

From the School of Hard Knocks:
Thoughts About
The Initial Client Interview

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School of Hard Knocks

Caveats:

- I am **not** an expert on estate planning interviews.
- I don't have **any** formal training in interviewing.
- Most of these thoughts come from having made **real** mistakes in **practice that I've made**, *i.e.*, learning in the School of Hard Knocks.

Methodology of Presentation

Methodology of this presentation:

- I will employ whole quotes from various textbooks on interviewing from other helping professions, primarily psychiatry, which are in *italics* (see the associated article for citations to the various works from which these quotes were drawn).
- There are **significant** similarities between issues pertaining to the “client” or patient interview process in those other helping professions and the interview process issues faced by estate and financial planners.

Caveats

- The initial estate planning interview is **not** exactly like an initial interview of a patient/client by a psychiatrist, psychologist or social worker.
- Nor does the use of these quotes infer or imply that knowledge or formal education in psychiatry, psychology or social work is or should be required for estate planners. It's just that the other helping professions have studied interviewing far more than the estate planning professions.

Parallels

- However, there are **parallels** between what estate planners do in the initial interview and follow-up counseling and what those in the other helping professions do-**obtaining information** and **engendering confidence and trust in a limited period of time.**
- Estate planners and helpers share the challenge of having to overcome **barriers** constructed by the client/patient, third parties and estate/financial planning advisers, and sometimes all of the above.

Parallel Processes

*The processes of engagement, data gathering, understanding, and assessment are in actuality **parallel** processes. [Emphasis added]*

- Estate planners have to do all of this at once, most of us **without** the benefit of formal training or education in these matters.
- This gives us (and many of our clients) **great anxiety.**

Importance of Initial Client Interview

- There does not seem to be much disagreement amongst estate planners (or their malpractice carriers) that obtaining accurate, complete information is **critical** to fashion a proper estate plan and to keep the estate planner away from malpractice and an unhappy client.
- Yet estate planners don't seem to focus much attention to the **formal** knowledge of interviewing skills.
- Other helping professions see it **quite differently**.

Importance of Interviewing Skills

*In a survey of practicing and teaching clinicians, comprehensive interviewing was ranked the **highest** of 32 skills by mental health practitioners. [Emphasis added]*

- Estate planners do not seem to classify interviewing skills as very important, judging by the **dearth** of writing **and** training on that subject.
- I argue that the skill of client interviewing is **just as important** in estate planning as it is in the other helping professions.

Computers, anyone?

If interviewing only involved getting patients to answer questions, clinicians could assign the task to a computer and spend their time doing other things.

- There is an increasing **trend** to pawn off the interview/fact gathering process to staff or junior associates, who also have no experience or training in formal interviewing.
- This is **very dangerous** in my opinion.

Interviewing Skills Can Be Learned

*But a good interviewer must know how to work with a range of different personalities and problems: to give free rein to the informative patient, to guide the rambling patient, to encourage the silent one and to mollify the hostile one. **Nearly anyone can learn these skills.** [Emphasis added]*

- Estate planning clients are **very similar** to patients in this regard.
- This indeed is **good news!**

Importance of Blending

- Have you ever had initial client interviews start out well, and then something was said or done, quite often **unrelated or even only tangentially related** to the issues at hand, that either negatively or positively **impacted** the interview and ultimately the relationship?
- The concept of **blending** is important in estate planner/client relationships-the client and the estate planner must each be able to feel that a relationship was started. **Unipolar blending** means when one participant in an interview felt blending, but the other participant didn't.

Initial Client Interview is Unique

*The initial psychiatric interview is a **creative act**. It is a study of movement and change. It is **unique**. The circumstances, the environment, and the people involved can **never** be duplicated. Even if the interviewer and interviewee wanted to replicate their own interaction, they could not; for with **each** sentence their interaction has subtly changed.*

[Emphasis added]

- This passage **exactly** describes the initial estate planning client interview.

Twin Principles of an Initial Client Interview

*This creativity is harnessed by two pivotal principles: (1) the patient must be powerfully **engaged**, and (2) a thorough and valid data base **must** be **gathered** in a limited amount of time. These two principles form the basis of the initial therapeutic encounter. They represent a complementary pair. When performed with sensitivity, **thorough data gathering mirrors effective engagement.***
[Emphasis added]

- The estate planner must figure out the client's presenting problem, gather the necessary information to solve it and convince the client that the estate planner is right for the job in about an hour-it **isn't** easy

Initial Client Interview

- The same could be said about the initial estate planning interview
- The potential thoughts of all participants during an initial estate planning interview vary greatly
- There is a high potential for anxiety on the part of all participants in an initial estate planning interview, estate planner and client alike

The Minds of the Participants

- What goes through the minds of estate planners and their clients during this initial encounter? The following slides are based upon **actual** conversations with estate planners and clients:

Estate Planner's Mind

- Am I physically safe with this client?
- Will this client make me uncomfortable?
- Will this client listen to me?
- Will I be able to work with this client?
- If meeting with more than one person, either scheduled or unscheduled, is this too many people to be meeting with?

The Estate Planner's Mind

- Am I being used or part of an **agenda** of this person other than estate planning?
- What is **really** in it for this client?
- Can this client **afford** to pay reasonable fees for the estate planning work that I feel he or she needs?
- Will this client **pay** the reasonable fees for the work that I perform?
- How **likely** is it that this client or his or her family will sue me or attempt to drag me into a fight after the client's death or during a divorce on an involuntary, non-paying basis as a witness?

The Estate Planner's Mind

- Will I run into a **snag or complication** that will cause the final cost of my services to be significantly higher than the quoted fee (or fee range)?
- Can I **rely** on this client's representations of the facts and figures? How much "due diligence" will I have to do?
- Can I fit this client into one of the "**standard forms or plans**" that I have developed with a minimum of "original thought or drafting" (translated, without additional risk-taking or cost)? Will this client understand this reality, or should I go over that now and possibly alarm the client needlessly?
- Will I **enjoy** working with this client?
- Will this client be **pleased** with my work or with the work of any advisor?

The Estate Planner's Mind

- Can I **expand** my services with this client into other needs, including those of companies owned by the client?
- How likely is it that this client will **refer** me to other friends or relatives?
- Does the client “**have all of his or her marbles?**” (Or at least enough to execute legally valid documents or enter into legally binding documents)?

The Estate Planner's Mind

- Will I **rue** the day that I ever agreed to take on this client at the quoted rates?
- What are this client's expectations regarding **turnaround time** and my **personal availability**? Will this client **respect** the boundaries that I set?
- Will this client **permit** me to allow his or her work (or at least original draft(s) to be prepared by the person in my office with the lowest rate scale who is competent to perform the work?
- How much **"TLC" or "hand-holding"** will this client expect or require? Does this client understand that this can have a bearing on fees or desirability to have them as a client? How much TLC am I willing to give this client?

The Estate Planner's Mind

- Will this client present problems that I **lack** the confidence or competence to handle? Would they allow me to bring in help? Should I discuss this candidly up front, or will this needlessly alert the client that they perhaps should choose another advisor?
- With whom may I speak in the course of doing this work? With whom should I absolutely **not** speak?
- What **confidentiality issues** are present with this client? Should I send mail, faxes or electronic correspondence to a particular place? Should I call prior to sending? May I leave voice mail messages, even to say that I called?
- How **sophisticated** is this client? **Can** they follow the rules? **Will** they follow the rules?

The Estate Planner's Mind

- Will I encounter **problems** with the client's spouse, children or significant others? How clear must I be that I do not represent or work for them?
- How many other advisors **before me** has the client gone through? Why?
- Will this client **ask or pressure me** to do anything that would compromise my personal integrity or even my professional license or designation, *e.g.*, backdating documents, misleading others about effect of documents, forging signatures, not following formal execution procedures, lying or omitting material health information on a life insurance application, *etc.*?

The Client's Mind

Now, let's shift to what goes through the client's mind during this initial encounter:

- Can this person **help** me (or us)?
- Am I physically **safe** with this person?
- Will this person make me feel **uncomfortable**?
- Will I be able to work with this person?
- Is this person **competent** to do this work?
- Is this person going to be **loyal** to me?
- Will this person take the time to talk **to** me, **not** down to me, so that I understand?

The Client's Mind

- Can this person **explain** the issues and considerations to me and to my family? **Will** he or she do so?
- Will I be able to **work** with this person?
- Is this person going to **offend** any of my loved ones or hurt any feelings?
- Does this person **understand** that for me some of these decisions are going to be very trying?
- Will this person be **perceptive** enough to pick up what I do not or cannot express clearly or directly? Will this person even **make** an effort in that regard?

The Client's Mind

- Is this person going to **take advantage** of me either on a fee or work basis?
- What is **really** in it for this person?
- What is this going to **cost** me?
- How **long** will this take?
- Will this person **respect** my feelings and desires, not try to take over to save me taxes?
- Can I contact this person **whenever** I want? If not, when may I call this person? At home? Cell phone? After hours?

The Client's Mind

- Will this person **return** my calls and e-mails in timely fashion? Are our definitions of “timely” the same?
- Will this person keep my affairs **confidential**?
- Will this person give me his or her **undivided attention** during our meetings? Will this person take phone calls or office interruptions while we are meeting?
- Where will my matter fall into this person's **work priorities**?

The Client's Mind

- Will this person meet me at my **home or other location**, or will he or she meet only at his or her office?
- Will this person be **timely and prompt**?
- If we are eating a meal together, will this person **charge me** during the time we are eating?
- How will this person handle **“soft office costs”**, *e.g.* copies, faxes, long distance charges, *etc.*

The Client's Mind

- Will I talk to this person **directly** or will I have to deal with others in the firm? If so, with whom may I have to deal?
- Does this person have a **“gatekeeper,”** i.e., someone I have to go through to get to talk to them?
- Does this person have malpractice insurance?
- Has this person ever been **disciplined professionally** or **sued for malpractice**?
- Does this person have any other **professional support** in his or her firm just in case?

The Client's Mind

- Does this person understand the **unique situation** of my family?
- Does this person have **experience** with family scenarios like mine?
- Does this person have **judgments or biases** when it comes to family issues and choices?

Importance of Listening

- Listening is an act that many of us take for granted, and most, if not all, of us blithely assume that we are pretty **good** at it.
- Being accused of not being a good listener is perceived either as an **attack** upon our intelligence or on our character.
- Yet listening, **in its fullest sense**, is necessary in order to truly understand what a client desires to accomplish in the estate planning process.

The Gift of Listening

*Concerned and empathic listening is the **greatest gift** you can give to help the other person soothe her feelings. [Emphasis added]*

- One of the conundrums of estate planning is that estate planners almost always assume that every client who comes into our offices to “**get started**” on estate planning is in fact really ready to get started or even really intending to do some estate planning.
- This is **not** always the case.

What Clients Really Want

- Sometimes, clients just want to **talk** some things out, and just be listened to, first without taking or being forced into any action and without judgment.
- A client may have an **entirely different agenda** than that superficially represented or implied to the estate planner by the client.

What Estate Planners Really Need

*To understand listening and the dynamics of relationship, it's necessary to consider not only what goes on between people but also what goes on **inside** them. [Emphasis added]*

- The reasons why clients don't commence or complete their estate planning often lie resident **within** them.
- If estate planners had **more** knowledge of these possible internal conflicts and the signs of each, estate planners could assist the client with resolving or addressing the conflict, or, at least, understand why the client is not moving forward.

Reading Between the Lines

*Experience has taught me to listen not only to what people say but also for what they're **not** saying and to wonder why [Emphasis added]*

- It is important that estate planners maintain a very healthy **independence** and **objectivity** in the initial client interview, and to look particularly hard for items conspicuous by their **absence**, or things that **don't add up**—this is one reason why it is **dangerous** to assign the duty of fact gathering to an assistant.
- This is easier said than **done**.

The Tension of Listening

*The ability to listen rests on how successfully we **resist** the impulse to react emotionally to the position of the other. [Emphasis added]*

- Estate planners must recognize that, on a subconscious level, sometimes estate planners talk during sensitive times in a client meeting **not** to impart advice or information, but to **reduce the estate planner's own anxiety**.
- Subjects such as death or contemplating one's mortality are known to **bother** most estate planners too.

Genuine Listening

*Genuine listening involves a brief suspension of self. You won't always notice this because it's reflexive and taken for granted and because in most conversations we take turns. But you might catch yourself **rehearsing** what you're going to say next when the other person is talking.*
[Emphasis added]

- Estate planners, through experience, and trial and error, constantly develop and improve ways of explaining complex concepts to clients, including **“pat answers” to “routine” questions or situations** that the estate planner can recite from memory.

What Good Listening Requires

*The act of listening requires a **submersion** of the self and **immersion** in the other. This isn't always easy. We may be interested but **too concerned** with controlling or instructing or reforming the other person to be truly open to his point of view. [Emphasis added]*

- This issue is what makes many people **poor listeners.**

What Estate Planners Often Do

- Too many estate planners have learned how to **take charge** of the estate planning process, whether it is for reasons of closing sales or just our own personal desires for peace, safety and tranquility, or at the least, nothing uncertain or new.
- Sometimes we **“take charge”** of a client’s estate planning on maternalistic/paternalistic grounds in order to “move them along” (and some clients **invite** us to do just that, *i.e.*, to “make them” do what **we think** that they need to do).
- When estate planners are certain in their minds what they think a client needs, many **stop** considering alternatives, sometimes to avoid the discussion going in a direction in which the planner may not feel comfortable.

Plugging in the Tape

- Sometimes, estate planners “**plug in the tape**” of the answer when the estate planner has heard what he or she **assumes** the question to be, and the estate planner quits **real listening**.
- Besides being embarrassing when the estate planner has “plugged in” the wrong tape, this action has the danger of signaling to the client that the estate planner really may **not** be listening and may **not really understand or care about the client**.

What Listening Really Requires

*Simply holding your tongue while the other person speaks **isn't the same** as listening. To really listen you have to **suspend** your own agenda, forget about what you might say next, and **concentrate** on being a receptive vehicle for the other person.*
[Emphasis added]

- You can't really know where the client is heading unless you concentrate 100% on listening to the client and watching his or her body language. Otherwise, you're going to miss something **critical**.

What a Client Really Wants

*When the people I know talk about feelings-- what's really on their minds, what they're excited about, what's troubling them--they want to be **listened to and acknowledged, not interrupted with advice** or told that someone else had a similar experience. [Emphasis added]*

- **This one hit home!** I thought that everyone wanted my advice **immediately**, and I obliged them--for a while, until I became a better listener and more experienced estate planner.

What Clients Really Want

*They want listeners who will take the time to **listen** and **acknowledge** what they're saying, not immediately turn the focus to **themselves**. [Emphasis added]*

- This includes giving advice or explanations of estate planning.

What Clients Don't Want

*One of the most common consequences of failing to be sensitive to other people's motivating expectations is giving them **unwanted** advice.* [Emphasis added]

- This is where many estate planners make mistakes, as we too often **assume** that the client is there to receive our advice **immediately**-that's **often not true**.

The Tension Between Wanting to Help and Listening

*Listening, as we've seen, takes **effort**. But sometimes that effort is prejudiced: our own internal sensitivities **filter** what we hear and what we say. Those sensitivities take the form of **preconceived expectations** and **defensive emotional reactions**. [Emphasis added]*

- It can be quite difficult to **temper** the impulsive desire to **“help”** with the need first to **listen**. These texts generally remind estate planners that quite often estate planners are unconsciously attempting to fix or minimize their **own anxiety** instead of focusing on that of the person talking. In Motivational Interviewing, that tendency to immediately try to set someone straight is called the **“righting reflex”** and is to be resisted at all costs.

Tense Moments

*A lot of us have difficulty listening when it means having to sit still and **share** someone's uneasiness or uncertainty. We have to say something **quick** [sic] to make the anxiety go away. [Emphasis added]*

- A joke about being married during a tense moment between spouse clients or gallows humor when confronted with a discussion about death are but two examples.
- **Pauses are your friend!** Give the client 15-20 seconds after finishing their thought before responding. You'll be surprised by the additional information that they'll offer before you start.

The Estate Planner's Hidden Agenda

*It isn't that we're bad listeners; it's our hidden emotional agenda that **crowds out** our understanding and concern. [Emphasis added]*

- Many times, professional advice is unwanted at the time that the giver chooses to impart it (which is too often at the outset of the initial interview), because most estate planners are **far** more comfortable **giving advice** than they are with **really listening** (which can be **painful**).

Good Questions Help

*The next logical question is, “How does one convey expertise effectively during an initial interview?” The answer lies primarily **not** in what we tell the patient but in what we **ask** the patient. It is the **quality** of our questions, not the **quantity** of our words, that generally convinces a patient that the clinician knows something that might help. [Emphasis added]*

- When we ask the right questions, the client is **far more likely** to know that we are on the right track with them.

Initial Client Interview

- It is important that the client be made to feel comfortable with estate planner and the recommendations that the estate planner makes. Estate planners too often believe that the best way to make the client feel comfortable is to demonstrate their estate planning knowledge and experience-**don't** forget to first **listen intently. This is what they really want!!!**
- However, while the opportunity to expound on that which the estate planner knows may make the **estate planner** feel better and more comfortable (and while the estate planner is talking, the estate planner does not have to delve into the client's emotions or those of the estate planner), the estate planner may not be making the client feel any better or any more comfortable with the estate planner-**focus** on the **client**.

Importance of Nonverbal Communication

- Clients, like patients, communicate both **verbally** and **non-verbally- so do estate planners!**
- Additionally, clients communicate both facts **and** feelings.
- If estate planners are only “listening” for verbal (including those communications made in writing) communications, or only for facts, then the “listening” is **incomplete.**
- Some research has indicated that as much as **90%** of communication is **nonverbal.**

Initial Client Interview

As a general rule, basic empathic statements, which tend to possess a “sounds-like” quality, can be used effectively to enhance blending with both a trusting and a guarded patient.

- These texts seem to agree that empathic statements made by the interviewer to the interviewee in response to the statements made by the interviewee go a long way toward “engagement,” which, hopefully, gives blending a better chance to occur.

Transference

*If you find yourself feeling bored, angry, or disgusted, ask yourself, “**Why?**” Is there someone this patient reminds you of, such as a supervisor, parent, or spouse? (When therapist’s feelings toward patients are carried over from previous relationships of their own it is called counter-transference.) Perhaps there are features of this patient’s personality that remind you of some of your own less admirable traits.
[underscore emphasis added]*

- When the client acts out against the estate planner, it more than likely is **transference**, which is a phenomenon in which people project or transfer feelings and attitudes, often subconsciously, from a person or situation in their **past** onto a **present** person or situation.

Challenge of Initial Client Interview

*The challenge of the interview currently revolves around the manner in which the initial interviewer collects **critical data**, while constantly attending to **rappport**.*

- It is this **twin challenge** that makes initial interviews of any kind so difficult.

Imbalance Can Lull to Sleep

- During an initial interview, estate planners often are lulled to sleep by the **imbalance** between the knowledge of estate planning techniques that they possess in comparison to that possessed by the client.
- This knowledge disparity causes many estate planners to carelessly **split** their attention between **listening** to the client and **assessing** what estate planning techniques are appropriate for that client-double tasking.
- This is where **mistakes are made.**

Effects of Poor Engagement

*More specifically, poor engagement raises significant doubts about the **validity** of the data base, for patients generally do not freely share with people they do not like....Hence the clinician leaves with only a superficial understanding of the patient's pain.*

- While it is only anecdotal evidence, I have asked many lay audience crowds if they have ever **knowingly misrepresented** their financial information to professional advisors, and more than half of every crowd **admitted** to having done so, primarily understating their assets so as to not reveal everything to the new advisor. Remember, you have to **earn** the status of trusted advisor.

Initial Client Interview

Furthermore, without valid data falling into place, the clinician's assessment and diagnosis are frequently in significant jeopardy. Finally, if the engagement process proceeds poorly, the patient may never return for a second appointment, casting the shadow of irrelevance over the work of the first interview.

Unipolar Blending

- Every estate planner probably can recall at least one past experience where the planner thought that he or she got on well with a particular new client, only to have that client either **never come back** after the initial interview or **opt to go to another estate planner**.
- The term **“unipolar blending”** has been used to describe the situation where one of the parties to the interview established what that party perceived as good blending, **but the other party did not**.
- I had that happen several times.

Perils of Defensive Reactions

*Most failures of understanding are not due to self-absorption or bad faith, but to **defensive reactions** that crowd out understanding and concern. [Emphasis added]*

- The biggest obstacles to understanding often lie resident **within** us.

Initial Client Interview

- The above quote acknowledges that many failures of understanding in the interview process are **internal** to the interviewer.
- Nevertheless, many estate planners never really consider the underlying reason why an estate planner either failed to comprehend accurately or to make note of a particular fact or feeling, usually in the context of either reviewing the work of another estate planner or in a malpractice case, too often characterizing the error as simple professional negligence or oversight, rarely if ever digging deeper for a possible **psychological** explanation.
- This often is wrong.

Initial Client Interview

*Thus, it is not only a matter of gathering data, it is a question of realizing that one alters the data base by the very **act** of gathering the data. [Emphasis added]*

Initial Client Interview

- Estate planners must understand that **they** play a role in the potential contamination of the data collection process.
- Fact-finder forms and incomplete listening also can **contaminate** the data.

Bias

- Have you ever examined your fact-finder, or your document explanations, or your usual interview discussions, not for the purpose of accuracy or completeness, but for **bias**?

Bias

- Bias can take several different forms, including:
 - Gender bias,
 - Sex bias,
 - child order bias,
 - estate planning technique bias and
 - “boilerplate” bias, as well as a few others.
- As the following quote indicates, bias can crop up in our questioning to keep us steered **clear** of issues with which we do not wish to deal.

Avoidance of Sensitive Issues

*Interviewers may not want to hear positive responses to questions concerning **sensitive** topics such as suicidal ideation, homicidal ideation, child abuse, or even the emergence of certain target symptoms such as depression.*

Impacts of Bias

*The hesitancy to uncover positive replies to such questions probably results from the fact that such responses may demand increased time from the clinician or legal action or even generate fear or a sense of failure in the clinician. Consequently, clinicians may **unconsciously** develop methods of decreasing the risk of a positive reply by beginning their questions with a **negative** (e.g., not), as follows: **You don't really feel more depressed, do you?**[Emphasis added]*

Questions as Opinions

*Many of the questions therapists ask are really **opinions** disguised as questions.*

- The same can be said about the questions that estate planners ask their clients.

Avoidance Questions

- Questions that are phrased so as to **telegraph** the answer that the estate planner may be seeking, even only subconsciously, can be a problem.
- It is important to remember that not only can the question itself be phrased as to telegraph the desired answer, the **body language** of the estate planner (such as a head shake in the direction of the desired answer) when delivering the infected question can as well.

Examples of Opinion-Type Questions

- “You really don’t want a living trust, do you?”
- “You’re not really going to leave that much of your estate to charity, are you?”
- “You don’t really want anything expensive or complicated, do you?”
- “You don’t really want to make any lifetime gifts, do you?”
- “You don’t really want to not treat your children equally, do you?”

“Why” Questions

- People in the other helping professions generally believe that it is wise to avoid “why” questions.
- This is because research has unearthed a tendency of “why” questions to contaminate the data because they often require the client to defend an indefensible position, an example being: **“Why haven’t you gotten around to making a will until now?”**

Defensiveness

*Patients are very quick to perceive **defensiveness** in an interviewer. Defensive posturing by the clinician may create in the interviewee the feeling that “I’ve got to watch what I say here.”*

Interviewer Reliability

This issue of interviewer reliability can be framed within two problem areas, although many other areas also exist: (1) the interviewer changes his or her style of asking a question and is not aware of the impact of this change and (2) the interviewer has good reliability but unfortunately reliably evokes invalid information.

Fixing Anxiety

When a therapist gets anxious about “fixing” a problem in a family, he usually stops learning about a family. He is so preoccupied with what he is “supposed” to be doing that he is unable to inquire carefully into what actually happens in the family.

- Whenever estate planners believe that a client is heading down one of these paths, even the path of inaction, sometimes estate planners attempt to seize the moment through taking charge and by imposing, either consciously or unconsciously, the estate planner’s desire for “peace in the valley” on the client to “let estate planners do what they do best.” As is indicated by the quote above, this effort comes at the risk of not listening.

Personality Type

*Listening to yourself means not only respecting your own feelings but also getting to **know** something about your own ways of communicating. This isn't always easy, and it isn't always pleasant.*

- Do you know your communication type? I far prefer written communication, usually in the form of e-mail.
- Do you know your personality type? The Myers-Briggs Type Indicator© results can reveal a lot about yourself-I am an INTP, but on the borderline between T (thinking) and F (feeling) and have gotten an INFP before.

Professional Seduction

*But the real problem in that first interview didn't have to do with technique. I wasn't truly interested in that woman; **I was more interested in being a therapist.***

[Emphasis added]

Professional Seduction

- Now, the above quote is one with which all can identify at some point. In a moment of self-confidence based upon a presumption that we know a particular subject “cold”, estate planners are susceptible to **thinking ahead** about cutting edge applications or variations on the techniques in which we are “expert”, leaving behind the client’s situation.
- We spend so much time learning the latest and greatest techniques that sometimes we become **too enamored** with the idea of showing off our knowledge. We confess that there have been times that each of us was too concerned about drafting and implementing an estate plan or being seduced by a potentially unique issue of fact or law, and not concerned enough about demonstrating empathy, knowledge and expertise to be a true estate planner.

Interference With the Work

*That failures of understanding occur in psychotherapy, just as everywhere else, is a fact often missed as long as therapists remain too **wrapped up** in their own theories and techniques and intentions to give themselves over to sustained immersion in the other person. [Emphasis added]*

- Estate planners also are guilty of this.

Right Questions at the Right Time

*Thus as clinicians we need to consider carefully the impact of our probings, recognizing that certain patients may not be **ready** to discuss certain issues while others might actually benefit from our **exploration**.*

The Ultimate Client Question

*To the patient, certain questions are of **paramount** importance. The answer to one of these questions in particular holds unusually powerful significance, perhaps even determining the degree of final compliance. It is a logical question. It is a natural question. And it can be paraphrased simply as follows: **Can this person help me?** [Emphasis added]*

- From our own informal research with clients and others, we have determined that this question goes through the mind of a new client during the initial interview.

The Ultimate Client Question

- This is a tough issue for a professional to ponder. On a cognitive level, the question seems illogical, as the estate planner reasons: **Why would these people be here if they did not think that I could help them?**
- Even where the clients are there pursuant to a strong referral or even because of prior professional relationship, many estate planners overlook this fundamental question to the peril of the client relationship.

Types of Clients

*More specifically, one can categorize patients, with some degree of caution, into two types, those who are **trusting** and those who feel **guarded**. It is with the latter patient, the so-called guarded patient, that empathic statements most frequently display the nasty habit of disrupting the engagement process. The guarded quality of those patients may arise from a variety of sources, including a **fear of the clinician**, a long-standing character trait of suspiciousness, or frankly prepsychotic or psychotic paranoia.*

- Estate planning clients can also be so grouped, often based on past experiences with professionals.

Histories May Be Distorted

*Clearly, because of psychological defenses, pre-dispositions for deceit, fading memories, and actual cognitive deficits (as seen in dementia), patients may not provide **accurate** histories.*

- Client bias **colors** comments about their family and their property. Be aware of that. This can be subconscious as well.

Client Bias is Real

*While you are gathering biographical information, maintain a **healthy** skepticism about its validity. Human memory is fallible, especially when the human has an **intense personal interest** in what is being remembered.
[Emphasis added]*

Healthy Skepticism

- In estate planning, this type of often subconscious misstatement often is used to denigrate some potential recipients of either wealth or authority.
- This tendency to reframe the family narrative to deflect blame or to protect is real.
- There is a **difference** between taking family history as literal and the maintenance of a healthy skepticism about it.

Important To Know Context

*Health care professionals don't treat illnesses; they treat **people**. You therefore need to know the context in which your patient's complaints have occurred. This requires learning all you can about family background and other biological data. [Emphasis added]*

- In estate planning, family history also can be **vital**. Genograms can be helpful at times.

Client History Is Important

This knowledge will not only help you get to know your patient, but also may reveal additional information about the present illness. Your patient has spent a lifetime accumulating these experiences, so there is almost no limit to the amount and variety of the information that you may find available.

Internal Conflict

- *Whenever someone asks your advice or shrinks from you or gets impatient with you, it's worthwhile to think about what parts of the person might be at war with each other.*
- It may strike an estate planner as counterintuitive that a person who comes to see us to seek our advice, the very *raison d'être* for the estate planner's existence, may be in internal conflict and not really be ready for that advice. **Clients also may not believe that the estate planner knows enough about their situation to render advice.** Sometimes, new clients just want a sounding board and aren't ready to receive advice.

Pressure For Answers

This pressure may emanate from the family's apparent helplessness, or it may come from overt demands that the therapist fix the problem. These covert and overt maneuvers by a family to involve a therapist emotionally can occur when a therapist is seeing one person, a couple, or an entire family.

- Estate planners also can be put under pressure to solve problems that may be outside of the course and scope of the engagement or the lawyer's expertise and education.

Interviewing Suggestions

- Ask **open-ended** questions.
- Avoid **“why”** questions-it tends to engender defensive reactions. Use phrases like “help me to understand the reasons for ...”
- Use **reflective listening**-essentially repeat and summarize the client’s response to your question to make sure that you understood the answer properly.
- Ask **follow-up** questions-save room on your outline for follow-up questions and answers.
- Watch the client’s **body language**-it is estimated that up to 90% of communication is non-verbal.
- Maintain a **healthy skepticism** about the client’s data and responses-look for things that just don’t add up.

Interviewing Suggestions

- **Avoid** interruptions in an interview. **Silence** your phone or ignore it. **Don't** check e-mail. **Don't** multi-task.
- Listen **intently** and with purpose.
- **Do your homework in advance of the interview**-read the client's documents and information questionnaire responses **prior** to the interview. **Prepare** an outline of questions to ask, and leave room after each question to fill in the answers and for follow-ups.
- Set aside some time **immediately following** the interview to review and fill in gaps in your notes and to describe the body language on sensitive questions.
- **Know thyself**-when are you at your best during the day-try to schedule interviews during that time if at all possible.
- Ask **"the question"** at the end of the interview- **is there anything else that you feel is important for me to know?**-you will often be amazed at the responses.

Conclusion

- Interviewing is a skill that can be **learned** and then **honed** through experience.
- Other helping professions have studied this phenomena much more than estate planners, and **much** can be learned by applying their principles to estate planning initial client interviews.
- The initial client interview is a very **fragile** thing that must be constructed very carefully through **advance preparation**.

Thank You!!!

- Thank you for your attendance today. I hope that you found it useful.
- Questions? Comments? E-mail me at paul@paulhoodservices.com