

THERAPEUTIC JURISPRUDENCE AND PREVENTIVE LAW: A COMBINED CONCENTRATION TO INVIGORATE THE EVERYDAY PRACTICE OF LAW

Dennis P. Stolle* and David B. Wexler**

This Essay proposes an approach to law practice that integrates two perspectives—therapeutic jurisprudence and preventive law. It is our thesis that a preventive law “legal checkup” can provide the opportunity for lawyers to counsel clients about ways in which the law may be applied or invoked in a sensitive and therapeutic manner.

Therapeutic jurisprudence focuses on the law’s impact on emotional life. It is a perspective that recognizes that the law *itself* can be seen to function as a kind of therapist or therapeutic agent. Therapeutic jurisprudence is sensitive to the therapeutic and anti-therapeutic consequences that sometimes flow from legal rules, legal procedures, and the roles of legal actors.¹ Therapeutic jurisprudence is not narrowly confined to the area of mental health law. Instead, it is a therapeutic perspective on the law in general.

A recent example of therapeutic jurisprudence scholarship outside the traditional realm of mental health law is Kay Kavanagh’s analysis of the “Don’t Ask, Don’t Tell” regulation regarding gays in the military.² Kavanagh’s critique suggests that the regulation will promote isolation and superficial social relations for gay service members. Isolation will result because a ban on a discussion of one’s sexual orientation would naturally chill discussion about many seemingly innocuous, but nonetheless related, daily events, such as where one went for the holidays, and with whom. Thus, Kavanagh urged a change in the law—from “Don’t Ask, Don’t Tell” to a proposed law of “Don’t Ask, Tell If You Want To.”

A new dimension of therapeutic jurisprudence scholarship, however, takes the law as given and explores ways in which the existing law might be most therapeutically *applied*.³ For example, although “Don’t Ask, Don’t Tell”

* Law/Psychology Program, University of Nebraska–Lincoln.

** John D. Lyons Professor of Law and Professor of Psychology, University of Arizona.

1. LAW IN A THERAPEUTIC KEY: DEVELOPMENTS IN THERAPEUTIC JURISPRUDENCE (David B. Wexler & Bruce J. Winick eds., 1996) [hereinafter LAW IN A THERAPEUTIC KEY].

2. Kay Kavanagh, *Don’t Ask, Don’t Tell: Deception Required, Disclosure Denied*, 1 PSYCHOL., PUB. POL’Y & L. 142 (1995), reprinted in LAW IN A THERAPEUTIC KEY, *supra* note 1, at 343.

3. David B. Wexler, *Applying the Law Therapeutically*, 5 APPLIED & PREVENTIVE PSYCHOL. 179 (1996), reprinted in LAW IN A THERAPEUTIC KEY, *supra* note 1, at 831. Portions of the present introduction have been adapted from the cited article.

may "naturally" chill discussion of many daily life events, the "natural" result may not be the *legally obligatory* result: it may be that if a gay service member can learn to be comfortable deflecting, or refusing to answer, questions relating specifically to his or her gay orientation, disclosure of where and with whom he or she spent the holidays might be perfectly permissible, and might reduce the service member's feelings of social isolation.

A related piece of therapeutic jurisprudence scholarship—one that deals explicitly with applying the law therapeutically rather than reforming it—is Rose Daly-Rooney's treatment of the confidentiality provisions of the Americans with Disabilities Act (ADA).⁴ Under the ADA, if an employee with a disability wishes a "reasonable accommodation" in the workplace in order to perform his or her duties (e.g., the modification of equipment or of a work schedule), the employee can reveal the disability to the employer and request an adjustment or accommodation. Under the confidentiality provision, the disability would need to be disclosed only to the employer, the employee's supervisor, and perhaps to safety personnel—it would not be disclosed to the employee's co-workers.

Daly-Rooney suggests, however, that an employee with a disability may often profit from waiving confidentiality and from voluntarily disclosing the disability to relevant co-workers. Secrecy, again, may lead to isolation and superficial social relations. Daly-Rooney provides an example of a nondisclosing employee with mild retardation who lives in a group home. If, to protect her secret, she declines a co-worker's offer of a ride home on a rainy day, she may well appear strange or unfriendly.

Moreover, Daly-Rooney posits that an employee with a disability might be best integrated into the workplace if co-workers are asked by the employer to play a part in the employee's workplace integration. The co-workers, who, after all, probably know more than the new employee (and perhaps even more than the employer) about the requirements of the given job, could then help ascertain the essential functions of the job and could help design reasonable accommodations for the employee with a disability. This interaction might decrease rumors about the new employee and might decrease resentment by the co-workers, who now have had a voice in the process and have some sort of stake in the success of the designed accommodation.

Both "Don't Ask, Don't Tell" and the confidentiality provision of the ADA, then, provide examples of applying existing law therapeutically. In the first instance, we are talking about a disclosure-prone gay service member disclosing quite a bit—but not too much—about his or her personal life in order to have meaningful social interaction with other military personnel. In the second example, we are speaking of an employee with a disability choosing to waive confidentiality and choosing to disclose the disability to certain co-workers. Note that in the first example, it is the service member alone who can "apply" the law therapeutically. In the ADA example, however, if co-workers are to help devise a reasonable accommodation for the employee, presumably the employer must in practice agree and play a major part.

4. Rose A. Daly-Rooney, *Designing Reasonable Accommodations Through Co-Worker Participation: Therapeutic Jurisprudence and the Confidentiality Provision of the Americans with Disabilities Act*, 8 J.L. & HEALTH 89 (1994), reprinted in LAW IN A THERAPEUTIC KEY, *supra* note 1, at 365.

One difficulty about "applying" the law therapeutically is how therapeutic jurisprudence scholarship and recommendations will come to the attention of the relevant legal actors. How will a gay service member know that he or she need not shy away from questions about a traveling companion on a recent trip? With the ADA example, it is possible that an employer's lawyer will read the Daly-Rooney piece and suggest that the company's employment manual be revised to notify employees of the possibility of co-worker involvement in designing reasonable accommodations. In the absence of that, however, it seems quite unlikely that a prospective employee would personally think of requesting the involvement of co-workers in designing the workplace accommodation.

The notion of applying the law therapeutically, therefore, is far from self-executing, and is in desperate need of a facilitating legal structure or context. In a recent article relating to the practice of elder law, Dennis Stolle has suggested that clients might be more fully and satisfactorily served by a lawyer who attended to and planned for the realities of the aging process.⁵ Stolle suggested that the ideal elder lawyer would be knowledgeable not only about the substance of elder law, but would be versed also in therapeutic jurisprudence and in preventive law. Preventive law is a perspective on law practice that seeks to minimize and avoid legal disputes and to increase life opportunities through legal planning.⁶ A key tool of the preventive lawyer is the regular "legal checkup."⁷

Our present thesis is that preventive law, and the legal checkup in particular, at least when used by a lawyer keenly attuned to how the law may affect a client's psychological well-being, can provide the very legal context or mechanism needed for lawyers to work with clients to apply the law therapeutically. Further, this preventive/therapeutic (P/T) framework, like preventive law and therapeutic jurisprudence in general, is not substantively restricted to elder law or, indeed, to any particular field of law. The P/T approach, in other words, can apply to everyday lawyering and to the general practitioner.

Consider, for example, a lawyer engaged in a general office practice but with a focus on preventive law and therapeutic jurisprudence. Such a lawyer will keep abreast of the relevant literature and will encourage clients to undergo regular legal checkups. One aspect of a regular legal checkup might examine a client's current work situation. "How is work going? Any problems with bosses? With co-workers? With carrying out your duties?"

Such a checkup might spot warning signs of sexual harassment, and the lawyer and client might then consider strategies for dealing with offensive remarks and behaviors. The work-related inquiries should also reveal a gay service member's frustration with social isolation, and can lead to a discussion

5. Dennis P. Stolle, *Professional Responsibility in Elder Law: A Synthesis of Preventive Law and Therapeutic Jurisprudence*, 14 BEHAV. SCI. & L. 257 (1996).

6. LOUIS M. BROWN & EDWARD A. DAUER, PERSPECTIVES ON THE LAWYER AS PLANNER (1978); Edward P. Richards III, 'Should Preventive Law, Like Some Medicine, Be Mandated by Government?', PREVENTIVE L. REP., June 1992, at 28. Helpful information may be obtained from the National Center for Preventive Law, 1900 Olive Street, Denver, Colorado 80220. Its web page is available at <http://www.pacificrim.net/~ncpl>.

7. Edward A. Dauer, *Future of the Legal Profession Lies in Utilizing Preventive Law*, PREVENTIVE L. REP., Mar. 1990, at 25.

regarding how much disclosure of personal information is legally allowable.⁸

Similarly, the checkup should indicate that a client with a disability is in possible need of a "reasonable accommodation." If so, a discussion might ensue regarding whether to request an accommodation and, if so, how and when to approach the employer. The question of confidentiality with respect to co-workers and the issue of possible co-worker involvement in designing the accommodation can also be discussed—as well as the matter of how this procedure should be raised delicately with the employer, and whether the employer should be approached by the employee personally or, in rare instances, perhaps by the lawyer. If co-workers are likely to be ignorant about a particular disability and are accordingly likely to be awkward in their interactions with the employee—such as knowing when to offer assistance and when not to—the lawyer might suggest that one type of "reasonable accommodation" could simply be an educational session whereby co-workers learn, by commercial videotapes or by an informal discussion with the client-employee, details about the disability and its impact on the employee's performance of certain tasks.

Preventive law, therefore, can provide a framework for the practice of therapeutic jurisprudence. And therapeutic jurisprudence, in turn, can provide a rich and rewarding "human aspect"⁹ and interdisciplinary orientation for a preventive lawyer to use in everyday law practice. We hope, in fact, that the approach described here will resonate with and excite a considerable group of private practitioners, legal services lawyers, and lawyers engaged in providing pre-paid legal services. After all, such lawyers can be involved in a client-centered¹⁰ practice that seeks to negotiate the legal arena with maximum attention to the psychological well-being of clients. Such practitioners—in essence, primary care counselors-at-law—are truly helping professionals, and can enthusiastically pursue a rewarding¹¹ career that should, incidentally,

8. In many cases, of course, there will not be any legal problems at work or elsewhere. Thus, the therapeutically oriented preventive lawyer conducting a legal checkup must use client counseling skills carefully and avoid creating in the client the perception of legal troubles where none in fact exist. The preventive/therapeutic (P/T) lawyer's role is, after all, to prevent, not to promote, legal disputes.

9. Amiram Elwork & G. Andrew H. Benjamin, *Lawyers in Distress*, 23 J. PSYCHIATRY & L. 205, 221 (1995), reprinted in LAW IN A THERAPEUTIC KEY, *supra* note 1, at 569. This integration of therapeutic jurisprudence and preventive law also seems consistent with much of the approach of holistic lawyering, and may provide a framework and a body of literature that will prove useful to such lawyers. Similarly, some of the writings of holistic lawyers will prove useful to those seeking to integrate therapeutic jurisprudence and preventive law. See Thomas A. Dye, *Law School's Contribution to Civility and Character*, LAW PRAC. MGMT., Oct. 1996, at 40. Information on holistic lawyering and on the International Alliance of Holistic Lawyers is available from the Holistic Justice Center, P.O. Box 753, Middlebury, Vermont 05753.

10. Some of the difficult jurisprudential issues in therapeutic jurisprudence—how do you define "therapeutic," and therapeutic for whom?—are easier to deal with when we focus clearly on the perspective of the individual client. See Christopher Slobogin, *Therapeutic Jurisprudence: Five Dilemmas to Ponder*, 1 PSYCHOL., PUB. POL'Y & L. 193 (1995), reprinted in LAW IN A THERAPEUTIC KEY, *supra* note 1, at 763.

11. One lawyer speaks of a preventive law practice as "life-affirming." Scott E. Isaacson, *Preventive Law: A Personal Essay*, 9 UTAH B.J., Oct. 1996, at 14, 17. A preventive/therapeutic approach should also be far less stressful than are other approaches to law practice. See Elwork & Benjamin, *supra* note 9.

enhance the reputation of the legal profession.¹²

Of course, many fine lawyers already blend elements of preventive law with concerns for a client's psychological well-being.¹³ We seek merely to make the point explicit and to provide a sharper conceptualization and focus on an approach a number of lawyers undoubtedly already use, at least to some extent, though probably implicitly and not systematically. In fact, therapeutic jurisprudence itself in many ways provides "merely a sharper conceptualization of and focus on work that a number of us...had been engaging in earlier."¹⁴ But just as "this sharpened focus...helped generate much scholarship that otherwise would likely have gone unwritten, and...has created a community of therapeutic jurisprudence scholars,"¹⁵ we hope the explicit integration of therapeutic jurisprudence and the practice of preventive law will generate much thinking that otherwise would not occur and will create a community of lawyers who share the same perspective and who practice, expressly and systematically, as therapeutically-oriented preventive lawyers.

What, then, are the next steps to facilitate the development of a systematic preventive/therapeutic (P/T) approach to law practice? We propose that we begin by synthesizing and consolidating what is already known, and by then adding to our knowledge by turning the P/T lens explicitly on various areas of legal practice. We can work simultaneously on two fronts—legal education and the practicing bar.

Presently, there exist no casebooks and few law review articles that explicitly address a P/T approach.¹⁶ However, classroom materials can be found among many of the consumer-oriented law books, which often describe good lawyering techniques. As noted above, much good lawyering already involves a preventive orientation and a sensitivity to ways in which the law might exacerbate—or ameliorate—psychological stress. For example, Mark Senak, who has spent his legal career representing people with HIV, recently published an excellent consumer-oriented book that promotes a preventive orientation and covers a number of therapeutically-insightful themes. While Senak recognizes that it is probably largely true that "lawyers don't usually warm up to words like 'psychosocial,'"¹⁷ he accurately notes that "a skillful lawyer is also a social

12. Edward D. Re, *The Causes of Popular Dissatisfaction with the Legal Profession*, 68 ST. JOHN'S L. REV. 85, 116 (1994). Judge Re suggests that popular dissatisfaction with the legal profession is in part due to lawyers' overemphasis on litigation and underemphasis on counseling. Judge Re states that "a good lawyer must be more than a passionate advocate for a specific client and must consider more than merely the specific case or issue presented. In the role of counselor, whose goal is the prevention of litigation and the settlement of disputes, lawyers fulfill their classic role as healers and peacemakers rather than promoters of litigation and strife." *Id.* at 123-24. See also The Honorable Edward D. Re, *The Lawyer as Counselor and the Prevention of Litigation*, 31 CATH. U. L. REV. 685 (1982).

13. See, e.g., MARK S. SENAK, HIV, AIDS, AND THE LAW: A GUIDE TO OUR RIGHTS AND CHALLENGES (1996); Forrest S. Mosten, *Unbundling of Legal Services and the Family Lawyer*, 28 FAM. L.Q. 421 (1994); David S. Rowley, *Preventive Law Can Be—and Is—a Solo Practitioner's Career*, PREVENTIVE L. REP., Mar. 1989, at 13.

14. David B. Wexler & Bruce J. Winick, *Patients, Professionals, and the Path of Therapeutic Jurisprudence: A Response to Petrila*, 10 N.Y.L. SCH. J. HUM. RTS. 907, 909 n.9 (1993), reprinted in LAW IN A THERAPEUTIC KEY, *supra* note 1, at 707.

15. *Id.*

16. Indeed, at the time of publication, this Essay and Stolle, *supra* note 5, are the only two articles describing a P/T approach to lawyering.

17. SENAK, *supra* note 13, at 12.

worker, understanding the psychosocial ramifications of the client's situation."¹⁸ Senak also quotes approvingly the remarks of another lawyer: "the intermixing of people's psychological needs and people's legal rights and duties is something...any sensitive lawyer must always be aware of."¹⁹

We are likely to learn much from the consumer-oriented law books written by such psychologically sensitive, prevention-oriented lawyers. Senak's book on HIV provides practical advice on handling many legal issues sensitively and in a stress-reducing manner. For instance, he notes the importance of preparing for possible future disability so as to avoid emotionally draining bureaucratic battles if disability benefits are later sought. The advice is crisp and practical: "Find your birth certificate. A Xerox copy will get you nowhere. If you can't find your birth certificate, call the hospital where you were born...."²⁰ Of equal importance, Senak deals with the delicate point that "it is not an admission of getting sicker to prepare for the possibility that one day a person may need these programs."²¹ Ironically, of course, it is quite possible that the more a person with HIV is able to plan for such matters, and thus lower the stress level, the better the chance that severe sickness will itself be postponed or perhaps avoided.²²

Employment is another area Senak approaches with the skills of a preventive lawyer. He underscores the importance of conducting legal checkups, and notes that discrimination and other employment-related problems could, with planning, be "lessened dramatically," for "the timing for informing an employer and the way in which it is done may make all the difference in the world."²³

Senak's psychological sensitivity is particularly in evidence when he discusses how a single parent with AIDS might relieve some stress by making eventual provisions for the children, perhaps through the designation of a "standby guardian."²⁴ He notes, too, the importance of talking to the children about these issues, and puts the matter in context by quoting a lawyer at the Gay Men's Health Crisis (GMHC):

There was a client who had no one to leave a seven year old daughter with, and she felt that the relatives she had would not make good parents. She came to GMHC and was referred to a private placement agency. They linked the client up with a lawyer who wanted to adopt the daughter. The client executed a standby designation and started the adoption papers. The three of them spent time together, and when the client died, the daughter already knew her new mother, who then adopted her. The fact that she had made these arrangements was such a comfort to the client while she was in the hospital for the last time.²⁵

When we take an explicit P/T perspective in reading consumer-oriented books, we are also likely to focus on certain issues not covered by the authors. For example, in his chapter on wills, Senak notes that a person with AIDS may

18. *Id.* at 13.

19. *Id.* at 106.

20. *Id.* at 72.

21. *Id.* at 69.

22. *See id.* at 109.

23. *Id.* at 111.

24. *Id.* at 41.

25. *Id.*

often appoint as executor a partner who also has AIDS, and he mentions the possibility that, upon the death of the testator, the surviving partner may be grieving and ill.²⁶ He thus raises for consideration the difficult question whether the testator should actually designate the partner as executor of the will.²⁷ Although not explicitly addressed by Senak, a therapeutically oriented preventive lawyer should, in this case, probably discuss with the testator not only *whether* to appoint the partner as executor, but also whether there should be a discussion between the partners about the issue, perhaps about both partners drafting wills and serving as executor for each other, or about asking a third person perhaps to serve as the executor for both.

The P/T lens can be turned on almost any area of the law:²⁸ how much stress—and how many family fights—are provoked by the process of tax preparation? Can a system be devised now for collecting important tax documents so that the stress and arguments will not occur next year? Is bankruptcy the answer to one's financial situation? If so, how will one cope with the stigma and embarrassment that continues to accompany bankruptcy status? Who will one tell, and how, and when? How does one cope with or react to insulting or offensive comments made at work? Can this potential for sexual harassment be short-circuited?²⁹ What can we do about a neighbor's noisy parties, ever-growing tree,³⁰ always barking or unleashed dog?³¹

These issues and the consumer-oriented books that address them can be discussed in law school seminars on therapeutic jurisprudence³² or preventive law. Some books can be read by the class as a whole and can form the basis of class discussion. Other books can be read by individual (or teams of) students interested in the area, and can form the basis of papers to be prepared and discussed: How does the author handle such and such a situation? Do you agree? Are there other issues we would have liked to have seen discussed that were not discussed in the book? Does the student have any suggestions in those areas?

Students may also interview lawyers working in the field in question to learn how certain situations are dealt with—or not dealt with. They may also collect from such lawyers the "raw materials of preventive law"—"forms, examples, checklists and other materials that have proven useful in helping clients plan their activities in order to avoid legal problems."³³ Relatedly, the

26. *Id.* at 27.

27. *Id.*

28. Nolo Press, which has a web page at <http://www.nolo.com>, is a leading publisher of self-help law books, usually authored by lawyers. The mailing address is Nolo Press, 950 Parker Street, Berkeley, California 94710. The 800 phone number is 1-800-992-6656.

29. WILLIAM PETROCELLI & BARBARA KATE REPA, *SEXUAL HARASSMENT ON THE JOB* (2d ed. 1995).

30. CORA JORDAN, *NEIGHBOR LAW: FENCES, TREES, BOUNDARIES, AND NOISE* (2d ed. 1996).

31. MARY RANDOLPH, *DOG LAW* (2d ed. 1995).

32. On the teaching of therapeutic jurisprudence, see David B. Wexler, *Some Thoughts and Observations on the Teaching of Therapeutic Jurisprudence*, 35 *REVISTA DE PUERTORRIQUEÑO* 273 (1996).

33. See Isaacson, *supra* note 11, at 15. See also Louis M. Brown, *Lawyering Decisions: New Materials for Law Libraries to Collect*, 87 *L. LIBR. J.* 7 (1995). Brown suggests that to truly teach lawyering, especially preventive counseling skills, law libraries ought to collect and make available to students the raw materials of the lawyering process, including reports of cases that never left the law office, lawyers' notes and correspondence with clients, successful

seminar students could scrutinize existing preventive law checklists, and could suggest ways in which those checklists might be broadened to increase their focus on matters of psychological well-being that may well be ameliorated or exacerbated by the law.³⁴

Legal checkups, for example, might ask not only about a client's hopes and plans, but also about the client's fears—work-related stresses, financial worries, landlord (or tenant) problems, health and medical concerns,³⁵ problems with or about children, parents, partners. Many of these preoccupations might be lessened by legal measures or planning, and it will be instructive for students to create and tackle some concrete examples.³⁶

The issues addressed in these seminars should form the basis of a new scholarship devoted explicitly to preventive/therapeutic issues in the practice of law. The scholarship can, in turn, enrich not only law school seminars in therapeutic jurisprudence and preventive law, but can also, we hope, eventually find its way into the general legal literature and into the basic casebooks and course books—so that law school will have more of a “human aspect”³⁷ and not be, as Mark Senak complained, “all theory.”³⁸ Presumably, law students exposed to this approach will, upon graduation, carry it with them at least to some extent into their practice. We hope others will choose to enter a practice with a true concentration in therapeutic jurisprudence and preventive law.

This leads us to the next front on which to develop the P/T approach: the practicing bar. Those of us who teach in the law/mental health or the law/psychology area know a number of lawyers—many of whom once took our courses or served as our research assistants—who are people-oriented, careful lawyers enjoying or seeking a rewarding practice situation. Some have undergraduate or graduate degrees in psychology, sociology, education, social

contracts and agreements, etc. Brown notes that “[t]he first barrier to collecting lawyering materials is their privileged nature,” but suggests that at least some clients may be willing to sign a document waiving the privilege after a specified period of time has elapsed. *Id.* at 11–12. Brown analogizes a client signing such a waiver to “the common practice of requesting that a patient, on entering a hospital, consent to the use of the patient file for purposes of medical research.” *Id.* at 12.

34. Mosten, *supra* note 13, at 440 (“[B]y receiving updates on a client's life events (not limited to disputes), the lawyer can then assist the client to improve decision making and planning to prevent problems, reduce conflict, and increase life opportunities.”).

35. In a recent article, Winick has addressed the use of “advance directives” in the context of treatment for serious mental illness. Bruce J. Winick, *Advance Directive Instruments for Those with Mental Illness*, 51 U. MIAMI L. REV. 57 (1996). The use of advance directives by definition requires planning. Winick focuses on the role of the therapist in working with the patient to develop an advance directive instrument. There is also a role here for the lawyer. In fact, a therapist may first come into contact with the patient at the time of a crisis. A therapeutically oriented preventive lawyer conducting a thorough legal checkup, however, may know from an initial interview that a client, though not in crisis, has had bouts with mental illness. Or, the lawyer might learn that, because of family history, the client is perhaps at elevated risk of serious mental illness. In any case, the lawyer might then work with the client in developing an appropriate advance directive instrument regarding psychiatric treatment. Of course, as in the instance of a lawyer working with a person with HIV to prepare for the eventuality of disability, a lawyer needs to convey the advice sensitively, underscoring that “it is not an admission of getting sicker to prepare for the possibility that one day,” SENAK, *supra* note 13, at 69, the instrument may be needed.

36. For a hypothetical raising numerous preventive law and therapeutic jurisprudence issues in the context of elder law, see Stolle, *supra* note 5.

37. Elwork & Benjamin, *supra* note 9, at 221.

38. SENAK, *supra* note 13, at xiii.

work, criminal justice, nursing, or public health. Some came to law school with work experience in child protective service agencies, in women's shelters, or in mental hospitals. Some now practice law with an emphasis on disability, family, juvenile, sexual orientation, health, or poverty law issues. Others are in general practice. Many will already implicitly follow a P/T approach, and are likely to gravitate even more to the approach when it is made explicit—when they realize that one can actually *concentrate* in therapeutic jurisprudence and preventive law in everyday law practice.

We believe it is feasible to assemble small groups of such lawyers in many locations to meet, perhaps monthly, for purposes of professional growth and development. A law faculty member—who could provide an orientation to the approach through a continuing legal education session—might offer to coordinate the venture, with meetings taking place at a law school, over lunch, or in the evenings in the homes of the participants.

This group of therapeutically oriented preventive (“TOP”) lawyers could devote itself to reading and discussing therapeutic jurisprudence and preventive law literature and consumer-oriented law books. The group can discuss practice situations, scrutinize preventive law “raw materials” such as checklists, and can invite lawyers, law professors, and mental health professionals to participate as invited lecturers or discussion facilitators.

A TOP Lawyer Reading and Discussion Group could also suggest topics and strategies that could form the basis of professional conferences and stimulating, practical legal scholarship. The group coordinators could themselves communicate with each other regarding recommended readings, practice pointers, and topics for group discussion.

We hope the integration of therapeutic jurisprudence and preventive law, and the use of the preventive law legal checkup as a device for applying the law therapeutically, will result in a group of lawyers who, in approaching practice situations, expressly and systematically use therapeutic jurisprudence and preventive law. These TOP lawyers can create fulfilling career paths for new lawyers and can, for themselves and for their clients, invigorate the everyday practice of law.

