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The President's Page

By Thomas G. Glick

What can lawyers learn about their profession from the health care debate?



This issue of the *St. Louis Bar Journal* focuses on personal injury law, a frequent flash point of contention between the medical and legal professions. Doctors blame professional dissatisfaction on lawyers and the public blames lawyers' zealous advocacy for clients as a factor in increasing health care costs. The full discussion of these issues is both too controversial and too lengthy for this forum. However, there are important lessons lawyers can learn about their profession from doctors and the political debate over the provision of healthcare to low and moderate income individuals.

I am not simply referring to the recent federal healthcare reform debate. Rather, I am referring to the larger debate that has occurred over the last century. The principal question this raises in my mind is: Why, after more than 100 years of politically debating medical services, are we not facing similar questions about provision of legal services to low and moderate income people?

The answer is simple and straightforward: We already answered many of these questions. Unlike the medical profession, the legal profession has lead the debate about how to provide professional services to people who cannot afford them for centuries.

I point out frequently and with much pride that the Bar Association of Metropolitan St. Louis's original 1874 charter declared the desire and need of our profession to make provisions for legal services to poor people. BAMSL began implementing this

declaration in 1911, when it created a program to provide legal assistance to the poor of St. Louis. Eventually, BAMSL spun off this program into the independent entity now known as Legal Services of Eastern Missouri. Almost 60 years after our association created this program for the provision of legal services to low and moderate income people, President Richard Nixon signed the act authorizing the creation and financing of the Legal Services Corporation.

While I'm proud of our local and national legal services programs, it is not the extent of our profession's efforts to address the provision of legal services to the poor. Included in our professional oath, we each swear, or affirm, our individual obligation to address this issue. By comparison, the modern variations of the Hippocratic oath do not address the issue of provision of free or low-cost medical care. The American Medical Association code of ethics does recognize the need for the medical profession to address this issue. However, I suggest a substantial difference exists between recognition of this concept as a broad inspirational goal for an *entire profession* and inclusion of the concept in the individual oath each practitioner takes. The latter assures the integrity of the profession as a whole through individual responsibility to address the issue.

Creation of organizations and oaths to provide services is ultimately meaningless without providing funding for those efforts. Without a continuing means of funding for these efforts we are left with nothing

more than the model of provision of medical services to the poor that existed before the New Deal and Great Society social welfare programs. At that time, medical services for the poor were largely sustained by the benevolence of individual doctors to provide medical care to essentially random individuals who showed the courage to contact a professional, knowing they could not pay for that professional's services. These individual doctors' efforts were admirable but were not broad enough to meet the needs of the poor for medical services. Since our profession is much more focused on sustaining broad policy in the long term, we can also count among our accomplishments funding mechanisms that assure sustained structural provision of legal services to the poor. These efforts include not just the benevolence of individual attorneys or even the benevolence of the financing through organizations like our St. Louis Bar Foundation, but also more systematic structured mechanisms like Interest on Lawyer's Trust Accounts and funds from payment of court costs that fund LSEM.

I spotlight our efforts to provide legal services to low and moderate income persons not merely as a point of professional pride. I have more selfish reasons. Our governmental system of checks and balances tends to assure that major legislative action occurs only when a matter reaches crisis level and when a majority of people believe that governmental intervention is mandated. At that point,

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governmental intervention tends to be sweeping, inefficient, and full of compromise. Doctors have learned that as a result of such intervention, the nature of their profession as a whole is subject to political change by forces outside their profession. Avoidance of such intervention and the ensuing negative impacts to our profession demand that we continue our individual and collective efforts to assure that the need for legal services for those with low and moderate income is addressed.

These continuing efforts to provide legal services to those unable to afford it can include political and financial support for a variety of local organizations and include taking *pro bono* cases through organized efforts like LSEM's Volunteer Lawyer

Program. Such support of and participation in these programs assures that the needs of the community are benefited as well as the needs of individual clients.

The legal profession has long been afforded the relatively unique privilege of self-regulation. If our profession is to retain that unique privilege, then we must not only continue our efforts to meet the legal needs of low and moderate income individuals, but redouble them. Preventing unmet needs from reaching crisis level assures that demand for intervention into the regulation of our profession does not increase. Any political or community intervention would interfere with our profession generally and our professional satisfaction individually.

While many lessons may be gleaned from both the recent and century-long debates over healthcare, one is clearly applicable to us lawyers. We must individually and collectively continue to work diligently to provide legal services to people who cannot afford them. Otherwise, the legal profession risks interference similar to that just placed upon the medical profession.

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