

On Capacity

Promoting structured pro bono by regional lawyers to provide legal education and casework within the health context

Presented by Peter Noble, Principal Solicitor and Coordinator at the
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Abstract

Older people with health issues, limited mobility and limited financial capacity are particularly disadvantaged in being able to seek legal assistance or access justice. Older patients often present with a convergence of health and legal issues that require a collaborative approach. The provision of legal advice and assistance not only helps a patient resolve legal issues, it has been shown to have important health benefits.

In 2006 the Loddon Campaspe Community Legal Centre established an outreach at Bendigo Health to provide legal assistance to disadvantaged and vulnerable older patients. The Bendigo Health Outreach is modelled in part on the Cancer Patients' Legal Service at the Peter McCallum Institute where practitioners from Baker Mackenzie Lawyers provide pro bono services to cancer patients. LCCLC adapted that model to a regional centre by harnessing the support of a panel of local lawyers to assist pro bono.

The outreach was developed in partnership with the Bendigo Health social work team and a panel of thirteen private lawyers. The model has now been promoted to health staff and private lawyers in Mildura, Morwell, Ballarat, Albury/Wodonga and Shepparton. The model exemplifies multi-disciplinary collaboration to address unmet legal need in a regional context. Beyond improving access to justice, the model has the potential to inform our understanding of the socio-legal determinants in health.

Introduction

In 2006 the Bendigo based Loddon Campaspe Community Legal Centre¹ initiated a targeted pro bono outreach at Bendigo Health² to provide legal assistance to disadvantaged and vulnerable older patients. The *Bendigo Health Outreach* was developed in partnership with the Bendigo Health social work team and a panel of thirteen private lawyers assisting on a pro bono basis.

The Outreach was modelled in part on the Cancer Patients' Legal Service at the Peter McCallum Institute where practitioners from Baker Mackenzie Lawyers provide pro bono services to cancer patients.³ The Outreach model has now been promoted to health staff and private lawyers in Mildura, Morwell, Ballarat, Albury/Wodonga and Shepparton. It exemplifies the benefits of multi-disciplinary collaboration in the medical-legal environment and structured pro bono to address unmet legal need in a regional context. These benefits are echoed in the experiences of medical-legal initiatives across the United States of America. Such initiatives should be further explored in Australia, ensuring greater access to justice and progressing our understanding of the socio-legal determinants of health.

Pro Bono in the regional context

The Loddon Campaspe Community Legal Centre (LCCLC) was established in 2005 following a community campaign for community legal services in the region. Based in Bendigo, LCCLC services the Central/Northern Victorian municipalities of Macedon Ranges, Mt Alexander, Central Goldfields, City of Greater Bendigo, Loddon and Campaspe. Like all Community Legal Centres (CLCs) LCCLC undertakes legal assistance, legal education and policy work.

CLCs rely fundamentally on the support of volunteers; especially volunteer lawyers, to deliver legal services. Following establishment LCCLC pursued a vision of innovative, robust and sustainable pro bono partnerships in its region. While LCCLC's partners include educational services and metro-based, top-tier law firms,

¹ The Bendigo based Loddon Campaspe Community Legal Centre is one of Victoria's 51 Community Legal Centres. It provides legal assistance targeting disadvantaged and vulnerable members of the community, undertakes community legal education and engages in law reform activities. For more information regarding Loddon Campaspe Community Legal Centre, see www.communitylaw.org.au/loddoncampspe

² Bendigo Health is a 678 bed service that treats over 34,000 in-patients annually. It provides services in emergency, maternity, women's health, medical imaging, pathology, rehabilitation, community services, residential aged care, psychiatric care, community dental, hospice, palliative care, cardiology, cancer services and renal dialysis to the people of the Loddon Mallee region. For more information see: www.bendigohealth.org.au/

³ *Pro bono: Pro bono goes medical* (2006) 80(7) LIJ, p.80.

lawyers at regionally based firms have contributed unique and critical skills to LCCLC's work.

LCCLC has observed that harnessing the skills of regional lawyers through developing a culture of structured has required:

1. An acknowledgement of the relative financial constraints and thus limitations on regionally based firms;
2. An acknowledgement of the close community links in regional centres which mean that "pro bono" often occurs in personal and ad hoc ways; and
3. Identifying specific and unique pro bono opportunities that accommodate the above characteristics.

Examples of pro bono assistance by lawyers from regional firms has included:

1. Volunteering at LCCLC generalist advice clinics
2. Delivering local community legal education
3. Providing secondary consultation support to LCCLC practitioners
4. Accepting pro bono referrals from LCCLC
5. Volunteering at specialist legal services such as the Bendigo Health Outreach

The Older Person's Legal Program at LCCLC

The Older Persons Legal Program (OPLP) was a two-year pilot project at LCCLC funded by two philanthropic trusts (the Ian Potter and William Buckland Foundations) that commenced in May 2006. Older people with health issues, limited mobility and limited financial capacity are particularly disadvantaged in being able to seek legal assistance or access justice. The OPLP aimed to increase access to justice for older people by specializing in legal issues that affect older people and by breaking down barriers that older people face in accessing the law. The pilot has now transitioned into LCCLC's core services and is also expressed through LCCLC's partnership in the Seniors' Rights Victoria⁴ initiative.

⁴ The Seniors Rights Victoria initiative is funded by the Victorian Government and jointly administered through the Department of Planning and Community Development and Victoria Legal Aid. SRV is a specialist community legal centre focused on elder abuse prevention and response and is delivered by a consortium of agencies

The Bendigo Health Outreach

The Bendigo Health Outreach was an activity of the OPLP aimed at providing legal assistance in urgent matters at Bendigo Health where an older patient would not otherwise access legal assistance. It was envisaged that the majority of the work would involve wills and powers of attorney and that often this work would be urgent because of the patient's health issues.

The objectives of the Outreach were to:

- Establish an outreach at Bendigo Health in partnership with social workers and local private solicitors;
- Provide legal advice and assistance to older patients who otherwise would not access legal assistance;
- Identify and follow up elder abuse matters and other recurrent issues that require a proactive response;
- Ensure discussion with social workers and panel solicitors about the progress of the outreach;
- Coordinate training and professional development sessions for social workers and panel solicitors; and
- Develop community education programs and policy / law reform campaigns based on the legal issues identified through the outreach.

Guiding Models: The Baker McKenzie Cancer Patients' Legal Clinic

The Bendigo Health Outreach was modeled in part on the cancer patients' legal clinic established in May 2006, after some four years of ad hoc pro bono legal services, by Melbourne law firm Baker & McKenzie and the Peter Macallum Cancer Foundation. The clinic was the first of its kind in Australia and represented a "...considered response to an often overlooked area of legal need ... a number of financial and administrative concerns can arise for people diagnosed with the [cancer]."⁵

including Council on the Ageing (Victoria), the Public Interest Law Clearing House, Eastern Community Legal Centre and LCCLC.

⁵ *Pro Bono: Pro Bono goes medical* (2006) 80(7) LIJ, p. 80

...patients often require assistance in areas such as superannuation, powers of attorney, and creating wills. Finding the energy and time to deal with these affairs can be extremely stressful for patients and their families, who are already burdened with profound emotional, physical and financial strains related to the cancer diagnosis and treatment.

... the Peter Mac Social Work Team ... undertook a legal needs analysis which revealed a high incidence of unmet legal need among the patients in their care... . The needs analysis also found that the types of legal problems faced by cancer patients meant they were usually unable to access Legal Aid or other pro bono legal assistance.

The social workers and lawyers involved hold regular joint meetings to discuss the program and to provide each other with training. For example, the lawyers were trained in how to deal with the more confronting aspects of the program while the social workers were provided with a workshop on superannuation law.

The clinic relieves social work staff at Peter Mac from trying to respond to legal needs they are not qualified to deal with, and provides them with new areas of knowledge and skills. In turn, the legal team gains invaluable insights and experience into a major health issue in our society, while the assistance provided to patients optimises the quality of care, allowing them to focus on what should be the most important issue – their health.⁶

Impetus for the Bendigo Health Outreach

The Outreach developed as a natural extension of LCCLC's Older Person's Legal Program, which also included community and professional legal education initiatives and outreach advice clinics at community health services. However, the key impetus came from an expressed need for assistance by social workers and a parallel desire by local lawyer Russell Robertson, partner from O'Farrell Robertson McMahon, for a more structured pro bono response.

⁶ ibid

An accredited wills and estates specialist, Russell had often been called upon by social workers at the hospital to provide assistance on an ad hoc basis. While Russell was very comfortable to respond to this need, it occurred to him that it could be shared between certain members of the local profession, while being coordinated and essentially underwritten by LCCLC. This would not only spread the responsibility for assistance between practitioners, but also broaden relationships between the health and legal professionals and develop unique skills within the local legal profession. It was also apparent that many regional practitioners, many of whom operated generalist legal practices, could readily do the work being undertaken.

Principles of the Bendigo Health Outreach

The Program aimed to provide services that were face to face, were based in the local community, adopted a multi-disciplinary approach, were in the best interests of the older person and took a least restrictive approach. Legal information and advice services were free. Eligibility criteria applied for people requiring ongoing casework activities

Because older people that are admitted as patients often present with a convergence of health and legal issues that require a collaborative approach, it was felt that this approach would provide the opportunity for lawyers and social workers to work together to build on knowledge and expertise. It could also have the dual benefits of resolving a patient's legal issues, while contributing to important health outcomes.

Excluding the regular staff of the Older Persons Legal Program, approximately 15 volunteer solicitors from the local area have participated in the program.

Process of referral and resolution

The process from referral to resolution follows a simple, stepped approach that enables clear communication and accountability between the parties.

1. Staff at the Bendigo Health identify client and complete referral form to LCCLC

Staff gives to the client an information sheet about the program. If client wishes to participate a referral form (Form 1) is completed and sent by facsimile to LCCLC.

2. LCCLC assesses referral and obtains further information if necessary

LCCLC assesses whether the matter falls within the casework guidelines and is urgent. LCCLC will also obtain further information for the purpose of completing a comprehensive referral to a panel volunteer, where appropriate. LCCLC opens a file for review.

3. LCCLC refers matter to panel volunteer

LCCLC check the roster and contact the next listed panel volunteer. LCCLC will then telephone the volunteer to confirm availability and send Form 1 with LCCLC referral to pro bono solicitor (Form 2). Volunteer to telephone or email LCCLC to confirm receipt of referral.

4. Panel volunteer attends on client and completes matter

Volunteer reads referral and attends at the hospital as soon as practicable. Volunteer undertakes urgent legal work and provides advice on additional matters if these fall within the expertise of the volunteer. Volunteer to report back to LCCLC by telephone or email that attended client and describe action to be taken.

The client is formally a client of the volunteer who is providing their services on a pro bono basis. The client's file and all relevant documents must be maintained by the volunteer. The advice/casework is covered by each practitioner's professional indemnity insurance and not the insurance held by LCCLC.

5. Panel volunteer sends report to LCCLC reporting on action to date / resolution

Report (Form 3) is completed and returned to LCCLC by mail/facsimile/email. All fields must be completed and returned to LCCLC within 3 weeks of LCCLC first briefing the volunteer.

6. LCCLC or panel volunteer continues involvement where appropriate

A client can be referred back to the LCCLC for further assistance. If there is ongoing legal work to be done and the client has the capacity to pay for a private practitioner, the volunteer can refer the client to themselves to take the matter on a pro bono or fee paying basis, but must also refer the client to at least two other law firms or the Law Institute of Victoria.

7. Matter is finalized

Volunteer and LCCLC close respective files / records.

Statistical Overview of Period

Over the period from May 2006 to May 2010, the Outreach received over 60 formal client referrals from Bendigo Health social work staff.

The legal services provided were overwhelmingly for matters relating to powers of attorney and wills. Cases of financial elder abuse, disputed property and guardianship / administration matters were also reported.

All clients accessed the program through the hospital, and particularly through the palliative care unit. The medical conditions and status of clients varied greatly; in general however, approximately thirty percent of clients were listed as urgent or in critical care while the remainder were in long-term or palliative care, rehabilitative care or undergoing general medical, therapeutic or surgical treatment and accessing the program on a non-urgent basis.

The age range of those who accessed the program was from 33 to 98 years of age. The mean age was 75 years.

The source of income for the majority of clients was a total Centrelink Aged pension, with the remainder relying on partial Centrelink benefits and own savings. A small minority of clients was advised to seek private legal assistance as their assets and income did not meet the eligibility criteria and their matters were not urgent in nature.

Feedback from key personnel

Key personnel involved with the outreach initiative provided the following reflections⁷:

Ms. Ann Naughton (Social Worker/Bendigo Health Care Group – Hospice Care):

What we found initially was that people coming into hospice were too sick to get to solicitors to do a will or power of attorney. What was happening was that people were ill or dying without these in place, simply because they could not get to a solicitor.

Another issue was cost. We found that a number of people in palliative care had not been able to work for some time, and were relying on Centrelink or other welfare income; to pay a lot of money for legal costs came well after other needs such as medication.

A lot of these people will tell you that they are worried about their medical condition, but quite often it is about what happens after; what will happen to my family, my belongings, who is going to care for whom? A lot of people are actually worried about these things more than anything else.

I have seen the difference in people between before and after they have had their will done, and how that eases their emotional state. They will quite often say, "I'm glad that I have done that", and you can see a sort of settled expression come over them.

It is not age related, it is illness related. Most of our patients are cancer patients, and they are usually too frail, too physically ill to get home, let alone get to a solicitor. Furthermore, there may not be someone else to help them out even if they wanted to get there.

The actual problem [to be addressed] came out of a need, and we have bridged that gap. The thing that has surprised me [about the program] is the solicitors who have come, and how sensitive and how generous they have

⁷ Andrea, Matthew. Edited by Peter Noble (May 2009) *Internal Review of the Older Persons' Legal Program @ Bendigo Health, Advocacy & Rights Centre Ltd.*

been with our patients. Our patients and their families have commented on this.

[Capacity] is a big issue here. When we know that the solicitor is coming in, we have the doctor make sure that their medication is within a range that will not impair their capacity.

The other issue is about their general mental state. We have the doctor come in and make a brief assessment of their capacity and note the outcome in the patient notes.

The issue of competency is very important; if we feel that someone is not competent, we do not ask [for a new assessment] as it is usually irreversible, with some rare exceptions.

The status of people here can change very quickly; it is not uncommon for someone to make a will and then die a few days later.

There is nothing that I can think of to improve the program...If there was a waiting list of two weeks [for a solicitor], it would not work up here, as people could die in that time. The generosity of the people in the service has meant that we have been able to access [legal services] very quickly.

It has made a huge difference here. I have a comparison from when we did not have legal back-up, and I think that the biggest thing then was the stress that it put on patients and their families who did not have a will in place. How do we go about it? Who do we ring? Quite often now I simply say: 'It'll be okay, leave it with me and I will get someone from the service to help out.' Just the fact that they do not have to arrange it, they do not have to think about it, is a benefit, and when they have the will organized, you can see their relief.

Mr Russell Robertson (Volunteer Solicitor, Wills & Estates Accredited Specialist,
Partner at O'Farrell Robertson McMahon):

With my area of expertise, I was more focused upon people in the latter stages of their life who had not made a will or power of attorney and needed to.

I was aware for some time that people would leave things until way too late.

I had been doing this for a number of years on an ad hoc basis, so I was keen that with the Legal Centre coordinating this would make it much easier.

I also wanted to share the information. We would have lots of meetings of the people involved, and we would discuss the issues relating to wills and particularly people in these circumstances. I had a satisfaction in sharing this information.

[The number of clients assisted] certainly makes it worthwhile. If we weren't doing that, there is that many people who would otherwise not have had wills or powers of attorney made.

Because the social workers are able to pass on the referral, they are a little more active; in the past if there was a problem, then they would not necessarily know how to solve that problem... Referrals are happening much quicker, only an hour or two for response.

One of the big advantages is the relationship between the number of social workers and lawyers. In the past, I had only dealt with one.

It is a very difficult type of work emotionally.

I think that [clients] are a bit surprised that this program is in place...I am almost embarrassed by their gratitude sometimes.

People, if they are very unwell, having to solve problems of how to deal with the estate can weigh them down and make them very anxious, very distressed.

When people leave it to the last minute to make their wills, it is very difficult; physically, they are not in the best shape. They may be able to make a valid will, but sometimes you worry that they are only dwelling on the things that happened to them in the last six months.

Sometimes people tell me how to do the will, but in reality I am their lawyer, and I want to know what they want...and help them to weigh up things.

I have seen a large number of people on whom you can see the anxiety disappear from their face...after the issue has been resolved. Quite often they are not complicated wills; they just need to be done.

If those lawyers that volunteer in those separate areas get together and share all their information and upgrade their skills as a consequence, then everyone is a winner...But you do need someone to co-ordinate things.

Ms. Sally Smith (Solicitor – Older Persons' Legal Program and later Seniors' Rights Victoria):

There were a few outcomes that we were hoping to achieve. One was to provide services to disadvantaged older people, but another was to build our relationship with the hospital and particularly the social workers, and our pro bono base with in the legal profession.

With the private practitioners, they came on board very quickly and have been very supportive, standing behind the program. In terms of building our networks with the hospital that has also been successful. We have done a number of presentations for social workers, nurses and managers at the hospital and have developed better relations.

People may have often been within the framework of thinking about the health needs, but it is about getting them to think about what other needs may need to be addressed.

One outcome with the private solicitors is that we have a bi-monthly lunch, where we talk not only about the program and how it is going, but about areas of law; it has essentially become a professional and network development for lawyers on the issues of older people.

The program has grown in that private practitioners are keen to provide services to not only older people, but younger people in palliative care who face many of the same issues...There is a real generosity, and it is great that they do not feel bound by the criteria of the program.

Mr Joe Edmonds (Solicitor – Older Persons’ Legal Program and later Seniors’ Rights Victoria):

As legal practitioners, we felt that we could feed of the experiences of each other, by getting together regularly and developing expertise in the issues that came from wills and estates for people in hospital care...This was an important aspect of the program.

You may be able to draft a will, but if you have never dealt with going to hospital and assessing capacity, dealing with someone on a busy ward, with no privacy, you need to be lead through the practical implications of getting involved with a client in those circumstances.

The expectation was to develop the program on a holistic and multi-disciplinary approach to legal issues that presented themselves when people went into health care. This was a very positive aspect of our work, and we wanted to develop this.

2009 Pilot Review⁸

In 2009 the pilot was reviewed and identified a range of key recommendations aimed at strengthening the original objectives of the service while promoting the concept statewide:

⁸ ibid

Recommendation 1: While the service has established itself at Bendigo Health, further promotion of the program through the staff there should be held to increase the numbers served and further the aims of the program.

Recommendation 2: While not altering the focus of the program on the legal needs of older people in care, it should be clarified that referral to the service is open to all in terminal condition or palliative care. The means criteria should also assess the degree to which the illness or disability of a client affects their capacity to arrange and access legal services as a relevant factor independent of their personal funds and income.

Recommendation 3: Professional development skills and seminars for solicitors involved should continue to be given active emphasis as part of the formal outcomes of the program.

Recommendation 4: A separate review should be held for community and professional education programs to assess their impact and importance. Programs focused on elder abuse should be given particular emphasis.

Recommendation 5: Investigation and evaluation should be held as to the ways and manner in which the program may be expanded.

Promoting the Outreach Model

In 2009/10 LCCLC sought to build capacity at selected locations in regional Victoria for:

1. The delivery of structured pro bono by regional lawyers at hospitals or related services to older people in need of urgent legal assistance or who are disadvantaged and vulnerable.
2. The delivery of legal education to health and allied health regarding legal issues typically experienced by older patients.
3. The delivery of Continuing Professional Development to regional practitioners on related legal issues.

With funding from the Victoria Law Foundation the project achieved these objectives by promoting the Older Persons Legal Program at Bendigo Health in a range of

regional locations including Bendigo, Shepparton, Albury/Wodonga, Ballarat, Mildura and Traralgon.

Professional development covered issues including:

- The philosophy and mechanics of the outreach program
- Capacity to give instructions
- Practical tips on assisting clients in the end stages of life
- Will instruction pro forma
- Tips for social work and allied health when working with lawyers
- The work of Senior's Rights Victoria, focusing on elder abuse prevention and response

Feedback from Social Work and Allied Health staff at all sites was overwhelmingly positive. Staff identified an acute need for such services and welcomed the prospect of a similar program evolving in their area.

Feedback from solicitors was also generally positive, with solicitors in all but one of the regions voicing qualified support for the initiative and an in-principle willingness to contribute pro bono assistance should a similar program develop in their area. Some solicitors criticised the program for providing a free service where it was reasonable to request remuneration. They declined to support such an initiative in their region. Further, they felt that the services could be provided on an ad hoc basis and that patients that could afford legal services would receive them in the ordinary manner.

Other Australian examples of medico-legal collaboration

While the Peter Mac Cancer Patient's Legal Service and the Outreach at Bendigo Health offer early examples of medico-legal initiatives in Australia, numerous other examples are now evident, for example the Cancer Council NSW Legal Referral Service and the PILCH (Vic) Seniors' Rights Victoria Clinics.

Cancer Council NSW Legal Referral Service

In early 2010 the Cancer Council of NSW initiated a pro bono legal referral service

concerning legal matters faced by those living with cancer.⁹ Some 10 NSW firms are now assisting through the clinic to assist with cancer-related legal issues such as:

- wills, powers of attorney and enduring guardianship
- early access to superannuation and disability benefits
- mortgages, credit and debt
- welfare rights and Centrelink
- tenancy
- employment, and
- discrimination.¹⁰

The Service arose out of a scoping study commissioned in 2008 by the Cancer Council NSW revealing unmet legal need for many cancer patients to access legal advice with the primary barrier identified as cost. Other issues identified as a barrier to legal services included lack of awareness of rights (54%), stress and time cost (36%), being too unwell (29%), a lack of availability of services (even paid services) (24%), being in denial about the need to address these issues (6%) and lawyers not understanding cancer issues and the needs of cancer patients (6%).¹¹ The service also drew on survey findings from 80 NSW social workers that nearly eight out of ten hospital social workers had patients which were plagued by legal issues while coping with the stress of treatment and are unable to work.¹²

PILCH (Victoria) Seniors' Rights Victoria Clinics

In 2008, PILCH entered a joint venture agreement with the Council on the Ageing (CotA), Loddon Campaspe Community Legal Centre and Eastern Community Legal Centre to establish the specialist community legal service, Seniors Rights Victoria (SRV). In 2009 PILCH initiated, under the joint venture, the Seniors Rights Victoria Clinic (SRLC) which operates as a separate legal practice through four pro bono clinics located at hospitals and health centres around Melbourne.

⁹ National Pro Bono Resource Centre, referral directory accessed on 30 October 2010 at <http://www.nationalprobono.org.au/page.asp?from=7&id=128>

¹⁰ Cancer Council NSW website accessed 30 October 2010 at <http://www.cancercouncil.com.au/editorial.asp?pageid=1285#referral>

¹¹ Scoping study referred to in the PILCH 2008-09 Annual Report, pages 17-18, accessed 30 October 2010 at www.pilchnsw.org.au/resources_14_528749658.pdf

¹² Reported in "NSW cancer patients get free legal advice", 29 September 2010, *Reportage/online, Australian Centre for Independent Journalism*, accessed 30 October at <http://www.reportageonline.com/2010/09/nsw-cancer-patients-get-free-legal-advice/>

The clinical outreach model for the delivery pro bono legal services to individuals at risk of elder abuse was modeled on PILCH's extensive experience with the Homeless Persons' Legal Clinic, locating services in close proximity to existing community hubs where other services for older people are already located.¹³

The SRLC currently sees up to 24 clients per month across all areas of law. Clinic clients usually present with complex legal matters requiring ongoing casework by SRLC firms. Predominant areas of law include powers of attorney, guardianship, simple wills, consumer and property law. In 2008-09, legal services were provided by pro bono lawyers from Herbert Geer at Bundoora Extended Care Centre, Bundoora Holding Redlich at Caulfield Hospital, Deacons at Doutta Galla Community Health Service, Niddrie, Hall & Wilcox and Lander & Rogers at Western Region Health Centre, Footscray.

Medical Legal Partnerships in the United States of America

While medical legal collaborations are still in their infancy in Australia, they are best exemplified in the relatively long-standing medical legal partnership movement in the United States of America. These partnerships have not only broken down the barriers to accessible legal services to people experiencing health issues, including in rural communities, they have demonstrated the socio-legal impacts on health and the associated health benefits of effective legal advocacy on behalf of patients.

The concept of medical legal partnerships gained prominence during the 1990s in the United States of America, championed by the Chief of Paediatrics, Dr Barry Zuckerman, at the Boston Medical Centre. Dr. Zuckerman recognized that a lawyer could help patients navigate the complex legal systems that hold solutions to many social determinants of health, and believed that together, a doctor and a lawyer had the best chance of keeping patients healthy.¹⁴

Fiona Hum and Jennifer Faulkner reflecting on the potential implementation of the medical legal model in Australia, succinctly described the operating philosophy of the partnership approach as a way:

¹³ <http://www.pilch.org.au/seniors/> accessed 29 October 2010.

¹⁴ National Centre for Medical Legal Partnerships, Boston Medical Center, accessed on 31 October 2010 at <http://www.medical-legalpartnership.org/about-us/history>

*... of caring for the most disadvantaged sectors of our community. Empowering lower socio-economic groups and vulnerable communities by uniting the strengths of the two major professions...[enables] individuals and families to access fundamental legal and medical resources, help treat preventable illness and death, and meet basic needs.*¹⁵

Growing from a single attorney service at the Medical-Legal Partnership for Children at the Boston Medical Center with a single attorney, the program has now been replicated all over the United States. It boasts partnerships at over 200 hospitals and health care centers nationwide with lawyers (including legal aid agencies, law schools and *pro bono* attorneys) and front-line health care providers (including doctors, nurses and social workers), serving a range of disadvantaged and vulnerable cohorts including children, the elderly, patients with cancer, pregnant women, the formerly incarcerated reentry community and other vulnerable populations.¹⁶

Medical Legal Partnerships in the Rural Context

The Iowa Legal Aid Health and Law Project¹⁷ is an example of a rural medical legal partnership, engaging health care providers and lawyers in collaborative partnerships to address the underlying legal problems affecting the health status of low-income individuals and families.

Again, the project works on the common understanding that health status can be affected not only by biological and behavioral factors, but also by socioeconomic and environmental issues that can potentially be addressed through legal means. However, it is also responds to research that shows that low-income rural families are disproportionately affected by underlying legal problems that can affect their health, many of which go unaddressed due to limited information, resources, and access to legal and support services. The research foundations for the project include:

¹⁵ Hum, Fiona and Jennifer Faulkner (2009) *Medical-legal partnerships: A new beginning to help Australian children in need* 17 *Journal of Law and Medicine* 105-118 at 105.

¹⁶ National Centre for Medical Legal Partnerships, Boston Medical Center, accessed on 31 October 2010 at <http://www.medical-legalpartnership.org/about-us/history>

¹⁷ *Provider-Lawyer Partnerships Enhance Access to Health-Related Legal Services for Low-Income Rural Patients, Leading to Favorable Resolutions for the Client* (2006) Agency for Healthcare Research and Quality – Innovations Exchange, United States Department of Health and Human Services, accessed on 31 October 2010 at <http://www.innovations.ahrq.gov/content.aspx?id=2766>

- **Legal problems affecting health:** Low-income families face numerous socioeconomic and environmental factors (with associated legal remedies) that increase the risk of health problems and hospitalizations.
- **Rural specific disadvantage:** Rural counties are five times more likely to have poverty rates above the national average than urban counties.
- **Access issues:** Rural families often live in geographically large, inaccessible, and sparsely populated regions, with poor public transportation and limited access to legal and other support services.
- **Unrealized resource of primary care providers:** While primary care providers are in regular contact with highly disadvantaged individuals and are in a unique position to help identify unmet needs and connect patients to legal remedies, many providers lack the knowledge and resources to feel confident doing so.¹⁸

The project operates within a network of community health centers located in rural areas across the state. Local health professionals are trained by partner attorneys on health-related legal issues, and then work alongside patients to identify unmet socioeconomic or environmental needs affecting their health that have a probable legal remedy. Attorneys are contacted on a case-by-case basis and provide direct legal assistance in locations that are convenient to patients.

Key elements of the program include the following:

- Referral partnership between providers and legal aid offices;
- Training and ongoing support for health professionals;
- Multiple pathways for legal assistance; and
- Ongoing legal assistance to patients and families where required.

Conclusion

LCCLC's Bendigo Health Outreach is a modest yet innovative model of service provision, exemplifying medical legal partnership in the rural context. The model creates targeted, structured and supported pro bono opportunities for regionally based lawyers, many of whom undertake general legal practice and have considerable skills to offer in the health setting. Regionally based Community Legal Centres and lawyers in private practice have unique opportunities to partner in

¹⁸ *ibid*

piloting innovative pro bono models in collaboration with health service providers, and should explore these opportunities further.

While there is a range of other medical legal partnerships presently in Australia, such as the Cancer Patients' Legal Service at the Peter McCallum Institute and the PILCH Seniors Rights Legal Clinics, there are considerable opportunities to explore these further both in metropolitan and regional settings. Such initiatives will not only contribute to greater access to justice, they will inform our understanding of the socio-legal determinants in health. This understanding will contribute to the international movement to greater medical legal collaboration, best exemplified by the medical legal partnerships in the United States of America.

Recommendations

1. That research be conducted into all medical-legal partnerships (formal and informal) operating in Australia – with particular attention being given to the informal relationships that often exist in rural, regional and remote communities.
2. That peak social, health and legal bodies partner to explore the potential benefits of greater medical-legal collaboration, improving both access to justice and our understanding of the socio-legal determinants of health. In so doing particular attention should be given to peculiar or increased access to justice issues and areas of disadvantage experienced in rural, regional and remote communities.