are the very devil.”

Jung gave this warning to ensure that psychological type theory should be used to promote awareness and self-growth, not to limit or stereotype others.

Although these risks of psychological type theory’s misuse lead critics of its use in legal education to unjustifiably assume that using the MBTI will “unavoidably . . . pigeonhole and stereotype students” and faculty, these dangers need to be balanced against the demonstrable value of self-awareness and self-evaluation that effective, ethical use of this knowledge generates. Proper, ethical use coupled with frequent reminders also reinforces the role purposeful thought and design can play in producing effective behavior. This belief that law students and lawyers can design and exercise effective behaviors and change less effective actions underlies existing, well-accepted, and successful approaches to developing skills competence and professional identity already in wide use in contemporary clinical legal education.

According to cognitive learning theory, skills learning, defined as a change in human behavioral ability which persists over time, begins with constructs containing knowledge and suggestions regarding what actions will be effective and why. Then learning continues with activities that encourage students to confront, apply, modify, interpret and assess these constructs in the contexts of their role played and actual experiences performing these actions. Making these journeys effectively requires learning about self and others. Psychological type theory makes useful contributions to these critical steps and enhances successful journeys to competence and professional identity.

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328 SPOTO, supra note 38, at 1 (quoting Carl G. Jung, Psychological Types, in THE COLLECTED WORKS OF CARL J. JUNG 7 (Herbert Read et al. eds., H.G. Baynes trans., 1971)).
329 Jung saw psychological type theory as a way of engaging persons with conscious, active participation with attitudinal, perceptual, and behavioral aspects of their personalities. See id. at 25.
330 Redding, supra note 38, at 324.
331 See BAYNE, supra note 56, at 3.