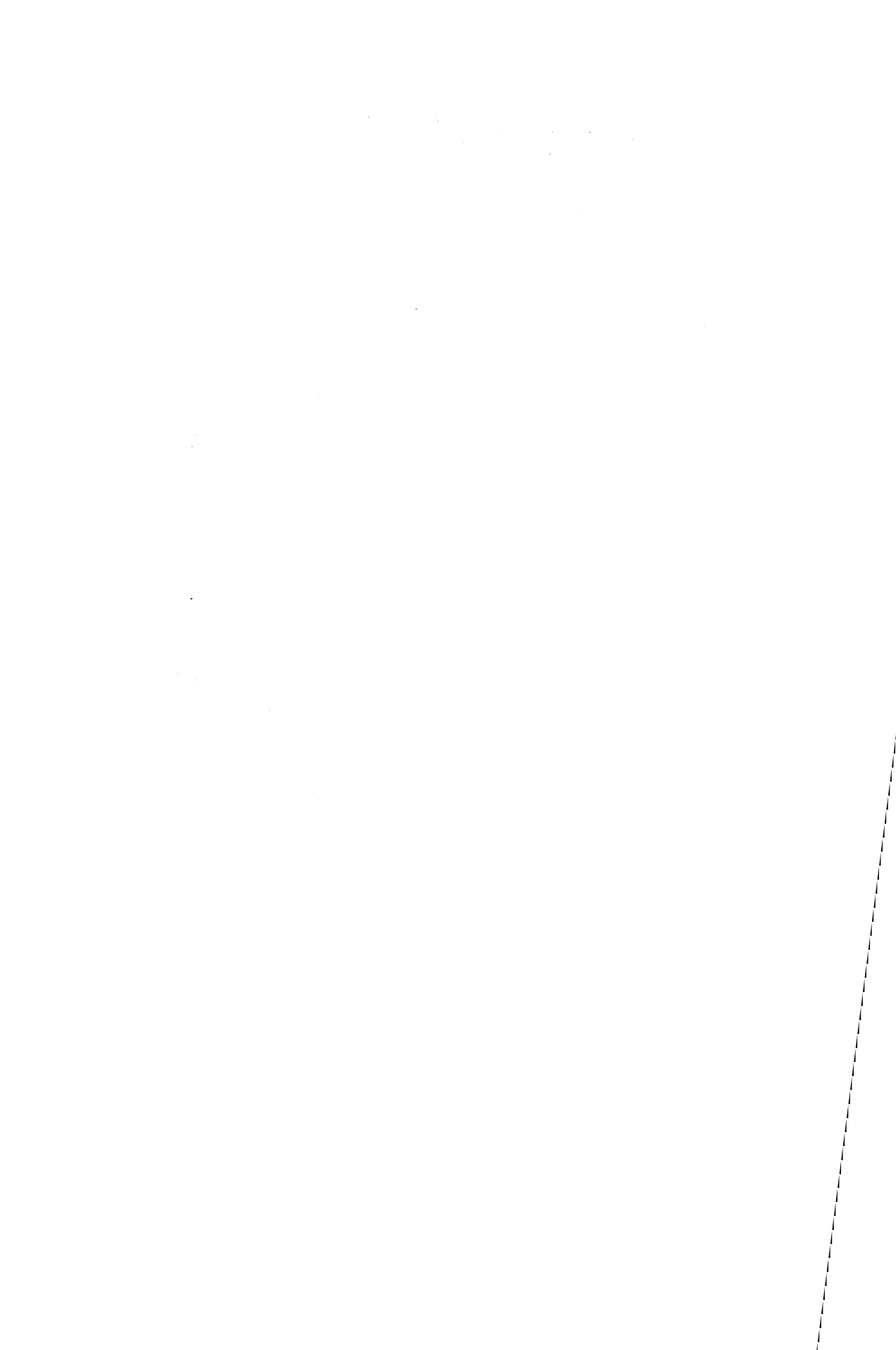


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# TEACHING HOLISTIC JUSTICE: MEDICAL-LEGAL PARTNERSHIPS IN THE CLINICAL SETTING

Dea C. Lott\*

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## I. INTRODUCTION

Clinical teaching has been part of the curriculum at Indiana University Robert H. McKinney School of Law since 1982.<sup>1</sup> Until recently, the law school offered six clinics to students, the Appellate Clinic, the Civil Practice Clinic, the Criminal Defense Clinic, the Wrongful Conviction Clinic, the Disability Clinic, and the Immigration Clinic, that provided students with the opportunity to provide legal services to more than three thousand clients.<sup>2</sup> During the Fall Semester of 2011, the law school launched its newest clinical program—the Health and Human Rights Clinic (“HHRC”).

This essay discusses several aspects of the HHRC, including the structural aspects of the HHRC, which necessarily requires a discussion of the HHRC’s client population, the legal issues clients present to the HHRC, the HHRC’s approach to student instruction and guidance in the clinical setting,

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1. *About Law School Clinics*, IND. UNIV. ROBERT H. MCKINNEY SCH. OF LAW, <http://indylaw.indiana.edu/clinics/> (last visited May 11, 2012).

2. *Id.*

the involvement of the private bar in the HHRC's work, and the future prospects of the HHRC.

## II. THE STRUCTURE OF THE HEALTH AND HUMAN RIGHTS CLINIC

### A. *General Structure – The Medical-Legal Partnership*

The HHRC is based on the medical-legal partnership model in which medical institutions and legal service providers collaborate to address the healthcare and legal needs of vulnerable populations, address social determinants of health, and seek to eliminate barriers to healthcare in order to help these populations meet their basic needs and stay healthy.<sup>3</sup> According to the National Center for Medical-Legal Partnership, the prevailing model of healthcare recognizes that adverse social conditions affect patient health. However, healthcare providers find that these adverse conditions are difficult to address because referrals to social workers and case managers offer only limited assistance, and, although advocacy skills are valued, they are not consistently taught or provided in the prevailing model.<sup>4</sup> The National Center for Medical-Legal Partnership states that the prevailing model of legal assistance relies on the individual to seek out legal help, provides crisis-driven services, and is primarily focused on the pursuit of justice.<sup>5</sup> In contrast, the organization points out that the medical-legal partnership model encourages healthcare providers to prioritize advocacy skills, identify and address adverse social conditions curable by legal remedies as part of patient care, and work with social workers and legal service providers to address legal needs, improve health, and change systems.<sup>6</sup> The medical-legal partnership model encourages attorneys to provide preventive services focused on early identification of and response to legal needs, utilize a healthcare team to help identify legal needs and make referrals for assistance, and broaden the focus of legal assistance from pursuing justice to ensuring overall health and well-being.<sup>7</sup> As discussed below, these benefits of the medical-legal partnership model are particularly true of the collaboration between the Health and Human Rights Clinic and its health care partner.

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3. *About Us*, NAT'L CTR. FOR MED.-LEGAL P'SHIP, <http://www.medical-legalpartnership.org/about-us> (last visited May 11, 2012).

4. *MLP: Transforming Healthcare and Law*, NAT'L CTR. FOR MED.-LEGAL P'SHIP, <http://www.medical-legalpartnership.org/mlp-model/transforming-health-and-law> (last visited May 11, 2012).

5. *Id.*

6. *Id.*

7. *Id.*

### B. Specific Structure - Client-Centered Logistics

The specific structure of the HHRC's medical-legal partnership is best understood with more information about the HHRC's client population. The HHRC primarily serves the low income area approximately two miles west of the law school's campus, which is referred to as the Near West Area of Indianapolis and includes the Haughville, Hawthorne, Stringtown, and We Care neighborhoods.<sup>8</sup> According to the Near West Area website, 44% of the residents in this area are Caucasian, 29% of residents are African American, 24% of residents are Hispanic, and 3% are other races or ethnicities.<sup>9</sup> The residents in this area have low educational attainment levels, as studies have found that approximately 70% of residents in each of the neighborhoods have a high school diploma or less.<sup>10</sup> Additionally, in three of the neighborhoods, approximately 30% of all residents are living below the poverty level.<sup>11</sup> The Near West Area's Quality of Life Plan identifies quality education, affordable quality housing, public safety, and economic development as some of the primary needs for area improvement.<sup>12</sup>

The HHRC's health care partner, Wishard Hospital, operates the Westside Health Center ("Westside") in the Near West neighborhood. Westside provides the HHRC with access to office space within the health

8. *Neighborhoods*, NEAR W. INDIANAPOLIS, <http://nearwestindy.com/neighborhoods/> (last visited May 11, 2012).

9. *Civic Engagement*, NEAR W. INDIANAPOLIS, <http://nearwestindy.com/quality-of-life-plan/civic-engagement/> (last visited May 11, 2012).

10. *Community Profile: Hawthorne Neighborhood Association*, SAVI, <http://savi.org/savi/CommunityProfiles.aspx?GEOLOCID=180973414001|180973414002|180973415002&LayerClass=54&BoundaryID=886&SelectedTab=Education> (last visited May 16, 2012); *Community Profile: Haughville Community Council*, SAVI, <http://savi.org/savi/CommunityProfiles.aspx?GEOLOCID=180973411001|180973412001|180973412002|180973412003|180973412004|180973415001|180973416001|180973416002|180973416003|180973536006|180973564001&LayerClass=54&BoundaryID=885&SelectedTab=Education> (last visited May 16, 2012); *Community Profile: We Care Neighborhood Association*, SAVI, <http://savi.org/savi/CommunityProfiles.aspx?GEOLOCID=180973426001|180973426005&LayerClass=54&BoundaryID=3176&SelectedTab=Education> (last visited May 16, 2012).

11. *Community Profile: Stringtown.org—Economy*, SAVI, <http://savi.org/savi/CommunityProfiles.aspx?GEOLOCID=180973564002|180973564003&LayerClass=54&BoundaryID=997&SelectedTab=Economy> (last visited May 16, 2012); *Community Profile: Hawthorne Neighborhood Association—Economy*, SAVI, <http://savi.org/savi/CommunityProfiles.aspx?GEOLOCID=180973414001|180973414002|180973415002&LayerClass=54&BoundaryID=886&SelectedTab=Economy> (last visited May 16, 2012); *Community Profile: Haughville Community Council—Economy*, SAVI, <http://savi.org/savi/CommunityProfiles.aspx?GEOLOCID=180973411001|180973412001|180973412002|180973412003|180973412004|180973415001|180973416001|180973416002|180973416003|180973536006|180973564001&LayerClass=54&BoundaryID=885&SelectedTab=Economy> (last visited May 16, 2012); *Community Profile: We Care Neighborhood Association—Economy*, SAVI, <http://savi.org/savi/CommunityProfiles.aspx?GEOLOCID=180973426001|180973426005&LayerClass=54&BoundaryID=3176&SelectedTab=Economy> (last visited May 16, 2012).

12. *Quality of Life Plan*, NEAR W. INDIANAPOLIS, <http://nearwestindy.com/quality-of-life-plan/> (last visited May 11, 2012).

center, office equipment, and interpreters to accommodate client intake and meetings. The HHRC collaborates with Westside's physicians, medical assistants, social workers, financial counselors, and other support staff to identify the legal needs of patients who may ultimately become HHRC clients. Westside's staff not only provides health care services, but also assesses patient eligibility for various low or no cost hospital services and government healthcare programs. The HHRC provides regular training to and maintains ongoing communication with the staff at Westside to guide them in the identification of legal needs during patient interaction.<sup>13</sup> When meeting with patients, the staff inquires about the non-medical stressors and concerns affecting patients and, thereafter, provides referrals to the HHRC. The HHRC maintains a weekly presence at Westside and may interact with prospective clients at the time of the referral, or staff may send referrals to the law school so that the HHRC may arrange to meet with prospective clients at Westside at a later date. This provides prospective clients with a one-stop shop for medical, legal, and social services located within their community for maximum accessibility.

The HHRC's limited resources are utilized most efficiently and effectively when Westside provides case referrals; therefore, this is preferred over self-referral from clients. As discussed above with respect to medical-legal partnerships generally, the HHRC has found that referrals from Westside staff are more efficient because the staff filters medical issues and social service needs to appropriate staff within the health center, thereby providing the HHRC with referrals that involve only legal issues, often-times well before any administrative agency or court involvement. This process enables the HHRC to engage in preventive lawyering, whereby legal problems may be resolved quickly and with less contention, the prospect of litigation is often curbed, and the degree of client stress is significantly lessened. In contrast, when the HHRC accepts self-referrals from prospective clients, the problem presented may not be a legal issue or, if a legal issue is presented, the prospective client often seeks help when the situation is dire and options for resolution of legal issues are substantially limited.

### III. COMMON LEGAL ISSUES IN THE HHRC MEDICAL-LEGAL PARTNERSHIP

The HHRC receives referrals for a variety of legal issues. As expected in a healthcare setting, the clinic receives many requests for drafting of advance directives for disabled or terminally ill clients. There is a con-

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13. *Indiana Health Advocacy Coalition*, NAT'L CTR. FOR MED.-LEGAL P'SHIP, <http://www.medical-legalpartnership.org/mlp-network/regional-collaborations/indiana-health-advocacy-coalition> (last visited May 11, 2012) (The Health and Human Rights Clinic is also part of the Indiana Health Advocacy Coalition, a non-profit organization that promotes health advocacy services throughout the state of Indiana.).

stant stream of uninsured or underinsured patients seeking assistance in determining eligibility for and appealing denials or terminations of government health and disability programs. There are also numerous requests for assistance with food benefit and housing assistance programs. In addition, the HHRC receives many referrals for assistance with addressing substandard rental housing conditions and violations of installment contracts for the purchase of real property. To a lesser degree, the HHRC receives requests for assistance with protective orders and consumer law issues.

In response to these requests, the HHRC provides strategic and creative solutions to assist clients. Because the HHRC receives many referrals before legal issues fully develop and become highly contested, many referrals are resolved by providing counsel and advice to clients—which, in turn, empowers the client to take appropriate steps to remedy their problems with an opportunity to seek additional assistance from the HHRC where necessary. For example, a client may be referred to the HHRC because he is receiving harassing telephone calls from debt collectors that are contributing to his anxiety disorder. In this situation, students at the HHRC may advise the client that federal law requires debt collectors to stop contacting him if he sends them a letter informing each debt collector that he does not want them to contact him by telephone. If the client sends these letters, but a debt collector continues to call him, he may seek additional help from the HHRC to take action against the debt collector. In addition, many cases require only brief services involving cease and desist letters that remedy problems before tempers flare and before litigation becomes inevitable. Drafting services are frequently provided to clients, not only for purposes of drafting advance directives, but also to assist clients in preparing correspondence to adverse parties in order to resolve their problems without creating the tension that arises when an adverse party knows legal counsel is involved. Moreover, the HHRC provides full representation for clients in cases that lead to administrative hearings or where litigation has become inevitable. Where appropriate, the HHRC also advocates for changes in public policy to address systemic issues.

#### IV. INTRODUCTION TO THE PRACTICE IN A MEDICAL-LEGAL PARTNERSHIP

Each student enrolled in the HHRC is required to attend a full day orientation that provides an overview of the clinical practice of law, medical-legal partnerships, poverty simulation exercises, case management, and professional ethics in general and with respect to medical-legal partnerships. Class sessions explore the mechanical aspects of the practice of law through intake and initial interview simulations and discussions of case planning, interviewing, counseling, negotiation, policy advocacy, and stress management practices. Class meetings also expose students to the dynamics of poverty and concepts of holistic justice through broader discussions of poverty in the United States, the social determinants of health, international

health and human rights, access to justice in central Indiana, education and disability law, access to safe and affordable housing, public benefits, employee rights, and consumer matters.

The HHRC students begin their work in our office at Westside within two weeks of the start of the semester and they maintain regular office hours that can be used for intake evaluations or client appointments. When case referrals from Westside are suitable for teaching students, the HHRC's clients communicate solely with students. Language barriers arise frequently in such a diverse client population, so Westside provides interpreters in person or by phone to allow for communication between the students and clients. In addition, the HHRC hires qualified students to translate written client correspondence.

While the HHRC faculty makes regular visits to its Westside office during student office hours, the students interact with prospective clients and work with the staff at Westside as colleagues to collaborate in resolving urgent problems clients are facing when they arrive at the health center. For example, when a prospective client is referred to the HHRC because her Medicaid is terminated, during the course of the intake interview, the patient may emphasize to the student that they cannot afford their prescription medication while they wait to appeal the termination. In this situation, the student may contact the social worker at Westside to learn about programs that may provide the client with prescription medications on a temporary basis. Meanwhile, the student may begin drafting an appeal for the client and, after consultation with a faculty supervisor, fax the appeal from Westside. Thereafter, the client leaves the health center after receiving treatment and medications, appealing the termination of their Medicaid benefits, and meeting with the student who will be working on their case.

Once students are back in the classroom, they discuss the successes and challenges they face with their cases. The HHRC requires students to provide weekly reflections of their learning experiences and a self-evaluation during the middle of the semester. These assignments ask the students to pause for a moment to analyze their preexisting notions about the practice of law, their individual learning experiences, their clients, the issues they are working on, and the areas where they need to improve. These assignments are tremendously helpful to the HHRC faculty in guiding students in handling clients, cases, and the stressors of transitioning from student to practitioner. Case discussions and weekly reflections also help the HHRC faculty identify areas where additional instruction is needed. For example, during the fall semester, several students were disappointed to find that many clients were difficult to assist due to disconnection of telephone service, frequent address changes, homelessness, and missed appointments. Because of this, the HHRC faculty became concerned that these experiences were unfairly reinforcing negative stereotypes about poor clients. In response, the HHRC is exploring the possibility of involving students in a poverty simulation exercise in which students take on the per-



sona of a fictional impoverished client. Students will be provided with details of their persona's personal and family history, a description of the social or legal problems that the persona is enduring, and a task list to complete in the Near West Area using only the public transportation system. The implementation of this exercise has been delayed in order to assess the safety measures that need to be in place before this exercise can be fully integrated into the syllabus.

The HHRC's classroom component also focuses on peer education, community education, and policy advocacy. Some students are asked to conduct research into legal issues related to their cases and develop a presentation of these issues for their peers. These presentations have sparked deeper discussion of issues and students have found these presentations helpful when they subsequently explore similar issues in their own cases. Similarly, other students are asked to research pressing legal issues of interest to the Near West Area in general, develop presentations and handouts, and deliver this information to resident groups as a method of client empowerment. With respect to public policy, each student must identify systemic problems that negatively impact the client population in the local community and write a brief on the topic. This exploration of public policy is discussed throughout the course and these discussions have led to student involvement in meetings with the local health department to advocate for a change to the health code and submission of an amicus brief on violations of procedural rights in Indiana's small claims courts.

#### V. BRIDGING THE GAP BETWEEN GRADUATION AND THE PRACTICE: PRIVATE BAR INVOLVEMENT

During the spring semester, the HHRC launched a pilot *pro bono* program, the Health and Human Rights Clinic Outreach Initiative ("Outreach Initiative"). This program is designed to establish a system of outreach and coordination for *pro bono* attorneys as one of the core components of the HHRC. The Outreach Initiative assists newly admitted attorneys with the transition from law school to practice by giving them an opportunity to gain practice experience from representing *pro bono* clients. However, the features of this program also assist practitioners, of any experience level, with addressing the social and legal issues unique to impoverished and underserved populations.

Under this pilot program, the HHRC recruits and trains *pro bono* attorneys in handling its cases, provides malpractice insurance coverage, screens prospective clients and issues before case referral, and matches attorneys with cases received from Westside and local nonprofit legal service agencies. *Pro bono* attorneys perform all case handling duties for these cases; however, this program differs from the existing *pro bono* programs in Indianapolis by taking the next logical step to offer ongoing support to *pro bono* attorneys throughout the representation of clients and provide ad-

ditional opportunities for training from attorneys experienced in issues that impact the health and well-being of impoverished clients.

The Indianapolis Bar Foundation provided the initial funding to establish the pilot of this program and individual members of the private bar have also expressed a strong interest in the program. To date, the HHRC has trained more than thirty attorneys from a variety of experience levels and practice areas. Several more attorneys are awaiting our subsequent training sessions and the opportunity to represent clients with the support offered by the HHRC. Additionally, representatives from multiple private law firms have expressed an interest in working with the HHRC to provide *pro bono* services to clients in the Indianapolis area. Furthermore, several private attorneys, nonprofit legal service providers, including other medical-legal partnerships throughout the area, have referred prospective clients to the HHRC for possible representation.

At this time, this program is only funded through the fall of 2012. However, the HHRC is seeking support to make this program a fixture of the Clinical Programs at the Indiana University Robert H. McKinney School of Law. The HHRC hopes to develop this program into a best-practices model of legal education that will provide newly admitted attorneys and seasoned professionals throughout the Indianapolis community with an opportunity to develop legal practice skills, diversify their existing skills, and learn from experienced practitioners in an academic setting while expanding crucial legal services to vulnerable populations throughout central Indiana.

## VI. CONCLUSION

The HHRC's fusion of the medical-legal partnership model with clinical teaching challenges each student to consider the health, social, and legal needs of their clients with the goal of exposing students to the concept of holistic justice. While the HHRC's Outreach Initiative also introduces *pro bono* attorneys to holistic justice, the program emphasizes the practical skills needed to address the vast need of Indianapolis's impoverished community. Although the HHRC utilizes different approaches with students and *pro bono* attorneys, the overarching goal is the same. The HHRC hopes that, as students and *pro bono* attorneys endeavor to understand the plight of their clients and the systemic factors that influence their health issues, socioeconomic status, and legal problems, these experiences will lay the foundation for a generation of lawyers who are able to identify the impact of law and public policy on vulnerable populations and who, more importantly, are better equipped to challenge injustices as they arise.