THE ROLE OF THE LAWYER IN THE NEIGHBORHOOD MEDICAL CARE DEMONSTRATION

HARRIET M. BOGRAD

The Office of Economic Opportunity has promoted parallel innovations in the legal and medical professions through neighborhood legal services programs and neighborhood medical care centers.[1] To provide high-quality professional services to meet the interrelated problems of poverty, ill-health and injustice, the Office of Economic Opportunity has encouraged unorthodox professionals: to work in group practice; to work on teams with members of other professions; to train nonprofessional neighborhood workers to work with professionals; to provide comprehensive, one-stop services that are easily accessible to low-income persons; to promote prevention and community education rather than emergency services; and to seek the participation of low-income community residents in policy-making and management of neighborhood legal or medical services.

It is much easier to recite these ideals in proposals for refunding or in speeches at conferences than to implement them in practice. Difficulties are encountered from rigid professional associations, from conservative politicians, from skeptical community residents and from the pressures of large emergency caseloads.

At the Montefiore Neighborhood Medical Care Demonstration, two lawyers[2] have been employed to help implement the above purposes. The project director and the lawyers are frequently asked what role the lawyers play and why lawyers rather than social

workers are employed in the neighborhood health center.[3] This article attempts to answer these questions.

WHAT THE LAWYERS DO NOT PROVIDE

First, it is important to state what these lawyers do not do.

The lawyers at the Montefiore Neighborhood Medical Care Demonstration do not represent patients in their individual legal problems. That is, they do not represent clients in court, draft legal papers, or contact opposing lawyers on behalf of clients. New York law prohibits nonprofit corporations (Montefiore Hospital in this case) from providing legal services without court permission.[4] Moreover, experience in New Haven[5] and in New York at Mobilization For Youth has taught that lawyers cannot be free to represent the unpopular controversial interests of clients if they are answerable to a comprehensive agency that must worry about support from politicians. Lawyers who represent the poor must often challenge state and city agencies that may provide funds to the community action programs or the neighborhood health center.

The freedom from a caseload of individual clients has made it possible for the lawyers at the Neighborhood Medical Care Demonstration to develop roles that are new both to the legal profession and to the neighborhood health center. These new roles for lawyers at a neighborhood health center, however, would be of much less value in a city where resources are nonexistent for direct legal services to the poor. Even at the Neighborhood Medical Care Demonstration the lawyers will become much more effective when a local neighborhood legal services program is established.[6]

THE ROLE OF THE LAWYERS

In the Neighborhood Medical Care Demonstration program, the lawyers work in three departments: in training, in community development and health education, and in the neighborhood health center.

The Training Program

Each year the training department prepares 120 community residents recruited from the low-income area being served for careers in the health field. The first two months of general preparation, called the "core curriculum," is followed by specialized training for three to ten more months. The specialized training at Neighborhood Medical Care Demonstration or at nearby hospitals prepares trainees for a wide variety of jobs, including laboratory technicians, medical-clerical workers, rehabilitation aides and family health workers.

For eight hours a week the lawyer on staff teaches all trainees in the core curriculum a course called "community resources." She also teaches the family health worker trainees an advanced course in community resources one day a week during their 16 weeks of specialized training after the core curriculum. After training, each family health worker works at the neighborhood health center on a team with physicians and a public health nurse. Each family health worker serves about 40 "active" families. In addition to major responsibilities in health education and home nursing, the family health worker is the team's expert in social and legal problems.

Community Resources in the Core Curriculum

The community resources course prepares trainees to become skilled lay advocates and community educators in social and legal problems. By the end of the eight-week course most trainees know how to help themselves or their friends and neighbors fill out complex forms such as the Medicaid application (a five-page form with three additional pages of technical instruction), to find their way through the maze of agencies that deal with housing problems, to act as lay advocates on welfare complaints by negotiating with welfare supervisors and administrators, to write requests for fair hearings, or to help neighbors face the fact that a family member is an addict and to evaluate the many "drug addiction" agencies that offer help.

Role play is used to demonstrate the skill required to help a neigh-

bor or patient in trouble. The situation of a child who has eaten plaster and is in danger of lead poisoning is used to illustrate the interrelationship of health and environmental problems. In role play trainees dramatize how easily a neighbor's offer of help might be rejected if he sounds condescending or superior even when trying to tell a mother that her child is in danger of becoming fatally ill. Similarly, role play is used to demonstrate the skill required to deal with bureaucratic agencies. One trainee plays a father who is on welfare and cannot send his child to school because the child has no winter coat; another plays the trainee-neighbor who attempts to call the welfare worker and his supervisor to discuss the situation and, if necessary, threaten to request a fair hearing if money for a coat is not granted.

The lawyer who teaches the course plays in turn the switchboard operator, the clerk in "five by eight" (an office in the welfare center that keeps an index of five-by-eight-inch cards, which are used to find out what caseworker is assigned to a case), the unit clerk, caseworker and supervisor in the local welfare center.

To help his neighbor, the trainee must find the telephone number of the local welfare center in the phone book (no easy task); choose what to say to the switchboard operator to find out how to locate his neighbor's caseworker (if he tells the whole story the switchboard operator will become impatient and rude); decide what to say when he is suddenly mysteriously switched to a clerk who announces that he is the "five by eight" department; find out how the Centrex telephone switchboard works so that he can call the caseworker again directly; and control his temper and organize his thoughts when he finally speaks with the caseworker.

Trainees learn that their goal is not to rescue others from crisis situations, but rather to teach others, as they are taught, to handle problems themselves. Thus, when possible, instead of making the call for the father they should teach the father to speak to the welfare worker himself. If necessary, they may role play with the father, dial the number for him, and stand by to take over the call if the father becomes too nervous to continue talking. Or if necessary, they

will agree to call once if the father will listen carefully so that he can call himself next time.

Throughout the course, the instructor insists that students think for themselves. At first, the students become angry and resentful because the teacher almost always refuses to answer their direct questions. But the teacher reminds them that her skill as a lawyer, which she hopes to share with the students, is not knowledge of simple answers to factual questions. Rather she is trained in how to find things out, how to evaluate a situation, how to think of alternative solutions to a problem.

Thus, when a question arises, the teacher asks the students what they think the answer would be. Does anyone else have a different idea? If the student does not know the answer, what are alternative ways that he could find it out? If someone (such as a guest speaker) is asked this question and he suggests an answer, how does one evaluate whether his answer is a sound one?

Students begin to discover that their personal thoughts and opinions are important, especially if backed up by reasons that are clearly thought through. They learn to question the statements of so-called experts, and to understand that different experts may have different answers to the same question.

Advanced Course in Community Resources for Family Health Workers

In the family health workers' advanced course in community resources, ideas and skills introduced in the core curriculum are explored in greater depth. This course helps trainees to gain skill and confidence to relate as equals to professional members of the team.

The family health workers' course in community resources is made up of visits to courts, social and governmental agencies, and other institutions. Discussions before and after each trip and written assignments help trainees learn to work tactfully with these agencies. At the same time they learn to evaluate critically whether the agencies in fact do what they claim that they do, to analyze under what circumstances they are likely to be helpful to health center patients,

and to think through how they and health center doctors and nurses can help patients get better service from these agencies. Case discussions and role play teach students more skill in working with patients and evaluating family problems.

The Lawyer as Consultant in the Health Center

The lawyers consult regularly with the members of the health center teams, especially the family health workers and public health nurses. The lawyers advise the health center staff on how to deal with social and legal problems and they reinforce the skills the family health workers learned during training.

For example, a patient has marital problems and says to her family health worker that she is thinking of divorce. Her family health worker comes to the lawyer. The lawyer explains that legal advice will be of no help until the patient decides what she wants to accomplish. If she wants the right to remarry, she should go to Legal Aid and ask for a divorce; if she wants an order of support (to force the husband to give her money) or an order of protection (to force the husband to keep away from her) she should initiate legal action in the Family Court where she does not need a lawyer; and if she first wants professional counselling to explore her ambivalent feelings about her marriage, she should go to a family service agency. The family health worker will then sit down with the patient and encourage her to decide what step, if any, she wants to take. The worker will also tell the patient the address, telephone number and intake procedure of the appropriate agency. This service will save the patient days of waiting on hard benches at Legal Aid or the Family Court only to be shuttled from one agency to another.

The family health worker is trained to recognize that an agency policy or practice is in need of change; the lawyer is trained to propose a strategy for causing the change. If the welfare department does not supply homemakers when a mother needs to be hospitalized, the lawyer finds out the procedure by which the health center could employ homemakers and get reimbursement from the welfare department (the lawyers have not yet been successful at finding this out, unfortunately). If Medicaid applications take four months to

be processed, the lawyer figures out how patients can pressure the department to act on their applications.

The lawyer's training makes him especially aware of the patient's rights to privacy and self-determination. At team conferences at the neighborhood health center, the lawyer frequently challenges proposed action because of patient's rights. Thus, the lawyers opposed joining the Social Service Exchange because it violates the patient's privacy; they raise questions about the grounds for having adults or children institutionalized in mental hospitals or homes for the mentally retarded. They remind the staff not to discuss information about patients with other agencies without the patients' permission.

This does not mean to suggest that all lawyers are more concerned about patients' rights than are doctors, nurses or social workers. But a rights-oriented lawyer, who is not immediately responsible for judgments about "health" can remind other team members of the values implicit in respecting patients' rights and letting patients make decisions for themselves, even when these decisions seem detrimental to the family's health.

For example, in an extreme case of child abuse, the lawyers would agree that the doctors must report a mother to the Bureau of Child Welfare without her consent. But in many ambiguous situations in which a possibility of child neglect exists, the lawyers will remind the team that they will demoralize and lose the confidence of this family if they report her. Instead, they argue that health center staff should be honest with her, delay reporting her and take every step possible to help her decide whether to care for her children better or to give them up voluntarily. By respecting her right to decide for herself, they have much more hope of helping her respect herself. Only with such self respect will she learn to face problems, learn to plan for the future, learn to trust the assistance of professionals or learn to take responsibility.

The Lawyer in the Community Development and Health Education Department

While one lawyer on staff works mainly in training and in the health center, the other works mainly in the health center and in the

department of community development and health education.

The community development department seeks to gain community participation in the Neighborhood Medical Care Demonstration through a community advisory board, through stimulating other agencies to take on health related projects and through assisting groups of community residents in developing new resources to solve health problems. This department is also responsible for community-wide health education.

Among her duties, the lawyer in the community development department has worked as advocate to the advisory board; teaches an adult education course in legal rights as this effects health at a nearby public school; has given legal advice to a group of agencies who are organizing a cooperative program for a halfway-house for a group of elderly patients released from a mental hospital; and has provided technical advice to a local group trying to start an educational and recreational program for unwed mothers.

Both lawyers have worked closely with the community people who have been elected to the local board of directors of the new neighborhood legal services program. The lawyers have helped these "indigenous" one-third of the board to understand the issues and clarify their thoughts on how to exercise an effective voice on the board. When the neighborhood legal services program is established, the lawyers will serve as liaison between it and the neighborhood health center. Too often, in other communities, lawyers in neighborhood legal services offices are so swamped with caseloads that they have no time to explain their services to community residents or to staff members of other agencies. Thus, people are ignorant of how they can use the law and lawyers as a way to solve individual problems or as an instrument of social change.

The Lawyers as Teachers

The lawyers at the Neighborhood Medical Care Demonstration began a new project in January, 1968. With physicians and social scientists, they teach the first-year medical students at Albert Einstein Medical College a program called the Urban Crisis, which sets out to explore the problems from the viewpoint of the consumer in the

area of health, education and welfare. Through field trips, discussion, role play and papers, medical students are challenged to consider the implications of today's urban crisis.

CONCLUSION

Just as doctors alone cannot create a healthy society, so lawyers alone cannot create a just society. If the problems of poverty, ill health and injustice are to be attacked, lawyers, doctors, nurses, educators and residents of the ghettoes must share their insights and skills.

The anthropologist at the Neighborhood Medical Care Demonstration often compares the traditional professions of the doctor, lawyer, priest and witch doctor. With secret language and elaborate ritual, each professional has attempted to solve human problems by "magic." Such magic often solves the immediate problem and it promotes the status and prestige of the professional. It protects the professional from having to admit the uncertainties and doubts implicit in his work.

The professionals and family health workers in the demonstration program are attempting to move from magic to education. Instead of using technical words and ideas that make the patient feel inferior to them, they attempt to explain clearly to patients exactly what they plan to do and ask the patients to decide for themselves exactly what they want. When possible, instead of making the patients dependent on the professionals' "magical" power they try to teach patients to learn how to avoid or solve similar problems in the future. They try to help patients to help themselves.

REFERENCES

[1] The parallels between the traditional emergency room and outpatient clinic and the legal aid societies are impressive: long waits, hard benches, fragmented services, professionals who treat the crisis symptoms and not the underlying problems.

[2] Miss Harriet M. Bograd, L.l.B., member of the New York bar, formerly Director, New Haven's Dixwell Legal Rights Association, Inc.; Miss Marilyn Tindall, L.l.B.

[3] One social worker is employed as director of community development and health education, but he is not directly involved with the family medical care teams.

[4] The OEO-funded legal services program in New York City has been delayed several years in part because of difficulty in obtaining such court approval.

[5] Cahn, Edgar S. and Cahn, Jean C., The War on Poverty: A Civilian Perspective, *Yale Law Journal,* 73, 1317–1352, July, 1964.

[6] At the time this paper was written, December, 1967, individual legal problems were referred, when patients could not afford a private lawyer, to the Legal Aid Society or to Carl Rachlin's staff at the Scholarship, Education and Defense Fund for Racial Equality, Inc. The New Morrisania Legal Services office began operation in June, 1968.