

AMERICAN BAR ASSOCIATION

HEALTH LAW SECTION

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

- 1 RESOLVED, That the American Bar Association encourages lawyers, law firms, legal services
- 2 agencies, law schools and bar associations to develop medical-legal partnerships with hospitals,
- 3 community-based health care providers, and social service organizations to help identify and
- 4 resolve diverse legal issues that affect patients' health and well-being.

REPORT

Introduction

Human health is affected not only by biology and behavior, but also by broader socio-economic factors present in the communities and environments in which people live. Health outcomes of persons diagnosed with chronic or acute illness are not dependent solely on pathology and medical treatment, but also on social and emotional support, economic stability, and physical safety, which play significant roles in whether and how well a patient can access and adhere to medicinal and psychological therapies.

Ensuring human health therefore is not exclusively the responsibility of the medical community. Lawyers, for example, assist patients with managing issues related to and often affecting their health, such as insurance coverage and advance planning. Since the early days of the AIDS epidemic, lawyers have assisted people living with HIV/AIDS in preventing or remedying discrimination and breaches of confidentiality, which is critical to encouraging HIV testing which, in turn, is a key to HIV prevention. When lawyers, doctors, social workers, and others work together to address these concerns, patients are better served and their illnesses are better managed. Indeed, collaborations between legal, medical, and other professionals have proven effective in combating selective socio-economic impediments to health, relieving the anxiety that often accompanies a chronic health condition and improving quality of life for vulnerable populations such as the elderly, children, people living with chronic diseases, and low-income individuals and families.

The purpose of this recommendation is to encourage closer and more frequent collaboration between these professional communities in a truly holistic approach to health and well-being. Specifically, it seeks to promote “medical-legal partnerships,” in which lawyers work with health care providers to identify and resolve legal issues affecting patients’ health and well-being, including, for example:

- Substandard housing conditions, such as mold in an asthmatic patient’s apartment that the patient’s landlord refuses to remove;
- Eligibility for health insurance coverage, whether through private or government programs like Medicaid or SCHIP;
- Eligibility for employment benefits, like Family and Medical Leave Act (FMLA), to allow a family member to care for sick loved one;
- Eligibility for income supports, such as Temporary Aid to Needy Families (TANF), SSI benefits, or food stamps;
- Domestic violence, to provide for the physical safety of women and children;
- Family law, to arrange for guardianships, custody, and child support to stabilize a patient’s living situation;
- Advance planning, to ensure continuity in health care decision-making; and
- Special education, to secure appropriate education for chronically sick or disabled children.

Typically, a low-income patient who is referred by a health care provider to a lawyer has multiple unmet legal needs that involve socio-economic problems that legal assistance can help to resolve.

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When these and other legal issues arise during an acute or chronic illness, they can compound the difficulty of resolving patients' medical problems. By working directly with health care providers, lawyers can often intervene to address the social, economic, and environmental determinants of patients' health, thereby improving their overall health and well-being.

Current ABA Policy

Current ABA policies recognize a connection between medicine and law and encourage legal professionals and bar associations to coordinate with health care providers in assisting patients. For example:

- The policy on public health law (04A102) “[u]rges American Bar Association members and lawyers throughout the United States to improve their knowledge of public health law in order to better serve their clients and public who will be affected by new public health threats such as bioterrorism and infectious disease outbreaks.” The policy further encourages bar associations to provide pro bono assistance to local health authorities and to ensure “that public health measures are protective of civil and constitutional rights.” It also recognizes the importance of involving legal professionals in designing public health protections that are effective and respectful of individual autonomy.
- The policy on long-term care for HIV/AIDS (8/95) supports “action to create legal mechanisms that allow people with HIV, AIDS or other debilitating, chronic, fatal illness to better plan for long-term care for themselves and their families, including standby guardianships, advance medical directives, and viatical settlements.” The policy also recommends legislative and educational efforts to protect and assist patients with chronic diseases.
- The policy on breast cancer (00A112) urges legal professionals to “partner with the public health community and bar associations to improve access to legal services for breast cancer patients.”

This recommendation builds upon prior policies by promoting development of long-term medical-legal partnerships to address a broad spectrum of health and legal issues that impact patient well-being and, by so doing, mitigate or even prevent that impact, thus promoting patient health and, in the process, preserving scarce legal and health care resources.

Medical-Legal Partnerships in Action

The medical-legal partnership model in a hospital setting was developed and established in 1993 by doctors serving low-income patients at Boston Medical Center. The model since has been adapted at more than 60 sites nationwide, many of which have expanded to include partnerships with legal services agencies and law schools. The partnerships improve patient outcomes by addressing – and, where possible, preventing – legal and socio-economic problems that can compromise treatment, seeking to ensure that basic needs of patients, such as food, housing, safety and stability, and education, are met. As appropriate, participating lawyers, doctors, and social workers also engage in systemic policy advocacy to help resolve or avoid these deficiencies in the first instance.

A number of professional organizations have recognized the importance of addressing these socio-economic determinants of health in addition to providing medical care. The Accreditation Council for Graduate Medical Education, for example, includes among its accreditation requirements “advocating for quality patient care and assisting patients in dealing with system complexities.” The American Academy of Pediatrics residency review requirement includes addressing the multicultural dimensions of health care, community experience, and increasing “emphasis on the importance of the psychosocial, legal, economic, ethical, and cultural aspects of care.” Medical-legal partnerships put these directives into concrete action.

Law schools provide a good opportunity to promote these partnerships among health care providers and the legal profession. Required by the ABA’s accreditation standards to offer substantial opportunities for real-life practice experiences and for pro bono service, many law schools already offer clinical programs addressing legal issues of the elderly, children, people living with chronic diseases, and low-income individuals and families. By partnering with health care providers and thereby offering a holistic approach to clients’ problems, law schools can increase the effectiveness of their clinical programs as well as foster a spirit of interdisciplinary cooperation among the professions. Similarly, legal services organizations can extend the reach of their programs and the effectiveness of client representation by creating these partnerships with health care providers in their communities.

Summary

Just as the medical profession advocates preventive health care, so too by entering into these partnerships with health care providers, the legal profession can advance a “preventive law” strategy for addressing clients’ social and economic problems and thereby improve clients’ health and well-being, especially those from low-income and other under-served communities.

Respectfully submitted,

Paul R. DeMuro
Chair, Health Law Section

August 2007

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GENERAL INFORMATION FORM

To Be Appended to Reports with Recommendations
(Please refer to instructions for completing this form.)

Submitting Entity: Health Law Section

Submitted By: Paul R. DeMuro, Chair

1. Summary of Recommendation(s).

The recommendation encourages lawyers, law firms, legal services agencies, law schools and bar associations to develop medical-legal partnerships with hospitals, community-based health care providers, and social service organizations to help identify and resolve diverse legal issues that affect patients' health and well-being.

2. Approval by Submitting Entity.

Approved by Section Council May 7, 2007.

3. Has this or a similar recommendation been submitted to the House or Board previously?

No.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

As stated in the accompanying report, the following policies are relevant to, and would be enhanced by, this recommendation:

Policy 04A102, which “[u]rges American Bar Association members and lawyers throughout the United States to improve their knowledge of public health law in order to better serve their clients and public who will be affected by new public health threats such as bioterrorism and infectious disease outbreaks.” It further encourages bar associations to provide pro bono assistance to local health authorities and to ensure “that public health measures are protective of civil and constitutional rights.” It also recognizes the importance of involving legal professionals in designing public health protections that are effective and respectful of individual autonomy.

Policy adopted in August 1995 that supports “action to create legal mechanisms that allow people with HIV, AIDS or other debilitating, chronic, fatal illness to better plan for long-term care for themselves and their families, including standby guardianships, advance medical directives, and viatical settlements.” The policy also recommends legislative and educational efforts to protect and assist patients with chronic diseases.

Policy 00A112, which urges legal professionals to “partner with the public health community and bar associations to improve access to legal services for breast cancer patients.”

5. What urgency exists which requires action at this meeting of the House?

The importance of meeting the legal needs of patients is an ongoing and relevant action for the Association.

6. Status of Legislation. (If applicable.)

No legislation is pending.

7. Cost to the Association. (Both direct and indirect costs.)

None.

8. Disclosure of Interest. (If applicable.)

None.

9. Referrals.

This report and recommendation will be referred to the Section of Individual Rights & Responsibilities, the Section of Family Law, the Young Lawyers Division, the General Practice Division, the AIDS Coordinating Committee, the Standing Committee on Bioethics and the Law, the Standing Committee on Medical Professional Liability, and the Commission on Domestic Violence.

10. Contact Person. (Prior to the meeting.)

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11. Contact Person. (Who will present the report to the House.)

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