

LAWYERS AND DOCTORS WORKING TOGETHER – A FORMIDABLE TEAM

Randy Retkin, Esq.
Julie Brandfield, Esq.
New York Legal Assistance Group
New York, NY

Ellen Lawton, Esq.
Barry Zuckerman, MD
Boston Medical Center
Boston MA

Deanna DeFrancesco
Brooklyn Law School
New York, NY

Doctors and lawyers are learning to put aside their preconceived notions of each other's profession and work together for the mutual benefit of their patients/clients. In the last five years, medical-legal partnerships in hospitals and health facilities have grown significantly throughout the country. These collaborations 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 adults and children. This new partnership benefits patients, hospitals and both of these professions.

Aged Antagonisms

In 2005, *The New Yorker* published a cartoon in which Hippocrates is addressing a group of medical students. "First," he says, "treat no lawyers"¹ – a mantra which some doctors took too seriously when a group of them refused to treat lawyers except in emergency situations.² This cartoon captures the distrust and distaste for lawyers that pervade the medical profession. However, this sentiment is not one-sided. Lawyers, too, seem to share a similar aversion for doctors. A number of factors contribute to the mutual distrust and antagonism between the professions. The most apparent factor is undoubtedly and understandably malpractice suits. Physicians resent the

intrusion of lawsuits into the practice of medicine and blame the high price of malpractice insurance on lawyers. According to Dr. Robert Gillette, many doctors "tend to be cynical of the tort system, seeing it more as a means of support for neurotic patients and avaricious lawyers than as a device for deterring bad medical practice."³ Lawyers have their own set of grievances.⁴ Complicated professional jargon hinders open communications between both sides.⁵

This inter-professional antagonism runs deeper than mere conflicts involving malpractice suits; it stems from doctors' and lawyers' fundamental "lack of understanding of each other's methods, values, and roles."⁶ Attorneys generally work to safeguard their clients' autonomy and liberty. Doctors seek to protect and care for the health of their patients.⁷ While often interrelated, in reality these may be conflicting goals.

A good example of this dichotomy is a scenario in which a doctor deems a mentally ill patient to be in need of institutionalization, although the patient refuses to consent to treatment.⁸ Despite the doctor's responsibility and judgment, a lawyer's role under these circumstances would often be to *prevent* such institutionalization in the interests of the client's autonomy.⁹ Situations like this one lead lawyers to "view doctors as authoritarian" and doctors to "view lawyers as purveyors of abstract rights shorn of context."¹⁰ Hence, physicians and attorneys can easily clash while pursuing what they believe to be in the best interests of their mutual client/patient.

Professionals on both sides fail at times to appreciate and acknowledge the authority of the other to make decisions that have implications for their respective domains. Attorneys cite "[e]go, arrogance, and an elite attitude" as the leading challenge when working with doctors and claim that physicians

behave "as if they could do the attorney's job better than the attorney," even though doctors may not have any legal or business training.¹¹ Physicians, on the other hand, bristle at lawyers' seemingly matter-of-fact attitude towards bringing malpractice claims and resent having their integrity and professional competency challenged.¹²

Professional Perspectives

Fundamental differences in educational training also shape the dramatically contrasting perspectives of each profession. In essence, lawyers are trained to look at a black and white situation and see the gray, while doctors are trained to find the black and white from a gray situation.¹³ Law students quickly learn to employ adversarial methods, using facts to expose the gray areas of disputes that support their argument. In the legal world, lawyers learn to work with vague standards, such as "beyond a reasonable doubt" and "more likely than not."¹⁴

In contrast, doctors use scientific methods to fit symptoms into a definite diagnosis followed by an established remedy; they work with what Dr. Stillman refers to as "clear clinical pathways, defined goals, and objectivity."¹⁵ By graduation, medical students "grow accustomed to needing explanations, rules, and formulas.... [They] need to know that [they] are doing something for a reason. Not just any reason, but a proven, nonbiased, well-executed, double-blind reason."¹⁶ With such polar opposite methods of thinking, it can be difficult for doctors and lawyers to agree on how to resolve patient/client issues that span the medical and legal domains.

Medicine and Advocacy

Historically, physicians have been advocates in addressing public health issues within their communities.¹⁷ While some medical professionals argue that

continued on page 34

Lawyers and Doctors Working Together

continued from page 33

the profession as a whole has drifted from this role, they recognize that physician leaders, including the American Medical Association (“AMA”), have begun to advance a “renewed sense of professionalism,”¹⁸ which encourages doctors to devote more of their time to public service and advocacy.¹⁹ For example, in the “Declaration of Professional Responsibility: Medicine’s Social Contract with Humanity,” the AMA declares that as physicians, they commit themselves to:

Work freely with colleagues to discover, develop, and promote advances in medicine and public health that ameliorate suffering and contribute to human well-being.... [They additionally commit themselves to a]dvocate for social, economic, educational, and political changes that ameliorate suffering and contribute to human well-being.²⁰

Although this Declaration overarches the medical profession, a variety of other factors influence and inform a physician’s professional values in terms of advocacy, including the educational context in which they are trained and the environment of their residency practice. The real or perceived value of advocacy within the medical profession varies widely and individually.

Increasingly, there is a demand for advocacy training in the context of traditional medical education and training. The origins of this demand are multiple and include an ever more complex social and health network that patients and doctors must navigate in order to meet healthcare and other basic needs. In February 1999, the Accreditation Council for Graduate Medical Education, responsible for the accreditation of post-graduate medical training programs within the United States, recognized the importance of access to non-medical services and systems-based practice when it included as part of its

accreditation requirements “advocating for quality patient care and assisting patients in dealing with system complexities.”²¹ Similarly, the American Academy of Pediatrics’s residency review requirement includes addressing the multicultural dimensions of healthcare, community experience and increasing “emphasis on the importance of the psychosocial, legal, economic, ethical, and cultural aspects of care.”²²

The medical profession recognizes that patients need and deserve appropriately trained experts to address the social determinants of health. Lawyers in medical-legal partnerships are poised to play this role, since their training is focused on advocacy within legal, regulatory and administrative schemes.

Medical-Legal Partnerships Change the Dominant Paradigm

If we are to encourage physicians to incorporate screening, diagnosis and “treatment” for the social, economic and environmental factors impacting health, it is only natural that attorneys should serve as treatment specialists. While physicians are ideally placed, and perhaps uniquely so, to observe the health effects of socio-economic factors or detect when such factors compromise their patients’ care, it is a lawyer who can offer the perspective and resources needed to understand patients’ medical-legal problems, their rights and options, and where they can find help. Together doctors and lawyers are a formidable team.

There are a number of medical-legal partnerships nationally that have successfully wedded the two professions for the benefit of vulnerable patient populations. Two of the most established programs, the Medical-Legal Partnership for Children in Boston and LegalHealth in New York, serve as prototypes for this innovative “marriage.”

The Medical-Legal Partnership for Children (“MLPC”) at Boston Medical Center and Boston University School of Medicine (formerly the “Family Advocacy Program”) was founded by Chairman of Pediatrics Dr. Barry Zuckerman in 1993. MLPC was the answer to Dr. Zuckerman’s frustration as a pediatrician treating vulnerable children and families who presented significant social and poverty issues that impacted their health and well-being. Dr. Zuckerman realized that many of the problems that impacted health had legal remedies, and that it made sense to have a lawyer as part of the treatment team to ensure that families’ basic needs – for food, housing, healthcare, education and safety – were met. There are now over seventy sites across the country that have modeled their programs on MLPC, and the momentum of this movement continues to grow.

LegalHealth, established in 2001, is a division of the New York Legal Assistance Group. It provides free legal services onsite in thirteen hospitals throughout New York City. LegalHealth’s mission is to serve adults and children with serious health concerns and to train healthcare professionals about the legal issues affecting their patients. It assists over 2,500 clients and trains over 1,500 healthcare professionals yearly. Physicians associated with the program, such as Dr. Stewart Fleishman, Director of Supportive Services at Continuum Cancer Centers at Beth Israel and St. Luke’s-Roosevelt in New York, believe that the skill sets of the physician and attorney are complementary as advocates for all patients, especially, but not limited to, the underserved with life-limiting illnesses like cancer. The professional discrepancies “melt away” when patients’ and families’ needs come first. “The combination,” says Fleishman, “is more powerful when harnessed together for a common cause.”

According to Dr. Lauren Smith, National Medical Director at MLPC, a

significant proportion of the health issues that patients bring to the doctor's office are affected by circumstances outside the traditional office/medical realm. Because many of these problems are not framed as health issues, patients do not recognize the doctor as having the expertise necessary to fix them. It is crucial for the doctor to make the connection, for example, between the patient's asthma and poor housing conditions. Then, with the help of lawyers, doctors can direct patients to appropriate legal and social resources to fully address their needs. Thus, physicians must take a proactive role in exposing these medical-legal problems, and advising patients on what steps to take next and what doctors can further do to help.

Conclusion

These new partnerships have broken through the traditional disrespect and distrust to create a new work environment that has been productive and gratifying – and a revelation – to all involved. Medical-legal collaboration not only works but is the new, improved route to complete healthcare. Doctors learn to identify nonmedical impediments to healing and refer patients to their lawyer colleagues who remove those obstacles in order to promote health and well-being and prevent exacerbation of disease.

Working together, doctors and lawyers can effectively address problems that neither one alone can do as well. When a patient is entitled to Supplemental Security Income and cannot pay for his medication without it, a landlord refuses to remove asthma triggers that are in violation of local sanitary codes, or a cancer patient needs a reasonable accommodation in the workplace, including time off from work in order to keep chemotherapy appointments, a lawyer can get it done. Patients are not the only beneficiaries – collaboration helps hospitals as well. Advising eligible patients to sign up for Medicaid or clearing away private insurance

thickets can secure payments for care that might otherwise go unreimbursed.

Dr. Rand David, Director of Ambulatory Care and Primary Care, Internal Medicine Program, at Elmhurst Hospital, a New York City public hospital, says, "LegalHealth has allowed our doctors to recognize and address a broader range of issues being faced by our patients, and it helps us bridge the gap that has historically separated doctors from lawyers. Now we can work together and broaden the treatment options available to our patients."

It is time for doctors and lawyers to recognize the benefits of working together. Collaboration allows each profession to perform to the best of its ability on behalf of those who need us most. We really are on the same side.



Randy Retkin, Esq., is Director and founder of LegalHealth. She previously served as Director of Legal Services for Gay

Men's Health Crisis, the nation's oldest and largest organization serving people with HIV/AIDS. Ms. Retkin is nationally recognized for fostering collaboration among professionals working with the chronically ill and for helping these people access medical and legal care. Ms. Retkin co-authored one of the first major articles on collaborative care for the chronically ill: "Attorneys and Social Workers Collaborating in HIV Care: Breaking New Ground," *Fordham Urban Law Journal* (1997). She also co-authored "Complexities in HIV Consent in Adolescents," *Clinical Pediatrics* (July/August 2005) and the recent "The Attorney as the Newest Member of the Cancer Treatment Team," *Journal of Clinical Oncology* (May 2006). She is a founder of the New York Immigration Coalition and co-author of New York's Standby Guardianship law. She may be reached at 212-613-5080 or rretkin@nylag.org.



Ellen Lawton, Esq. is Executive Director of the Medical-Legal Partnership for Children at Boston Medical Center. She has served as MLPC's Executive Director

since 2001; prior to that, she was a staff attorney responsible for a federally funded Welfare-to-Work advocacy project at Boston Medical Center. Ms. Lawton has expertise in poverty law generally, and in the area of family law and interpersonal violence. Ms. Lawton is nationally recognized for her leadership in developing the medical-legal partnership model, and has published an array of articles describing this work in both clinical and legal journals. She was a 2004 Harvard Law School Wasserstein Fellow. She can be reached at 617-414-3658 or Ellen.Lawton@bmc.org.

Ms. Lawton is a 1993 graduate of Northeastern University School of Law. Prior to her work at BMC, she clerked for the Honorable Frederick L. Brown of the Massachusetts Appeals Court and then served as Staff Attorney for the Massachusetts Department of Social Services.



Barry Zuckerman, M.D. is The Joel and Barbara Alpert Professor of Pediatrics at Boston University School of Medicine and Professor of Public Health at

Boston University School of Public Health, as well as Chief of Pediatrics at Boston Medical Center. His major interests include promoting the health and development of children, multidisciplinary training, and establishing more effective child health services. Dr. Zuckerman is a world renowned scholar and innovator and has authored more than 200 scientific publications and edited nine books.

Dr. Zuckerman founded three noted programs that use the pediatric setting to raise the standard of service for children in need. The Reach Out and Read Program ("ROR") promotes child development and early literacy for young

continued on page 36

Lawyers and Doctors Working Together

continued from page 35

children in primary care settings. The Medical Legal Partnership for Children integrates legal advocacy and policy to improve the effectiveness of care.

Healthy Steps is a national program emphasizing child development and a two-generational model of care. He may be reached at 617-414-7424 or Barry.Zuckerman@bmc.org.



Julie Brandfield, Esq. is the Associate Director of LegalHealth. Ms.Brandfield has spoken at numerous conferences on partnering with

healthcare professionals and co-authored "Complexities in HIV Consent in Adolescents," *Clinical Pediatrics* (July/August 2005) and "The Attorney as the Newest Member of the Cancer Treatment Team," *Journal of Clinical Oncology* (May 2006).

Before joining LegalHealth in 2002, Ms. Brandfield was as associate at Debevoise & Plimpton. She may be reached at 212-613-5083 or jbrandfield@nylag.org.



Deanna DeFrancesco interned at LegalHealth in the summer of 2006. She has a B.A. in Political Science from Vassar and will graduate from Brooklyn Law

School in 2008.

Endnotes

- 1 Lee Lorenz, *Hippocrates Off the Record*, THE NEW YORKER, Mar. 7, 2005, available at <http://www.cartoonbank.com>.
- 2 Scott Shepard, *Mississippi Doctors Putting Trial Lawyers On Do-Not-Treat List*, MEMPHIS BUSINESS JOURNAL, July, 5 2004, available at <http://memphis.bizjournals.com/memphis/stories/2004/07/05/story3.html> (reporting that a group of Mississippi doctors refused to medically treat lawyers except in emergency situations.).
- 3 Robert D. Gillette, M.D., *Malpractice: Why Physicians and Lawyers Differ*, JOURNAL OF LEGAL MEDICINE, Oct. 1976, at 9, 11.
- 4 See generally Paul E. Fitzgerald, Jr. *Doctors, Lawyers Evaluate Each Other in New Study: Building Trust, Opening Communication Lines Could Improve Doctor/Lawyer Relationships—Doctors, Lawyers and Lawsuits*, PHYSICIAN EXECUTIVE, Mar. 1 2002, available at <http://www.thefreelibrary.com/Doctors,+lawyers+evaluate+each+other+in+new+study:+Building+trust,+...+a084236559>. As discussed in this section, Fitzgerald reveals that one study found that attorneys consider physicians' "[e]go[s], arrogance and...elite attitude[s]" as challenges in interacting with them professionally. In addition, attorneys explained that they are frustrated by doctors' lack of "business knowledge" as well as their attempts "to 'practice law.'"
- 5 David Keller, M.D. and Rebecca Kislak, *Collaborating to Serve*, INTERNATIONAL MEDICAL NEWS, Mar. 1, 2005, at 8, available at <http://download.journals.elsevierhealth.com/pdfs/journals/1097-8690/PIIS1553321205702843.pdf>.
- 6 Benjamin J. Naitove, Note and Comment, *Medicolegal Education and the Crisis in Interprofessional Relations*, 8 AM. J. L. AND MED. 293, 298 (1982).
- 7 Peter D. Jacobson, J.D., M.P.H. and M. Gregg Bloch, M.D., J.D, *Improving Relations between Attorneys and Physicians*, JAMA, Oct. 26, 2005, at 2083, 2084.
- 8 *Id.*
- 9 *Id.*
- 10 Peter Margulies, *Cognitive Politics of Professional Conflict*, 5 HARV. J. LAW & TECH. 25, 33 (1992).
- 11 Paul E. Fitzgerald, Jr. *Doctors, Lawyers Evaluate Each Other in New Study: Building Trust, Opening Communication Lines Could Improve Doctor/Lawyer Relationships—Doctors, Lawyers and Lawsuits*, PHYSICIAN EXECUTIVE, Mar. 1 2002, available at <http://www.thefreelibrary.com/Doctors,+lawyers+evaluate+each+other+in+new+study:+Building+trust,+...+a084236559>.
- 12 Gillette, *supra* note 3, at 9-10.
- 13 Martin J. Stillman, M.D., J.D., *A Difference of Degrees*, JAMA. Sept.3, 2003, at 1135, 1136.
- 14 *Id.* at 1135.
- 15 *Id.*
- 16 *Id.*
- 17 Russell L. Guren, M.B.B.S., Steven D. Pearson, M.D., M.Sc, and Troyen A. Brennan, M.D., J.D., M.P.H., *Physician-Citizens—Public Roles and Professional Obligation*, JAMA, Jan. 7, 2004, at 94, 94.
- 18 Harold C. Sox, M.D., ed. *Medical Professionalism in the New Millennium: A Physician Charter*, ANNALS OF INTERNAL MED., Feb. 5, 2002, at 243, 243.
- 19 Russell L. Guren, M.B.B.S., Steven D. Pearson, M.D., M.Sc, and Troyen A. Brennan, M.D., J.D., M.P.H., *Physician-Citizens—Public Roles and Professional Obligation*, JAMA, Jan. 7, 2004, at 94, 94.
- 20 *Declaration of Professional Responsibility: Medicine's Social Contract with Humanity*, para. 6 and 8 (American Medical Association, 2001), available at <http://www.ama-assn.org/ama/upload/mm/369/decopofprofessional.pdf>.
- 21 *Program Requirements for Residency Education in Child and Adolescent Psychiatry*, available at http://www.acgme.org/acWebsite/downloads/RRC_progReq/405pr07012007.pdf.
- 22 Holly Mulvey and Ethan Alexander Jewett, *Pediatric Residency Education: A Survey of the Future of Pediatric Education II (FOPE) Project*, at <http://www.aap.org/gme/ResEdData/ppt.#257>, 19.

The articles published in *The Health Lawyer* reflect the opinions of the authors.
We welcome articles with differing points of view.

The Attorney As the Newest Member of the Cancer Treatment Team

Stewart B. Fleishman, Randye Retkin, Julie Brandfield, and Victoria Braun

From the Continuum Cancer Centers of New York; Beth Israel Cancer Center and St Luke's-Roosevelt Hospitals; LegalHealth, New York Legal Assistance Group, New York, NY.

Submitted September 16, 2005; accepted November 21, 2005.

Authors' disclosures of potential conflicts of interest are found at the end of this article.

Address reprint requests to Randye Retkin Esq, New York Legal Assistance Group, 450 W 33rd St, 11th Floor, New York, NY 10001; e-mail: rretkin@nylag.org.

© 2006 by American Society of Clinical Oncology

0732-183X/06/2413-2123/\$20.00

DOI: 10.1200/JCO.2006.04.2788

INTRODUCTION

In a recent survey of cancer patients conducted by the Lance Armstrong Foundation (Austin, TX),¹ nearly half of the individuals surveyed said that nonmedical issues relating to their cancer were unmet by their oncologists, including 35% who said nonmedical issues were wholly unaddressed and another 14% who said they believed their oncologists wanted to assist with nonmedical issues but did not have enough information or experience to do so.

More is being done to integrate basic symptom management into routine cancer treatment, including early intervention for pain, fatigue, adverse effects of treatment, and adjustment to life in anticipation of cancer survivorship.² Until now, little has been done to integrate legal advocacy services into the cancer treatment matrix, especially for patients who are medically underserved and from hard to reach communities. Legal problems for patients with cancer are a significant nonmedical need that must be addressed to maintain quality of life during and after cancer treatment and to promote continued access to care.

As the number of cancer survivors steadily increases,³ many patients still face extended survivorship or progressive illness, often creating complicated end-of-life decisions for the patients and their families and treatment staff. These decisions are often made without the involvement or advice of legal counsel. Traditionally, an historical and outdated tension between physicians and attorneys over contentious malpractice litigation discouraged their collaboration. With the advent of multidisciplinary care, the input of interested attorneys benefits patients and their families, oncology professionals, and the offices and cancer centers where the professionals practice. Other barriers to proactive attorney involvement include the prioritization of the tasks of treatment over personal issues until they impede care, a lack of immediate and easy access to legal counsel, and a lack of knowledge base within the cancer treat-

ment team, delaying intervention until it is too late and the patient is in crisis.

ADDRESSING ADVOCACY NEEDS

Other vulnerable patient populations have had a more progressive approach to accessing legal services. Geriatric patient groups have long embraced the input of legal teams in estate planning as well as in conservatorship and guardianship issues.⁴ Such collaborations are again being formalized, as evidenced by the recent trend in pediatric practices to incorporate medical-legal teams that are often housed on-site in pediatric ambulatory centers.⁵ Recent training in both pediatric and psychiatric residency programs has included legal advocacy in the core competencies.⁵

Most striking was the influx of advocacy efforts and resources in the early 1980s directed at the HIV/AIDS community. From the beginning of the HIV crisis, it was recognized that a person with HIV/AIDS needed legal assistance to cope with the myriad of life changes brought on by the disease and its treatment. It is becoming clearer that the legal issues facing patients with cancer mirror those found in the HIV/AIDS population, yet similar resources are not available to cancer patients. Although hundreds of legal service offices were opened nationally that were tailored to the special needs of those with HIV/AIDS, such services have not been duplicated for the 9 million cancer patients and survivors alive today.⁶

At this stage, it is unlikely that such services for people with cancer will be duplicated on the scale of the HIV/AIDS model without a targeted federal funding stream similar to that provided by Ryan White legislation. Yet even with limited funding, advocacy programs can and should be developed. As recent experiences in pediatrics have shown, placing such services within ambulatory cancer centers offers the best chance of integration and collaboration between the two disciplines and a way for oncology specialists to assist with some of

their patients' unmet nonmedical needs that indirectly impact adherence to treatment.

THE LEGALHEALTH MODEL: A MEDICAL AND LEGAL COLLABORATION SERVING PEOPLE WITH CANCER

LegalHealth (New York, NY) is the first fully staffed free legal services program that has sought to make legal intervention a component of cancer care. LegalHealth, which is a project of a larger nonprofit law office, provides free legal services to individuals with chronic illness and trains health care professionals on the legal issues affecting their patients. The program has promoted the health care setting as one of the primary entry points to implement legal interventions with poor/chronically ill cancer patients. LegalHealth helps patients and families alike who may otherwise not have access to legal services. Access to other supportive services by cancer patients at community-based settings sometimes becomes difficult as a result of the complexities of ambulatory care superimposed on life's difficult circumstances, such as illness, poverty, and other related stressors. Such ease of access and immediacy of intervention in the LegalHealth model is an added service that is not an additional burden for the already encumbered cancer patient. Bringing services to hospitals or other ambulatory cancer centers also limits the burden and stigma of seeking help.⁷ In addition, as a result of the immediacy of the intervention, LegalHealth is often able to intercede preventively with effective advocacy strategies. To date, LegalHealth had provided legal services to more than 500 individuals with cancer.

Cancer specialists are often in the best position to identify legal issues impacting their patients. Oncology specialists, physicians, and nurses become acquainted with families and care partners throughout the trajectory of care. Frequent contact with the oncology team from the early stages of an illness results in extended or intimate trusting relationships among providers, patients, and families. This affords the physician or nurse the opportunity to observe the patient's and family's well-being over time.⁸ For patients with quickly progressive cancer, the treatment relationship is likewise intense, fostering significant trust in an abbreviated time.

Oncologists and oncology nurses routinely access data that screen for legal issues (although they may not realize it), starting when the patient is first diagnosed with cancer and continuing throughout the course of treatment. On initial diagnosis, patients often have insurance, employment, and financial concerns. If the disease progresses, there may be debt management and disability benefits issues. At the end of life, advanced planning becomes necessary, such as drafting wills, health care proxies, and permanency planning documents for parents with minor children. Expanding the spectrum of services available to a cancer patient to include legal assistance has the potential to substantially improve patient health and family stability over time.

Although many cancer specialists know that their patients' unmet nonmedical needs are having a deleterious impact on their patients' health, they don't have the knowledge or experience to advocate for them.⁷ LegalHealth trains physicians to recognize significant issues that may negatively impact medical outcomes but have a legal remedy, such as employment problems that can threaten a cancer patient/survivor's ability to retain health insur-

ance, the lack of homecare when a patient is discharged from the hospital, or poor housing conditions, which can further weaken an already compromised patient.

The LegalHealth model recognizes the substantial time pressures faced by the clinical staff and, therefore, simplifies advocacy intervention so it can be woven seamlessly into the clinical consultation.⁸ Although substantive legal information is taught in periodic training sessions for physicians, it is behavior change that is the ultimate goal of these trainings. The LegalHealth model encourages physicians and advanced practice nurses to listen to the pertinent personal information from the patient during the examination in a new light. Rather than discourage the discovery of nonmedical information, the physician and nurse are trained to actively triage to the attorney. Physicians are taught to ask a few basic questions that will elicit the information needed to assess whether a legal intervention is necessary. Once it is determined that legal intervention is needed, the physician's role is clearly defined so as not to add unwarranted responsibilities. Sometimes, the referral to LegalHealth is the extent of the intervention; in other situations, the physician might play a more active role in the advocacy effort, such as filling out necessary forms for disability benefits or writing a letter for a patient who needs a reasonable accommodation in their workplace.

In the LegalHealth model, lawyers are stationed in the same clinical area where cancer treatment is provided. Through routine physician-patient interaction, patients are prescreened by the physician, nurse, or oncology social worker, and a legal appointment is set up for a time in the future. In some cases, where there is a time-sensitive issue, patients are literally walked over by their physician to the lawyer. LegalHealth lawyers are generalists and, therefore, able to handle the myriad issues the physician has uncovered. To date, LegalHealth is on site at five New York City hospital-based cancer centers and one community cancer center.

In a pilot survey conducted by LegalHealth, 20 of its clients with cancer were asked a variety of questions about the impact legal interventions had on the quality of their lives. The questions sought to determine how legal services impacted their ability to keep medical appointments and maintain treatment regimens and how they affected their emotional health and family stability. The survey found that 75% of patients interviewed said the legal services reduced stress, 50% said receipt of legal services had a positive effect on their family or loved ones, 45% indicated the services had a positive effect on their financial situation, 30% said the services helped them maintain their treatment regimen, and 25% said the services helped them keep medical appointments (LegalHealth Study conducted by Fordham University School of Law [New York, NY] students enrolled in a public interest lawyering seminar in conjunction with the school's Stein scholars Program, internal communication, 2005).

The incorporation of lawyers creates a truly formidable team. This integration can bridge gaps in information and resources and provide valuable on-site advocacy and support.

BENEFITS OF THE COLLABORATION

The collaboration between LegalHealth and oncology health care providers benefits individual patients and their families, care partners, providers, and health care institutions.

Benefits to Patients, Families, and Care Partners

Legal problems that present simultaneous or result from cancer illness add to the patient's and family's burden at a time when their reserves are already stretched. Seeking free legal help outside of the treatment setting is often fraught with bureaucratic obstacles even if one can access the services. LegalHealth attorneys are sensitive to the problems and special needs of the cancer treatment population. Such a marriage of services improves the patient's general quality of life and makes it easier for the patient to adhere to treatment. Integration of such services in cancer centers reinforces the principle that comprehensive cancer treatment embraces the realities of patients' daily lives.

Benefits to Providers

An increased recognition of noncancer obstacles to care can impact a health care provider's treatment plan. Patients with job, housing, financial, or insurance-related concerns may be less able to adhere to rigorous treatment plans. These nonmedical factors negatively affect a patient's ability to seek care at all or keep scheduled appointments for treatment or follow-up. Such interruptions in treatment can reduce its effectiveness because both chemotherapy and radiation therapy rely on optimal treatment administered sequentially over time.³ Certainly, distress over such issues reduces a patient's quality of life, and these burdens become another source of stress beyond the cancer and its treatment. Legal interventions broaden the array of services oncology specialists can offer to patients and families and enrich their own repertoire of skills and training opportunities.

The attorneys themselves benefit from the collaboration by translating their skills to a new environment, accessing more clients before crises occur, and being welcomed into the health care team. Inclusion on the treatment team enhances the appreciation of an attorney's advocacy role and helps overcome an adversarial stereotype.

Benefits to the Health Care Institution

Patients' legal difficulties lead to missed appointments and treatment interruptions that can be costly when chemotherapy or radiation therapy need to be administered or when a patient does not show for a prescheduled surgical procedure. By assessing and intervening in patients' legal obstacles to care early on, such losses are contained. Additional savings are realized when legal intervention results in unraveling insurance and entitlements to pay for care that may otherwise go unreimbursed. Cancer centers that provide such legal help for their patients sharpen their competitive edge by enriching the array of services available on-site and at no cost to their patients.

CASE EXAMPLES

Case 1: End-of-Life Issues

Monica S., who is now deceased, sought LegalHealth's services in 2003 after being diagnosed with leukemia. She was a 45-year-old single mother of a 12-year-old girl. She had entered the United States as a tourist and overstayed her visa. Although she had continued to work as a hair stylist, in late 2003, she stopped working. She had difficulty getting short-term disability payments. She had no will, health care proxy, or power of attorney. Monica had no family members in New York, and although the father paid child support, he had no interest in raising his daughter. Monica was concerned how she would live and what she would do if her employer stopped paying for her health insurance. LegalHealth's first step was to

work with her physician to make sure she got her short-term disability. LegalHealth then prepared Monica's will, health care proxy, and power of attorney and made standby guardianship plans. LegalHealth also researched whether any other disability benefits were available to her and what her long-term insurance options would be. Ten months after Monica's death, LegalHealth represented the standby guardians in court to get letters of guardianship. As a result of the services provided to Monica by LegalHealth, she was able to get practical help related to her financial and estate planning concerns from her attorneys, allowing her to focus solely on her daughter and maintaining her strength during her treatment. LegalHealth was also instrumental in Monica's referral to hospice for end-of-life care, which brought much comfort and quality of life into her home.

It is clear from this case example that Monica had many legal issues that needed to be prioritized and addressed. Her greatest concern was ensuring that she had a permanency plan for her daughter. The term permanency planning in relation to individuals with a chronic or serious illness describes the options available to parents to plan for the future care and custody of their children if something should happen to them. Standby guardianship laws, which were enacted in response to the AIDS crisis, are now being used by parents with cancer and other serious illnesses (LegalHealth Study conducted by Fordham law students enrolled in a public interest lawyering seminar in conjunction with the law school's Stein Scholars Program, internal communication, 2005). They allow a parent to put into place, while they are able, guardianship plans that become effective on a later triggering event, which is often the parent's death or incapacity. Because permanency planning demands involvement of parents, children, and caregivers/guardians, it is an extraordinary challenge for lawyers, social workers, and doctors to help families with what many say is the hardest decision of their lives.

Case 2: Financial Issues

Rosa A., a 38-year-old woman suffering from fibrosarcoma was referred to LegalHealth by her hospital social worker and oncologist; they were concerned about the stress she was experiencing as a result of her financial situation. Although her cancer is under control, she is in a great deal of pain and being monitored closely by the pain clinic at the hospital. Before her illness, Rosa A. worked. Now, her family lives on the money she receives from Social Security Disability and her children's Social Security Survivor benefits from their deceased father. The original reason for the referral was a denial of food stamps, which LegalHealth was able to rectify. Help with the food stamps revealed that she owed thousands of dollars of credit card debt from before she became ill. Because she is no longer working, she rapidly fell behind in the payments. She attempted to pay her debts through a credit consolidating agency but could not keep up with the payments. She mentioned that calls from her creditors were coming in regularly and were extremely upsetting, both from her own guilt that she was in debt and from the harassment from bill collectors. She said she couldn't sleep at night because of her worries about the bills and trying to pay them when she simply had too little money to even afford food. LegalHealth wrote to all the creditors requesting that they cease and desist their collection efforts because Rosa has no income to pay them and is considered judgment proof and requesting that any further collection efforts be referred to LegalHealth.

This case example is typical of what individuals with cancer experience when they are no longer able to continue working and

must live off entitlements or disability. Before the onset of illness, people like Rosa are able to live pay check to pay check and pay the minimum amount on their debts to keep creditors at bay. With a cancer diagnosis, a person's financial situation often deteriorates, and many people end up either like Rosa or needing to file for bankruptcy. In a recent study conducted by Harvard, it was found that medical problems contribute to approximately half of all bankruptcies filed in the United States.⁹ Rosa is only one example of how patients are concerned with their financial situation. When faced with cancer, patients must think not only about the need to pay for their health care and treatments but also about out of pocket expenses that can lead to bankruptcy. Examples of such expenses include "the need for services such as meal preparation, housekeeping, and home health care, child-care, transportation and the unavailability of family caregivers because of their need to work."¹⁰ Financial problems and the stress they cause can be mitigated by legal involvement, allowing individuals such as Rosa to concentrate on her health.

Case 3: Workplace Issues

David Z., a 51-year-old man with colon cancer, was employed as a designer at a clothing manufacturer. Although work gave him an important diversion from his cancer, the continued income and insurance coverage for him and his family also played a big role in his decision to keep working. When David met with LegalHealth, he had many questions regarding his rights in the workplace, insurance coverage, and the amount of time he could take off from work. LegalHealth counseled him extensively on the Family and Medical Leave Act, long-term disability, and COBRA coverage. With this knowledge, David was able to make a more informed decision as to when to stop working.

Because many patients with cancer depend on their jobs for insurance coverage as well as income, maintaining employment is often a key concern. The effect of this job lock, or inability to leave a position for fear of losing insurance coverage, causes great psychological and emotional stress in addition to having a significant impact on the family's overall financial status.¹⁰ In addition to these concerns, many patients/survivors battle stigmas about cancer in the workplace, which can result in employer's concerns about an employee's productivity, missed promotions, undesirable transfers, or even terminations.¹¹

Madeline L., a 32-year-old woman with ovarian cancer, worked in an administrative job. She continued her employment throughout her chemotherapy, but she found the length of the day overly demanding. Her employer was uncomfortable allowing her to work a flexible schedule. LegalHealth worked with her treating physician to prepare a letter that supported her need to reduce her hours as a reasonable accommodation under the Americans with Disabilities Act, and Madeline's employer adjusted her schedule accordingly.

Often, cancer survivors need a reasonable accommodation in the workplace. To obtain an accommodation, an individual must inform their employer about their work limitations, and the decision to disclose a disability is often a difficult one. Realistic input from their treatment team in conjunction with their lawyer about their ability to

work and/or the accommodations needed helps a survivor realistically assess their employment situation.

CONCLUSION

Although LegalHealth is a worthwhile model, it is one prototype of collaborative care. Hospital staff, public interest, and pro bono attorneys and patient advocates can adapt these basic principles to the community or academic treatment setting, taking into account available resources and the willingness to collaborate in innovative ways. Such joint efforts are satisfying to all involved, including patients, families, oncology treatment team members, and attorneys. The potential cost savings by reducing missed appointments for chemotherapy or radiation therapy are apparent and measurable. The practice or hospital's revenue stream is better protected when patients' care is reimbursed by insurance or entitlements, as a result, in large part, of lawyers' involvement after they are brought to the forefront by the oncology team. The LegalHealth collaboration provides a win/win/win situation for everyone involved, including the patients and their families, the oncology teams and their institutions, and the attorneys.

As oncology care is evermore provided in an ambulatory setting, oncology treatment teams are forced to confront family and financial issues that may expedite or impede patient treatment. An on-site, specialized attorney can intervene to address these issues before a crisis develops that interferes with cancer treatment.

REFERENCES

1. LIVESTRONG Web site: <http://www.livestrong.org/site/apps/nl/content2.asp?c=jvKZLbMRIsG&b=738963&ct=901209>
2. Fleishman SB: Treatment of symptom clusters: Pain, depression, and fatigue. *J Natl Cancer Inst Monogr* 32:119-123, 2004
3. Reuben SH: Living Beyond Cancer: Finding a New Balance, President's Cancer Panel, 2003-2004 Annual Report. <http://www.deainfo.nci.nih.gov/ADVISORY/pcp/pcp03-04rpt/Survivorship.pdf>
4. Bassuk K, Lessem J: Collaboration of social workers and attorneys in geriatric community based organizations. *J Gerontol Social Work* 34:93-108, 2001
5. Zuckerman B, Sandel M, Smith L, et al: Why pediatricians need lawyers to keep children healthy. *Pediatrics* 114:224-228, 2004
6. Retkin R, Stein GL, Draimin BH: Attorneys and social workers collaborating in HIV care: Breaking new ground. *Fordham Urban Law Journal* 24:533-566, 1997
7. Tames P, Tremblay P, Wagner T, et al: The lawyer is in: Why some doctors are prescribing legal remedies for their patients, and how the legal profession can support this effort. *The Boston University Public Interest Law Journal* 12:505-527, 2003
8. Lawton EM: The Family Advocacy Program: A medical-legal collaborative to promote child health and development. *Management Information Exchange Journal* 17:12-16, 2003
9. Himmelstein DU, Warren E, Thorne D, et al: MarketWatch: Illness and injury as contributors to bankruptcy. <http://content.healthaffairs.org/cgi/reprint/hlthaff.w5.63v1>
10. Wagner L, Lacey MD: The hidden costs of cancer care: An overview with implications and referral resources for oncology nurses. *Clin J Oncol Nurs* 8:279-280, 2004
11. Ullman Schwerin B: Employment discrimination: Overview. http://www.livestrong.org/atf/cf/%7BF6B6FFD43-0E4C-4414-8B37-0D001EFBDC49%7D/Employment_Discrimination.pdf

Authors' Disclosures of Potential Conflicts of Interest

The authors indicated no potential conflicts of interest.

COPYRIGHTS & CONTRACTS
Jennifer Collins Ellis
Manager, Copyrights & Licensing
(312) 988-6102
copyright@abanet.org

ABA Publishing
321 North Clark Street
Chicago, Illinois 60610

March 4, 2008

VIA E-MAIL ecohen@sbhcs.com

Ellen Cohen, MD
Newark Beth Isreal Medical Center
201 Lyons Avenue
Newark, NJ 7112

Ellen Cohen, MD,

We are in receipt of your request dated 2/27/2008 to reprint 35 copies of "Lawyers and Doctors Working Together - A Formidable Team" by Randye Retkin, Esq., Julie Branfield, Esq., Ellen Lawton, Esq., Barry Zuckerman, MD, and Deanna DeFrancesco, published in Health Lawyer, Volume 20, No. 1, October 2007 (the "Requested Material"). Subject to the terms and conditions set forth herein, permission is hereby granted to use the Requested Material for inclusion within a CD for the 31st Annual meeting, Society of General Internal Medicine, sponsored by the Society of General Internal Medicine in April 2008.

1. **Newark Beth Isreal Medical Center agrees to pay to the ABA \$10.50 as consideration for reprinting the Requested Material for use as outlined above.** Payment will be made to American Bar Association, Attn: Jennifer Collins, 321 North Clark Street, Chicago, IL 60610 within 30 days of the date first set forth above (ABA Tax ID: 36-0723150).
2. If any material in the Requested Material credits another source, then Newark Beth Isreal Medical Center must obtain authorization from that original source.
3. Use of the Requested Material is limited to the one-time 2008 print use as described above, and does not include the right to license this Requested Material, individually or as it appears in your publication, or to grant others permission to photocopy or otherwise reproduce this material.
4. Permission is granted to make versions for use by blind or physically handicapped persons, provided that no fees are charged.
5. The following credit to our publication must appear on every copy of the Requested Material:

"Lawyers and Doctors Working Together - A Formidable Team" by Randye Retkin, Esq., Julie Branfield, Esq., Ellen Lawton, Esq., Barry Zuckerman, MD, and Deanna DeFrancesco, published in Health Lawyer, Volume 20, No. 1, October 2007. Copyright © 2007 by the American Bar Association. Reprinted with permission.

6. Use of the Requested Material is granted on a non-exclusive basis and is valid throughout the world in the English language only.
7. Permission is limited solely to the text portion of the Requested Material. Should any photographs, illustrations, cartoons, advertisements, etc. appear in conjunction with the Requested Material, those portions should be blocked out before reproduction, as well as text from other articles.
8. The reproduction of the ABA logo and/or section logos is strictly prohibited, as is the reproduction of covers and mastheads of ABA publications.

FOR THE AMERICAN BAR ASSOCIATION: