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Advancing Health Law & Social Justice in the Clinic, the Classroom and the Community

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ABSTRACT

Law school clinics are paramount to developing law school graduates who embrace their "special responsibility for the quality of justice," as well as their role in ensuring equal access to justice for marginalized, impoverished and underserved members of society. This responsibility permeates every aspect of lawyering, especially the practice of health law. This article explores, first, how clinics and social justice fit into the practice of health law and into the training of future health law attorneys and policymakers. Second, it defines social justice in the context of health and, finally, it provides examples that demonstrate how we can, and why we should, integrate social justice teaching into every law school, every classroom and the practice of health law.

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I. INTRODUCTION

Law school clinics are paramount to developing law school graduates who embrace their "special responsibility for the quality of justice," as well as their role in ensuring equal access to justice for marginalized, impoverished and underserved members of society.[1] This responsibility permeates every aspect of lawyering, especially the practice of health law. This article explores, first, how clinics and social justice fit into the practice of health law and into the training of future health law attorneys and policymakers. Second, it defines social justice in the context of health and, finally, it provides examples that demonstrate how we can, and why we *should*, integrate social justice teaching into every law school, every classroom and the practice of health law.

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1. The Preamble to the American Bar Association's Model Rules of Professional Conduct states, "A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice." Model Rules of Prof'l Conduct Preamble and Scope (2011), *available at* http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_preamble_scope.html

II. THE IMPORTANCE OF SOCIAL JUSTICE IN THE TEACHING AND PRACTICE OF HEALTH LAW

All aspects of the healthcare system focus on enhancing outcomes through advanced data collection, by reducing errors and negative effects, upgrading quality and safety, reducing cost, and improving patient well-being. These endeavors require well-prepared professionals capable of working to improve relationships and broaden the scope of analysis. In the teaching of health law – be it liability, regulation, bioethics, disease-and-the-law, even in biotechnology law – regardless of our emphasis or perspective, at either the beginning or the end of that service line stands a patient/consumer. It stands to reason that if the patient/consumer is the key figure, improving his/her potential to benefit is warranted. Understanding the context in which any given patient/consumer presents is integral to improving outcomes.

Incorporating real situations in the classroom exposes students to the many confounding variables that challenge the healthcare system and that also affect outcomes. When we integrate scenarios that apply facts to the law through the use of role play, hypothetical exercises, or case studies, we also raise issues of social justice and we introduce students to the lead – and, arguably, the most important – participants in our healthcare system: the patient/consumer. To become serious about reducing the cost of health care, the variables that affect the patient's ability to engage effectively with the care plan and with the system must be scrutinized and addressed. Ultimately, this is an equity and access issue.

As public health researchers, Risa Lavizzo-Mourey and David R. Williams succinctly put it, "[t]here is more to health than health care."[2] In this time of major reforms to our health care system, many researchers and policymakers, including the World Health Organization ("WHO"), the Centers for Disease Control and Prevention, and the Robert Wood Johnson Foundation, are focusing not just on how changes to the healthcare system will improve health, but also how to address the social determinants of health. The WHO defines social determinants of health as:

> [t]he conditions in which people are born, grow, live, work and age, including the health care system. These circumstances are shaped by the distribution of money, power and resources at global, national, and local levels, which are themselves influenced by policy choices. The social determinants of health are mostly responsible for health inequities - the unfair and avoidable differences in health status seen within and between

2. Risa Lavizzo-Mourey & David R. Williams, *Strong Medicine for a Healthier America*, 40 AM. J. PREVENTIVE MED., S1, S1 (2011).

countries.[3]

Social inequalities in health and access to health contribute to significant variations in health outcomes, as manifested by factors, such as life expectancy at birth, infant mortality, and morbidity and ranging across social groups by gender, race, social class, occupational status, and geographic location.[4]

Not unexpectedly, the lower the socioeconomic status ("SES"), the greater the risk of poor health status. Dr. Kathleen Conroy, who is a participant in medical-legal partnership ("MLP")[5] activities, and her colleagues report that "[s]trong connections link child health and adult health, as well as childhood . . . SES and adult SES."[6] This link has lifelong consequences. "A direct connection exists between childhood SES and adult health regardless of whether a child manifests health consequences during childhood or changes social class from childhood to adulthood."[7] Lower social class, independent of compounding factors contributes, to poor health outcomes.[8] Also, attaining higher social class in adulthood does not completely erase the health impact of living in a lower social class during childhood.[9]

In many initial encounters, health providers may not be driven to inquire about the social justice component of care, such as SES or the social determinants of health. They may not have been trained, or they may feel very pressed by time. As a result, they may not focus on the details of the social history. Dr. Paul Farmer acknowledges the work of Rudolf Virchow, a German physician who practiced in the 19th century and is recognized for his focus on public health along with other areas. If medicine is to improve the health of the public, it "must attend at one and the same time to its biologic *and* to its social underpinnings. It is paradoxical that, at the very moment when the scientific progress of medicine has reached unprecedented heights, our neglect of the social roots cripples our effectiveness."[10] This statement, made over 100 years ago, remains true

3. World Health Organization, Social Determinants of Health (2011), http://www.who.int/social_determinants/en/.

4. *See* Margaret Whitehead, *The Concepts and Principles of Equity and Health*, 22INT'L J. HEALTH SERV. 429, 429-445 (1992).

5. For a description of medical-legal partnerships, *see infra* Part III.

6. Kathleen Conroy et al., *Poverty Grown Up: How Childhood Socioeconomic Status Impacts Adult Health*,J. DEVELOPMENTAL & BEHAV. PEDIATRICS, Feb./Mar. 2010, at 154, 154.

7. *Id.*

8. *Id.* at 155.

9. *Id.*

10. PAUL FARMER, INFECTIONS AND INEQUALITIES: THE MODERN PLAGUES 10 (Univ. California Press 1999) (quoting Leon Eisenberg, *Rudolph Ludwig Karl Virchow, Where Are You Now That We Need You?*, 77 AM. J. MED. 524, 524-32 (1984)).

today. Dr. Farmer argued that physicians need to think hard about poverty and inequality, which influence any population's morbidity and mortality patterns and determine who will have access, especially in a healthcare system such as ours.[11] This article and its authors posit that lawyers, particularly health lawyers, also need to think hard about poverty and inequality.

While access to medical care is critically important, we cannot tackle racial, ethnic, and socioeconomic health disparities, or reduce the high costs of treating chronic disease unless we address the social conditions in which people "live, learn, work and play."[12] When we do, all healthcare participants stand to benefit. Public health experts note that improving health among vulnerable patient populations has important consequences for society. A recent study notes that, "the aggregate economic gains from interventions that improve the health of disadvantaged Americans are potentially large."[13]

Yet, much of our focus in teaching health law is on the relationship between law and the healthcare system. If students are to understand the relationship between health (not just the healthcare system) and the law, it is important that they grasp the interplay between social justice, law, and individual and population health. To improve health and reduce disparities, interventions must move upstream: "Reducing social disparities in health (i.e., health differences by racial or ethnic group or by socioeconomic factors like income and education) will require solutions that address their root causes."[14] Unfortunately, the healthcare and legal systems typically share a triage approach to health, social, and legal problems: wait until a health problem is acute; wait until a legal problem is a crisis before intervening.

Interdisciplinary collaboration may help bring society closer to the WHO definition of health. "Health is the state of complete physical, mental and social well-being and not nearly the absence of disease or infirmity."[15] This is a lofty definition and many people take exception with aspects of it; however, it sets a moral compass – something to aspire toward. Individual decisions alone cannot achieve the outcomes outlined in the WHO

11. *Id.* at 9-12.

12. Elaine Arkin et al., Robert Wood Johnson Foundation, Commission to Build a Healthier America, Issue Brief 7: Message Translation (Dec. 2009), http://www.commissiononhealth.org/PDF/0d5f4bd9-2209-48a2-a6f3-6742c9a7cde9/Issue%20Brief%207%20Dec%2009%20-%20Message%20Translation.pdf.

13. Robert F. Schoeni, et al., *The Economic Value of Improving the Health of Disadvantaged Americans*, 40 AM. J. PREVENTIVE MED., S67, S67 (2011).

14. Lavizzo-Mourey & Williams, *supra* note 2, at S5.

15. World Health Organization, Constitution of the World Health Organization, Preamble (1946), http://apps.who.int/gb/bd/PDF/bd47/EN/constituion-en.pdf. .

definition. Collaboration holds possibility. Educating all of our students about the existence of, and the need to address, the multiple determinants of health can only help bring a healthier future.

III. LEGAL EDUCATION & SOCIAL JUSTICE

A. Interdisciplinary Education to Advance Social Justice and Societal Health

The MLP is a perfect vehicle for teaching law students, particularly health law students, about the importance of collaboration in their careers. The MLP movement began at the bedside to address the revolving door of repeated and perhaps preventable readmissions and other challenges to the delivery of care – situations that negatively affect the patient, the provider, the institution, and our communities. The MLP concept uses the law to address socioeconomic determinants of health, such as bad housing conditions that exacerbate respiratory illnesses, schools' failures to adequately address disabilities that prevent children with disabilities from accessing a fair and appropriate public education, family instability that may threaten a child's well-being, and the inability to receive disability benefits for which they are eligible. Many providers and institutions lack the tools to address these socioeconomic determinants. We have learned that it takes another skill set, lawyering, to do so effectively and completely. This emphasis on interdisciplinary analysis of the social issues underlying inequalities in health is helping to move the medical model solely from a focus on disease and the remedy for that disease toward holistic, patient-centered problem solving.

In the process, the MLP model has moved from the bedside into the classroom, notably within law schools classrooms. Both the legal and medical educators recognize the need to incorporate this knowledge and these skills and values into professional training. This interdisciplinary collaboration is working to prepare more students to handle the challenges presented by the 21st century patient/consumer and can take multiple forms in the law school setting.

MLPs are poised to identify system barriers that affect the health of vulnerable populations on a wider scale. For example, a government agency's violation of regulations requiring a timely response to applications may affect an entire community's food security; a public utility commission's disregard for its own protections from shut-off for patients with a serious health condition can jeopardize the health of many medically vulnerable patients; a housing code enforcement agency's failure to enforce health and safety violations may lead to an increase in asthma and lead poisoning among inner-city children.

These issues can escalate in the life of a patient with low SES. For example, if a patient is poor, she is more likely to have chronic disease resulting, at least in part, from her social conditions and social history. If she has chronic disease, she is more likely to move in and out of employment, have unstable and unsafe housing, and have difficulty navigating safety net systems, thus exacerbating her weak economic, social, and health status and increasing her usage of the health system, most likely through the emergency room.

What then, is the role of law in this equation? Law is both a social determinant of health and a tool to address the social determinants of health. Many of the social conditions that create barriers to health for vulnerable populations are affected, in one way or another, by law. Professor Wendy Parmet notes, "[b]y establishing the social framework in which populations live, face disease and injury and die, law forms an important social determinant of population health."[16] Laws that affect access to and distribution of resources have enormous implications for the health of vulnerable populations.

Law is also a tool to both prevent disease and to address the social determinants of health. There are a range of legal remedies that may benefit the health of vulnerable populations when practitioners and policymakers come to understand the health consequences of particular practices and policies. In other words, the law may serve as an "upstream" intervention. At the individual level, enforcing the right to safe housing, appealing a wrongful denial of disability benefits or food stamps, securing a restraining order on behalf of a victim of domestic violence and her children, may impact health in meaningful ways that medical care alone could not. At the population level, zoning laws that restrict fast food restaurants in low-income neighborhoods, regulatory changes to Supplemental Security Income ("SSI") or Medicaid rules, legislative changes regarding when heat may be shut-off may have significant health benefits for poor and vulnerable populations. Thus, lawyers and law students concerned with improving health for vulnerable populations have a significant role to play in challenging the social framework underlying health disparities.

1. Addressing Socioeconomic Determinants of Health in the Law and Medical School Classroom

The course, "Poverty, Health and Law: The Medical-Legal Partnership," taught by Liz Tobin Tyler, is offered jointly to Roger Williams University

16. WENDY E. PARMET, POPULATIONS, PUBLIC HEALTH, AND THE LAW 31 (Georgetown Univ. Press 2009). *See also* Scott Burris et al., *Integrating Law and Social Epidemiology*, 30 J. L. MED. & ETHICS 510 (2003).

School of Law and Brown Medical School.[17] The course describes poverty and health as having a symbiotic relationship and helps medical and law students understand the connections between social determinants of health, law and medicine. Rooted in the MLP model, the course is based on the understanding that lawyers working in healthcare settings can help to prevent and address health conditions associated with social conditions. In addition to the course, the law school offers an externship opportunity for students to work with the Rhode Island Medical-Legal Partnership for Children in Providence. Students learn that, by working in tandem with healthcare providers who screen patients for legal needs, lawyers can identify legal and social barriers that affect health.

Students probe the role of law in the social determinants of health and the potential for legal advocacy, both at the individual and policy levels, by exploring these issues from various perspectives. They examine social and legal problems affecting health (i.e., housing, employment, domestic violence and child abuse); particular diseases (i.e., cancer, HIV/AIDS); and particular populations (i.e., geriatric patients, adolescents and young adults). They discuss ethical issues that confront lawyers and healthcare providers working in interdisciplinary settings: What problems may arise when professionals working together have different ethical rules. For example, how do different professional ethical rules for health care providers and lawyers regarding patient and client confidentiality affect their ability to share information about patient/clients.

Hypothetical exercises help students identify the role that law plays in the health of vulnerable patients, engage in interdisciplinary problem solving, and explore the role of legal and healthcare professionals in addressing the social determinants of health. As an illustration of this approach, below is a short case example that connects poverty, health and law:

> [a] single low-income mother with two children is diagnosed with stage 2-breast cancer. She requires surgery and weekly radiation. She works a low-wage job and is fired for absenteeism because she is attending to her radiation. Because she loses her job, she is evicted from her apartment and becomes homeless and has to double up with family members.

17. After teaching this course for several years, Elizabeth Tobin Tyler recently edited a casebook, POVERTY, HEALTH AND LAW: READINGS AND CASES FOR MEDICAL-LEGAL PARTNERSHIP (Elizabeth Tobin Tyler et al., eds., Carolina Academic Press 2011). Each chapter was written by interdisciplinary teams comprised of members from the fields of medicine, nursing, public health, law, and social work. The authors draw on their collective wisdom derived from medical, health care, public health, and legal research, practice, and policy. The book is intended to be "user-friendly" for students from multiple disciplines, while offering students the opportunity to understand the connections between social justice, health and law.

> Because she doesn't have a permanent address, she loses her state Medicaid coverage and has to stop her radiation treatment.

Using what they learned in the course, students brainstorm preventive legal actions that might have helped to avoid this patient/client's poor outcome. Could an on-site lawyer have helped protect the mother's rights in the workplace? Might she have kept her job by exercising her rights under the Family and Medical Leave Act, the Americans with Disabilities Act or other state protections for employees with health concerns? Certainly, exploring her eligibility for income through safety net programs would be important. If she was unable to work, might she be eligible for disability benefits? Working in partnership with a lawyer, how could her healthcare provider play a role by documenting her medical condition? Could securing income have prevented her eviction? How might a MLP team help her to maintain her Medicaid benefits? Students learn that several areas of law and potential legal remedies may be used to prevent poor health outcomes. Law, therefore, can be a preventive tool to address the social determinants of health.

These principles could be explored over the course of a full semester or select themes and problems could be integrated into traditional health law courses and curriculum. Certainly, these scenarios implicate the broader discussion of health and the healthcare system. For example, how should the healthcare system address health disparities? How can it effectively respond to the health needs of vulnerable populations? How can preventive approaches such as MLPs fit within a medical home model and reduce healthcare costs? In fact, addressing the social determinants of health should go hand in hand with our discussions about systems reforms, especially healthcare reform. Ultimately, those reforms are about improving the health of individual patients. Future lawyers are critical to that effort.

2. Law School Clinics: Addressing Social Determinants of Health Through Interdisciplinary Clinical & Experiential Learning

Providing an interdisciplinary and collaborative learning environment for law students can help shape their concept of social justice. It can also deepen their understanding of how different professionals can collaborate to address the socioeconomic determinants of health. These important benefits happen during collaborative problem solving between professionals working together for the benefit of low-income clients. Law school clinics and experiential programs that create an interdisciplinary learning environment teach students the importance of collaboration in order to achieve improved health outcomes and social conditions for their clients and society. We provide two examples of law school clinic models that

achieve this goal.

Much like traditional law school clinic students, MLP clinic students learn practical skills, such as interviewing, counseling, negotiation, persuasive writing, and oral advocacy. MLP clinic students learn these lawyering skills while working with other disciplines that form part of the partnership. In this section, we highlight two MLPs that integrate the model into law school clinics in different and equally effective ways: (1) Health Law Partnership Legal Services Clinic ("HeLP Clinic") at Georgia State University College of Law in Atlanta,[18] and (2) the Health Justice Project at Loyola University Chicago School of Law in Chicago.[19]

a. HeLP Legal Services Clinic at Georgia State University College of Law in Atlanta

The HeLP Clinic was conceived as an interdisciplinary law school clinic when it opened in January 2007. The HeLP Clinic is part of the interdisciplinary education component of the Health Law Partnership.[20] Its mission is to teach law students lawyering skills within the context of interdisciplinary practice. One aspect of fulfilling that mission is to aid students in understanding their role as lawyers within a larger framework of inter-professional collaboration. Because one of HeLP's partners is Children's Healthcare of Atlanta, the HeLP Clinic focuses on legal issues related to health and socioeconomic determinants of health within a pediatric context. Children's Healthcare of Atlanta is a three-campus system that sees more patients than any other pediatric healthcare system within the country. Children's at Hughes Spalding may be the smallest of the three campuses, but it has the most need. The campus, located in downtown Atlanta, serves a population that is approximately ninety percent Medicaid-covered or Medicaid-eligible and seven percent uninsured. The remaining patients are commercially insured. HeLP Clinic students handle a variety of cases, including children's SSI appeals, wills, Medicaid access and denials, issues of family stability, and access to education.

The HeLP Clinic's interdisciplinary education collaborators are the two medical schools based in Atlanta: Emory University School of Medicine and Morehouse School of Medicine. The different learners in the clinic include law students, medical students, pediatric residents, and public health students. Medical students participate in the clinic and in serving

18. *See* Georgia State Univ., HeLP Legal Services (2010), www.law.gsu.edu/helpclinic/index.html.

19. *See* Loyola Univ. Chicago School of Law, Health Justice Project (2011), http://www.luc.edu/healthjustice [hereinafter Health Justice Project].

20. HeLP has four components: 1) direct legal services; 2) interdisciplinary education; 3) advocacy and 4) evaluation. *See* HeLP Law Partnership, Mission (2011), http://healthlawpartnership.org/index/about_us/mission.

clinic clients in different ways. For example, third-year medical students at Morehouse School of Medicine attend mandatory joint classes with law students as part of a medical school course, Fundamentals of Medicine III. The joint law and medical student classes were co-created and are co-taught by HeLP faculty and Morehouse School of Medicine faculty.

Pediatric residents from Emory University School of Medicine are integrated into HeLP Clinic case rounds. This interdisciplinary exchange is reversed when law students visit the hospital and accompany residents on their patient rounds.

In addition to the joint classes, the HeLP Clinic provides experiential learning opportunities for medical and other professional students. The HeLP Clinic is a placement for fourth-year medical students from Morehouse who take a very popular elective called "Law and Medicine." The Law and Medicine elective is available to three fourth-year medical students per rotation. The students enrolled in this elective participate in the HeLP Clinic full-time for a four-week rotation. The clinic also serves as a practicum placement for students studying for a masters in public health. Public health students collaborate with HeLP Clinic students as part of their external placements, and they are also incorporated into the life of the clinic and its ongoing caseload. Their public health perspective helps law students learn to appreciate the societal context of their legal assistance to individual clients. Beginning in fall 2011, HeLP will incorporate a social work perspective. A Masters of Social Work student will spend sixteen hours per week working in the clinic with clinic students during the entire academic year as part of a practicum placement.

The medical partners recognize that, in order for their legal partners to be successful advocates, they need to understand how the medical profession works. To accomplish this goal, law students attend patient rounds within the hospital and observe how the medical profession thinks and functions when caring for hospitalized patients. Students are introduced to medical education methods, the investigative process of disease identification, the language of medicine, and how a plan of care is developed for a patient. Conversely, the medical students and residents go to the law school to learn about the law, how it is applied in the context of individual patients, and they are introduced to the legal profession and how lawyers advocate for patients. This is the essence of a truly interdisciplinary and cross-professional interaction.

As evident, during their time in the clinic, law students have an opportunity to collaborate with physicians, pediatric residents, medical students, public health students, and soon social work students. This collaboration, in the context of real life clients, exposes students to the public health issues that affect vulnerable populations. For example, a family's inability to afford asthma medication for a child with asthma

complications can create a serious health issue. For a child diagnosed with sickle cell disease, a poorly maintained apartment without adequate heat or air conditioning can trigger a pain crisis, which could require medical intervention and even hospitalization. Students can work together to address these kinds of issues and improve the health conditions of children. The hope for students who participate in HeLP's interdisciplinary learning environment is that when they collaborate to address a client's health issues, they gain a better understanding of the potential impact interdisciplinary work can have on social justice.

Case Study: Children's Supplemental Security Income Appeals

Interdisciplinary teamwork on children's SSI disability appeals provides a rich opportunity for collaborative learning, while also yielding positive results for patients. For example, one SSI case handled by students in the HeLP Clinic involved a 16-month-old child who was diagnosed with sickle cell disease. At the early stages of the case, when students were investigating whether the child had a valid claim for disability benefits, multiple partners from the medical field provided assistance. Medical students assisted the law students in reading and interpreting the child's medical records, page-by-page. In addition, medical students performed medical research on sickle cell disease and the criteria for disability evaluation for sickle cell patients.

As a result, law students learned how to interpret test results and the significance of certain tests and test results. They also learned to screen for and identify the facts (later introduced as evidence) that were critical to the successful representation of their client. Law students and medical students consult the treating physicians as part of the case preparation. Treating physicians provided testimony or submit a persuasive letter about the child's condition and symptoms to help advocate for the child. The treating physicians and other doctors taught the law students about the disease so that they had a better understanding of what it means for a 16 month old to have sickle cell disease. As in all of our cases, they were able to answer questions, such as "[w]hat does sickle cell disease look like? How severe is it? What is it like for a parent to have a child with that disease?" Understanding such contextual information helped law students better understand their clients and their clients' circumstances.

Learning through interdisciplinary collaboration is a two-way street, as well. In turn, law students teach our medical partners about the legal requirements for obtaining benefits for a patient. Medical professionals become adept at documenting critical information in the medical record that they may not have included beforehand. Ultimately, the law and medical teams shape each other's practice.

After the research was completed and the case theory developed, the team prepared the SSI case for the hearing. In this next stage of

collaboration, the medical students contributed by participating in a moot hearing. Medical students, residents, doctors, and staff attorneys were invited to attend HeLP Clinic moots. The law students received feedback from the entire team and such feedback helps refine the case presentation for the actual hearing before an Administrative Law Judge. With the client's consent, the medical students attended client hearings.

Employing a collaborative approach through all stages of a case helps everybody involved understand the value of the collaboration. All of the disciplines that participate take ownership of the result and see first-hand how good case outcomes can be achieved through interdisciplinary cooperation and collaboration. Following the hearing, it may take several months to get a final decision. In the case example here, a favorable decision meant that a low-income family is entitled to monthly benefits up to $674 per month plus automatic Medicaid eligibility, which also helps the family. A favorable ruling helps to improve the quality of life for that child and his family. The whole process allows the interdisciplinary team to see firsthand how the law can be applied to help a particular individual and the positive effect it can have on a child's health and wellbeing.

b. Health Justice Project at Loyola University Chicago School of Law in Chicago

The Health Justice Project[21] is an interdisciplinary health law clinic that provides law students with the foundational tenants of the fundamentals of practice, systemic advocacy, professional ethics and values, and collaboration.[22] The Clinic operates on the presumption that sometimes the best medical prescription is a lawyer (or a law student). This is the case when the root cause of the health problem is social or environmental in nature.

The Health Justice Project partners with members of the medical, social work, public health and legal professions, including Erie Family Health Center, a Federally Qualified Health Center that serves 36,000 patients annually at nine locations in Chicago, Equip for Equality, Lawyers Committee for Better Housing, Loyola University Chicago School of Social

21. Health Justice Project, *supra* note 19.

22. The Health Justice Project is the Clinic of the Beazley Institute for Health Law and Policy, which was created in 1984 to recognize the need for an academic forum to study the burgeoning field of health law and to foster a dialogue between the legal and health care professions. Since that time, the Beazley Institute has grown to offer one of the most comprehensive and respected health law programs in the country, including four different masters and doctoral programs for attorneys and health care professionals as well as a certificate program for JD students. The Institute today is comprised of students, faculty, researchers, practitioners, lecturers, alumni, and staff working together to fulfill a common mission: Educating the health law leaders of tomorrow. *See* Loyola Univ. Chicago School of Law, Beazley Institute for Health Law and Policy (2011), www.luc.edu/law/healthlaw.

Work, Loyola University Chicago Stritch School of Medicine, and Northwestern University McGaw Family Residency Program.

The mission of the Health Justice Project is two-fold: (1) to provide highly effective quality representation to low-income clients in order to resolve the legal needs that underlie, exacerbate, or could result in health disparity, and (2) to provide law students with an intensive, challenging education in the fundamentals of legal practice, systemic advocacy, and interdisciplinary collaboration necessary to becoming effective problem solvers and socially responsible, service-oriented attorneys. Law students have an opportunity to learn lawyering skills by connecting theory and practice through direct client interaction and interdisciplinary health advocacy. The course emphasizes the development of skills in interdisciplinary practice, client interviewing and counseling, fact finding and analysis, legal research and document drafting, pursuit of administrative and other legal remedies, policy reform where appropriate, and creative problem solving for the benefit of clients.

Law students learn these skills in the context of team and group work, with an emphasis on collaboration and interdisciplinary problem solving. Using this collaborative model, all Clinic members are exposed to the range of issues that result in poor health outcomes, legal remedies employed in the Clinic, terminology and culture of health care, and delivery of services to low-income people. Law students are encouraged to reflect on these experiences in developing lawyering skills and interacting with the social, justice, and healthcare systems in which the cases originate, as well as on the development of their own personal philosophy of lawyering.

Client representation takes various forms and covers multiple subject areas, such as housing conditions cases, public benefits denials, disability denials, access to education, and other critical issue areas. They also engage in systemic advocacy through the development of public policy rooted in their client representation with the goal of improving laws and protecting public health.

Interdisciplinary health advocacy includes collaboration with legal, social work, public health, and medical partners. In addition, law students present to providers during grand rounds and didactics in order to educate providers and residents in: the social determinants of health, their important role in client advocacy, and the legal rights of their patients. Residents and other medical providers screen patients for social determinants and work collaboratively with the law students to overcome the root causes of poor health. Law students also participate in resident precepting, in which they discuss the root causes of the patient's symptoms with the medical team after observing the residents as they report their case findings to the attending physician. Law students are given a short time to ask the residents questions and provide feedback about appropriately screening for

the social determinants of health. Finally, the law students, social work students, and residents engage in task-based learning, which consists of short pre-assigned readings, a mini-lecture to clarify any misunderstanding, and an application exercise. The application exercise following the task-based learning challenges the students to work actively as an interdisciplinary team. It also requires they draw from their own knowledge and experiences to help the group succeed on the hypothetical patient's behalf. In subsequent semesters, the interdisciplinary team approach will be adopted in a "complexity clinic" in which students of each discipline meet with actual patients and work together to address the social, legal, and medical issues affecting patient stability and health.

The interdisciplinary approach to the education of law students, residents, public health students, and social work students is critical in overcoming the social, legal, and systemic barriers that clients face. The immediate result of the collaborative medical-legal relationship is the break down of age-old silos between these professions, more effective legal representation that happens earlier and the development of a culture of advocacy within the medical profession. In the long term, MLPs present an opportunity to address the actual impact of social determinants of health on the healthcare delivery system, deliver a higher standard of care, and create more effective, better-educated policies.

Case Study: Poor Housing Conditions

Low-income clients often face poor housing conditions, such as infestations, the presence of lead and mold, or faulty utilities.[23] These situations can result in chronic disease and exacerbate, or thwart the treatment of, certain disabilities. Law students in the Health Justice Project often represent tenants in housing conditions cases. These cases are typically identified when a young child or infant presents with respiratory

23. There are about 44,445 known cases of children in Illinois with elevated lead levels and estimates of more than 81,000 children being harmed. FRIDA D. FOKUM ET AL., THE IMPACT OF LEAD: ILLINOIS LEAD PROGRAM ANNUAL SURVEILLANCE REPORT 2008 29 (Illinois Dep't. Pub. Health 2009), http://www.idph.state.il.us/envhealth/pdf/Lead_Surv_Rpt_08.pdf. The risk of lead poisoning falls disproportionately on low-income children. *Id.* at 18. In 2006, 4.2% of total Medicaid enrolled children in Illinois were found to have elevated lead levels, far exceeding the national norm of 2.5%. *Id*. Poor housing conditions, such as the presence of dust mites, bacteria, animal dander, cockroaches, rodents and mold, can lead to asthma and trigger asthma attacks. ILLINOIS DEP'T PUB HEALTH (IDPH), A COACHES GUIDE TO ASTHMA RESOURCES http://www.idph.state.il.us/about/chronic/Coach%20Packet%20PDF.pdf. Housing facilities polluted with allergens are credited with causing almost one half of all asthma attacks. IDPH, Health Beat: Asthma (Apr. 25, 2007), http://www.idph.state.il.us/public/hb/hbasthma.htm. In Illinois, "about 20 percent of inner-city children become sensitized to rodent allergens and may develop asthma." IDPH, Municipal Rodent Management, http://www.idph.state.il.us/envhealth/pcmunicipal_rodents.htm.

distress. In one semester alone, the law students represented multiple tenants suffering from housing conditions that cumulatively included exposure to mold, rodent, or bug (for example, roach or bed bug) infestations, faulty plumbing or leaky ceilings, broken windows, and sewage backup. More often than not, these families were plagued with multiple legal issues in addition to the state of their housing, including food insecurity, public benefits denials, immigration matters, and domestic violence.

The interdisciplinary partnership ensured a holistic, culturally competent solution to the problems. The medical provider armed the legal and social work team with information about the symptoms and long-term effects of exposure to such conditions. The law student team used this information to support breaking the lease and recouping damages. The social work team worked with families experiencing domestic violence and unsafe living situations to cope with the dangerous situation and find appropriate and safe housing. Any one of these activities, in isolation, would not be successful. Without information about their patients' legal rights or the social causes of their health problem, the medical provider may have found the family non-compliant when the respiratory problems persisted and they would continue to worsen with deleterious affects.

From a teaching perspective, the partnership provides an unparalleled opportunity to grapple with the difficult questions attorneys often confront. For example, students analyze questions of ethics, of defining who the client is, of confidentiality when working with partners. Students from every discipline learn the utility and the unique skill set of their partners and when to draw upon them in the future. In addition, they learn about the challenges that patient's face, and how to identify with the people and patients whose lives, ultimately, will be affected no matter what area of law they practice. Students are challenged to transform, to represent marginalized clients and to call into question their idea of social justice and decide how they can improve upon it long into their career.

3. The Medical Perspective: Interdisciplinary Education Improves Patient Care

How do medical practitioners incorporate the tenets of social justice into their teaching? This section, contributed by Robert Pettignano, M.D., provides insight from the other side of the bed. The common thread in the training of law and medical students is that the amount of material needed to be learned in a short period of time is overwhelming. Medical students concentrate on learning the tenets of medicine that will assist them in caring for their patients and to be successful in graduating and obtaining a residency. Law students do the same from a legal viewpoint. While,

subconsciously, there is an understanding among medical students and providers that disparities erect barriers to health care, these issues are not elucidated to any significant extent during medical school. The psychosocial and legal issues that impact a patient's access to health care and their health take a back seat to learning "medicine."

As part of caring for a patient, medical schools and residency programs teach students to begin with a history of present illness (what has happened to bring the you to me, the doctor), followed by family and social history. Then, the patient is physically examined (let's see if there is something in your anatomy that correlates to the problem you are experiencing), a differential diagnosis (a list of possible causes) followed by and overall assessment that takes all of the previous findings into consideration and the development of a plan of care. Examples of questions included in the social history are: how many people are living in the house, do you smoke, do you have pets, have you traveled recently, etc. Not until the MLP did the social history focus on the kinds of *social* issues that impact the patients well being and ability to access adequate care. Now, medical students, residents, and other healthcare providers are taught to focus on the social issues, identify other areas of exploration and ask sets of questions designed to trigger further exploration into issues related to housing, education, family stability, among others, and to recognize how they impact the provision of and access to care. As a result, legal partners are involved earlier. This approach addresses two needs: (1) a truly holistic patient care paradigm, and (2) an improved academic experience for our students.

Traditionally, medical teaching does not entertain solutions, such as a legal remedy, to medical problems that lie outside the medical field. This narrow focus in the academic mission must change. Residents and medical students must learn that there are issues that can and do have a legal solution. They need information on how to access the legal support that can resolve their patient's problems. Finally, they need to know how to incorporate this new approach to holistic care into their day-to-day practice not only while in training, but also when they are in their own practice.

What medical-legal partners have learned is multifold. First, the medical and legal professions function very much the same, which was not what any participants believed prior to becoming involved in this kind of collaboration. (You can imagine what the medical profession's mental picture of a lawyer might have been – something akin to a creature with horns, a tail and pitchfork.) These days, a different picture emerges. This is best illustrated by a representative case of a patient with asthma who repeatedly presents to the emergency department. A reading of the medical record reveals physician documentation of "non-compliant, non-compliant, non-compliant." However, the interdisciplinary evaluation uncovers that the problem is not non-compliance but the environment: mold in the

apartment that was addressed through legal intervention.

Why do physicians want this type of education and collaboration? Clinically, it is driven by the desire to provide better patient care through innovate additions to our patient care armamentarium, including education and service. Educate the students early and often, ingrain the concepts of collaboration, broaden their scope of practice and then the ultimate goal is achieved – better patient/client care!

From the purely academic standpoint, interdisciplinary partnerships create an environment of tremendous opportunity for collaboration on publications, presentations and research on the impact of the early education of both professions in addressing the social determinants of health. As MLPs grow and flourish, research on the impact of this early education both from a legal standpoint and a medical standpoint will increase and the fields can come closer to identifying real solutions to the social determinants of health. More data, publications, and scientific research will increase success. It is an opportunity without boundary.

B. Addressing Health Injustice Through Impact Clinics

St. Louis University School of Law focuses on health injustice in multiple ways. The Clinic deals with a variety of cases and issues, and health care really touches just about everything the Clinic does. The Clinic faculty consults with the law school's Center for Health Law Studies and its faculty, including experts like Tim Greaney, Sidney Watson, Elizabeth Pendo, and Nic Terry on a regular basis in order to identify health injustice. In addition, St. Louis University has a MLP in conjunction with Legal Services of Eastern Missouri, the local legal aid office, and two of the local hospitals and several other service providers. The law school also offers externships that place students in hospital systems and healthcare entities, such as BJC HealthCare and Sisters of Mercy Health System. Under Professor Rob Gatter's direction, St. Louis University created a semester in Washington, D.C. in which students work at federal agencies to address issues related to health care.

For the Legal Clinic, most of the time, the answer to the healthcare problem is a lawsuit. The Clinic's primary activity is major litigation, including class actions, usually involving the state of Missouri. Presently, our clinic, in partnership with other law firms and entities like Legal Services, has five active lawsuits against the state of Missouri over cuts to Medicaid. These include the appeal of a denial for access to mental health care for the deaf that arose out of a situation in which a woman who is deaf waited in a hospital emergency room for seven hours before the staff could find an interpreter. Another case involves access to incontinence supplies, i.e., adult diapers. In Missouri, a person with epilepsy who is seventeen and

requires incontinence supplies is covered for adult diapers under EPSDT. Once the person turns twenty-one, however, the state of Missouri classifies the diapers as a hygiene product, which is not covered. Both of these cases resulted in actions against the state in federal court. Finally, the Clinic was involved in a lawsuit against the state in the United States Eighth Circuit Court of Appeals over access to durable medical equipment, *Lankford v. Sherman.* This case arose out of the state of Missouri decision to provide coverage for motorized wheelchairs, but to withhold payment for the batteries that would operate the wheelchairs. Other situations involve cutting critical supplies and treatment, like catheters for people who could live at home if the catheters were supplied and if they were not, would require nursing home care. The nexus to both health law and social justice is obvious in these cases.

Impact Clinics never do their work in isolation. When the St. Louis University Clinic gets involved in a case, partners include the legal aid office, the Department of Justice, law firms, and national advocacy groups.[24] The work does not always require class actions. Find five or six people with a similar problem. If a court declares that a state policy for five or six people is unlawful, it is unlawful for everyone in the state.[25]

Social justice health law work provides opportunities for the entire health law faculty and student body to become involved in addressing the health needs of the public. For the students, the classroom is not necessarily the "four walls" of the law school. The classroom can be anywhere: the courtroom, a medical office, the interview of an expert, a doctor or a client, and in gathering information through discovery. For non-clinic law students in traditional classes, there is ample opportunity to become involved. These students can formulate the Sunshine Act request in actions against the state and review data even before a case starts. Students can also review state Medicaid plans, a major subject of litigation, as part of a health law program or health law class. In addition, the observation of important arguments is extremely useful to students. As health law faculty, it is our obligation to encourage students to flock to the arguments that may define the subject matter of their careers. That is something all law schools should be doing, not only for the policy, the law, and the lawyering process

24. Jane Perkins of the National Health Law Program, who worked with us on the *Lankford* case and the most recent case involving incontinence supplies, has been a strong supporter and ally in this work.

25. Many of you know John Ammann loves to be at a federal court trial at counsel table with several attorneys and somebody gets up and says, "I represent the United States of America." He wants to be at her table, and usually is. So if you're looking at doing any of these systemic cases and it's against a community or a state Medicaid agency, see if the Justice Department is interested. If it's an ADBA issue or section 504, the Justice Department might get involved. The Obama Administration has been very active in these areas, so it's worth the call to them to see if they're interested in the case

at the heart of health law, but as an investment in our students and their legal careers.

Health law faculty members are also vital to the work of Clinics at law schools. Supporting the work of the Clinic extends the impact of the work health law faculty already do. Their expertise makes them ideal expert witnesses who can comment on their own research and its application to access to health care.[26] At St. Louis University School of Law, health law faculty members serve as a link between the Clinic and to the medical community. This activity is easily replicated and can expand to include assisting the doctors and the experts in the medical community with their affidavits. Lastly, health law faculty members are encouraged to support the work of Clinic in amicus briefs. In many cases, existing faculty research and current articles are ideal for the body of a brief that could help countless people and serve as a model for law students.[27]

IV. CONCLUSION

The divide between the clinics and the traditional classroom is disappearing. The bridge over that divide is social justice and the core of social justice for us is the client.

What we have discovered is that the solution to health disparities and social injustice and their relation to the cost of our health system is not found in one discipline. We have a seen a trend bolstering this point: the creation of more interdisciplinary educational opportunities to enable future leaders to innovate and creatively solve complex problems and even engage in preventive law.

Clinics that teach students about social justice result in better lawyers and better education. At the end of any health delivery model stands the patient/consumer and today's law students will play a key role in determining the level of justice in society for them. Together we can provide our students – the future stewards of public health – with the guidance and experience they need to participate in this exciting time and to carry health law and the health of society forward.

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26. In John Ammann's words, "Some people are intimidated about being involved in these federal cases or class actions. But in much of our litigation against the state, the attorney general's office doesn't contest the facts and they don't contest our experts. In fact, we often hear that officials at the agencies are glad we sued because they believe the legislature has unfairly cut a program. Serving as an expert can often be done simply by an affidavit. You can do a five-page affidavit about your recent work and your recent studies. We can attach it to a motion for a preliminary injunction and you may not have to testify. You could also be an advisor for our legal teams."

27. We do have to be careful on the politics of these cases as some are very sensitive. The authors understand that it will harder to sue the state in a state school clinic. Private schools do not have as many restrictions, either real or imagined.