

# Commentary: Medicine, Law, and Howard Zonana

Patrick K. Fox, MD

Collaboration between physicians and attorneys seems inherently unnatural because of the traditionally disparate aspects of the human condition that each addresses, with the health of mind and body the domain of Medicine, and the preservation of rights and property the considered realm of Law. At a time when it was not *en vogue* for physicians and attorneys to work together, Howard Zonana recognized the value of this partnership and fostered a model of collaboration from which society has greatly benefited.

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Tension has long existed in the relationship between the professions of Law and Medicine. Mention the word attorney to most physicians, and the term collaborator is seldom the first association that springs to mind. Medicine and Law address disparate aspects of the human experience, with the health of mind and body the considered domain of Medicine and the preservation of rights and possessions the recognized realm of Law. Inform a doctor that the practice has been contacted by an attorney, and the expected reactions include anxiety, suspicion, anger, and the compulsion to phone one's malpractice carrier to ensure that coverage is still in place. To physicians the legal profession feels at once familiar, given the rigors of matriculation and training, yet foreign, based on the different philosophical, methodological, and practical approaches to resolving problems.

Based on experience and lore, attorneys are often regarded by physicians with a conflicting sense of respect and distrust. In their didactic sessions and during clinical rotations, medical students are indoctrinated to view the legal profession as an entity that can jeopardize one's professional career through tort law and are further advised to obtain insurance to guard against this peril. Residency training in general

psychiatry perpetuates the need to guard against the actions of attorneys, with concerns about the duty to protect and malpractice claims for completed suicide and improper attainment of informed consent. Physicians may feel that their ability to practice is further hampered by encounters with legal advocates, whose actions at times appear in striking contradiction to the physician's assessment of the patient's best interests.

Training in forensic psychiatry provides a more informed and balanced view, though still primarily within the framework of the adversarial process. We observe attorneys embroiled in the legal struggle to prevail in the courtroom and our perspective is often colored by the side by which we are retained. Forensic psychiatrists are prone to view the adversarial legal process through a Kleinian object-relations lens, whereby the good lawyer by whom we are retained endeavors to promote our opinion in court, while the bad attorney seeks to undermine our professional opinion and threatens the integrity of our egos.

As physicians, we often characterize this relationship solely from our own perspective, one in which Medicine is beset by the unrelenting force of Law. While not entirely accurate, this perspective serves to galvanize our desire for professional autonomy. I contend that the involvement of attorneys in the regulation of Medicine is essential to the health and integrity of our profession. Medicine is vested with substantial power and authority, as well as the public trust. Transgressions by the medical profession, such as the Tuskegee studies and highly publicized instances of financial indiscretions at medical facilities,

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Dr. Fox is Director, Whiting Forensic Division of Connecticut Valley Hospital, Middletown, CT, and Assistant Professor of Psychiatry, Yale University School of Medicine, New Haven, CT. Address correspondence to: Patrick K. Fox, MD, Department of Psychiatry, Yale University School of Medicine, 34 Park Street, New Haven, CT 06519. E-mail: fox@po.state.ct.us. The author acknowledges salary support from Connecticut's Department of Mental Health and Addiction Services.

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highlight the need for a system of checks and balances. The legal profession can, and often does, serve to dissolve the hubris that can afflict our profession; to correct the misguided belief that only we know what is right for our patients. Psychiatric reform has been greatly enhanced through the collaborative efforts of physicians and attorneys, partnering to promote change, transforming hospitals from asylums to places of hope and recovery.

As a young psychiatrist, Howard Zonana developed an interest in the advancement and protection of patients' rights. At the time, confidentiality, informed consent, involuntary hospitalization, and discrimination of persons with psychiatric disabilities were being addressed by the courts and lawmakers. Not one to sit on the sidelines and merely observe the changes taking place, Howard resolved to contribute to the discussion of these issues. He joined the American Psychiatric Association in 1976, and set about drafting legislation to revise Connecticut's commitment laws.

Over the ensuing 35 years, Howard has been collaborating with attorneys, legislators, and psychiatrists through the American Psychiatric Association, The American Academy of Psychiatry and the Law, The American Bar Association, and the Connecticut Civil Liberties Union to champion the causes of persons with psychiatric disabilities. Through his active participation in these and other committees and associations, he came to appreciate the advantages of working collaboratively with attorneys to address the complexities and nuances inherent in the regulation of the practice of Medicine. He understood that attorneys and physicians approach problems from their unique perspectives, each with an eye toward a particular aspect, often with quite different solutions. He appreciated that collaboration involves debate and compromise and a willingness to at times concede one's position to achieve a greater good. By reaching out to attorneys to request their guidance and participation in psychiatric reform, Howard

bridged the gap between the two professions and, in return, has been embraced by the legal community. He has partnered with legislators and attorneys to make contributions to legislation on insanity defense reform, civil commitment, involuntary medication, disability law, commitment of sex offenders, competency to be executed, and a myriad of other social concerns.

Howard has coupled his long-standing passion for teaching with his interest in medical ethics, instilling in generations of young physicians the notion of the physician as activist. Rather than viewing patient rights as a separate ethic, he has advanced the notion that patients' rights constitute the core of the provision of competent and compassionate care. Through collaboration with the Yale Law School, he has improved the conditions in prisons and psychiatric hospitals and has saved the lives of immigrants whose safety would have been threatened were they to have been returned to their country of origin.<sup>1</sup>

Throughout his career, Howard has embraced a model of collaboration between physicians and attorneys that serves as a vehicle for social change. By example, he has demonstrated that in addition to providing for the needs of individuals, physicians have a moral obligation to seek solutions for the broader problems that affect entire classes of individuals within society. As a result of his selfless dedication to providing a voice for those in society who are often unheard, and by cultivating enthusiasm for social justice with his trainees, Howard has shaped the professional identity and careers of many young doctors and lawyers and has improved the lives of untold persons who have benefited from the help that his protégés have provided.

## Reference

1. Wizner S: Learning to collaborate: the teaching legacy of Howard Zonana in forensic psychiatry. *J Am Acad Psychiatry Law* 38: 581-9, 2010