

# **Medical-Legal Partnerships with Communities: Legal Empowerment to Transform Care**

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## **ABSTRACT**

Medical-legal partnerships (MLPs) integrate legal services into health care settings to provide holistic care and address the social determinants of health. This article brings a legal-empowerment lens to MLP work, arguing for a stronger focus on communities. It examines the application to MLPs of bringing services to communities, investing in rights literacy, and partnering with community-based paralegals. It then outlines the potential for a transformation in health and legal services to a rights - rather than needs-based framework where communities are active partners in program design and development.

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## INTRODUCTION

A medical-legal partnership (MLP) is defined as “a health care delivery model that integrates legal assistance into health care institutions serving the most vulnerable patient populations to address the social determinants of health.”<sup>1</sup> Lawyers serve as part of a health care team to tackle issues such as housing conditions, access to social benefits, and physical safety. MLPs aim to provide holistic care and “treat” legal issues early to avoid crises.<sup>2</sup> While the MLP model dates back to 1993, the national MLP movement only took off a decade later,<sup>3</sup> and there are currently MLPs in 294 health care centers across forty-one states.<sup>4</sup>

The growing popularity of MLPs demonstrates the draw of this concept. MLPs have unleashed the power of partnership by two professions. As explained by Ellen Lawton, a founder of the MLP movement,<sup>5</sup> and colleagues, the core of the MLP “innovation” is that “lawyers have the skills to remedy the social determinants of health, while clinicians can address biological determinants” needed to keep communities healthy.<sup>6</sup> The two professions can play complementary and mutually reinforcing roles. Health care providers are the first to spot the health consequences of unenforced laws and regulations, lack of access to benefits and services, and social injustice.<sup>7</sup> Additionally, due to their position of trust and regular contact with patients, providers are well placed to screen for these issues.<sup>8</sup> Lawyers bring the skills and knowledge to address them through an understanding of legal authority, ability to effectively navigate decision-making

1. Elizabeth Tobin Tyler, *Aligning Public Health, Health Care, Law and Policy: Medical-Legal Partnership as a Multilevel Response to the Social Determinants of Health*, 8 J. HEALTH & BIOMED. L., 211, 233–34 (2012); see also Megan Sandel et al., *The MLP Vital Sign: Assessing and Managing Legal Needs in the Healthcare Setting*, 35 J. LEGAL MED. 41, 47 (2014) (“MLP is a healthcare delivery model that serves to improve the health and well-being of low-income and other vulnerable populations by addressing unmet legal needs that impede health.”).

2. Ellen Lawton et al., *Disparities in Health, Disparities in Law: The Global Potential of Individual Advocacy*, in HEALTH CAP. & SUSTAINABLE SOCIOECONOMIC DEV. 419, 431–32 (Patricia A. Cholewka & Mitra M. Motagh, eds. 2007); see also David I. Schulman et al., *Public Health Legal Services: A New Vision*, 15 GEO. J. POVERTY L. & POL’Y 729, 759–60 (2008) (“Lawyers are able to bring a new type of expertise to the healthcare setting, so patients will be treated more holistically than in a typical medical exam room and they will be seen earlier than in a traditional legal services office.”).

3. Megan Sandel et al., *Medical-Legal Partnerships: Transforming Primary Care by Addressing the Legal Needs of Vulnerable Populations*, 29 HEALTH AFF. 1697, 1698–99 (2010).

4. NAT’L CTR. MED. LEGAL PARTNERSHIP, <http://medical-legalpartnership.org> [https://perma.cc/3A5E-C97X].

5. Staff, NAT’L CTR. MED. LEGAL PARTNERSHIP, <http://medical-legalpartnership.org/national-center/staff> [https://perma.cc/43YH-3QYS].

6. Lawton et al., *supra* note 2, at 427.

7. *Id.* at 420; Elizabeth Tobin Tyler, “Small Places Close to Home”: Toward a Health and Human Rights Strategy for the US, 15 HEALTH & HUM. RTS. 80, 89 (2013) (“[H]ealth care providers bear witness daily to what might be defined as human rights abuses in the US.”).

8. Schulman et al., *supra* note 2, at 759.

systems, and a mastery of advocacy and persuasion.<sup>9</sup> Moreover, legal arguments are strengthened by medical opinion and documentation from health care providers.<sup>10</sup> Providers have access to the clinical stories and evidence of what impact the laws, regulations, policies, and practices have on patient health.<sup>11</sup> Together, the two professions have the powerful potential to tackle social systems that cause illness and interfere with recovery, while ensuring government accountability for violations.<sup>12</sup> MLPs thus leverage an alliance of two influential professions in service of social change and “to assist the most vulnerable members of the community.”<sup>13</sup> In recent years, this has further developed to include the various members of the health care team, such as nurses, care managers, behavior health specialists, and social workers.<sup>14</sup>

This paper argues for a stronger focus on communities within the MLP movement and an explicit expansion of the concept of MLP partnership to embrace communities. Real social change requires a shift in power and is only possible when led by communities. MLPs are generally considered to have three core components: (1) providing direct legal assistance to patients; (2) training health care providers to address social determinants of health and recognize legal issues; and (3) engaging in advocacy for law and policy change.<sup>15</sup> Change is therefore

9. Lawton et al., *supra* note 2, at 432; see also Barry Zuckerman et al., *From Principle to Practice: Moving from Human Rights to Legal Rights to Ensure Child Health*, 92 ARCHIVES DISEASE CHILDHOOD 100, 101 (2007).

10. See, e.g., Tina Rosenberg, *When Poverty Makes You Sick, a Lawyer Can Be the Cure*, N.Y. TIMES (July 17, 2014), <http://opinionator.blogs.nytimes.com/2014/07/17/when-poverty-makes-you-sick-a-lawyer-can-be-the-cure> [https://perma.cc/6RPF-TDA5] (quoting Ellen Lawton, who notes that having medical evidence when writing a legal demand letter allows the lawyer to “resolve the issue much more rapidly,” since the issue “goes from ‘this is the law and you have to comply’ to a conversation that’s about community well-being and health”); Marcia M. Boumil et al., *Multidisciplinary Representation of Patients: The Potential for Ethical Issues and Professional Duty Conflicts in the Medical-Legal Partnership Model*, 13 J. HEALTH CARE L. & POL’Y 107, 114 (2010) (“Since advocating for patients’ legal needs often requires documentation from medical providers, the MLP model streamlines administrative processes and helps patients to obtain more quickly the public benefits and legal entitlements for which they are eligible.”).

11. Tyler, *supra* note 1, at 237.

12. Hilary Waldman, *Dream Team Helps Poor Families: Doctors and Lawyers Work Together to Solve Problems that Harm Health*, HARTFORD COURANT (Oct. 4, 2005), [http://articles.courant.com/2005-10-04/news/0510040689\\_1\\_medical-school-children-s-health-landlord](http://articles.courant.com/2005-10-04/news/0510040689_1_medical-school-children-s-health-landlord) [https://perma.cc/G3J7-SFGN]; Lawton et al., *supra* note 2, at 428.

13. Fiona Hum & Jennifer Faulkner, *Medical-Legal Partnerships: A New Beginning to Help Australian Children in Need*, 17 J.L. & MED. 105, 107 (2009).

14. Jeffrey Martin et al., *Embedding Civil Legal Aid Services in Care for High-Utilizing Patients Using Medical-Legal Partnership*, HEALTH AFF. BLOG (April 22, 2015), <http://healthaffairs.org/blog/2015/04/22/embedding-civil-legal-aid-services-in-care-for-high-utilizing-patients-using-medical-legal-partnershi> [https://perma.cc/MV7M-M3TP]; Randye Retkin et al., *Medical-Legal Partnerships: A Key Strategy for Mitigating the Negative Health Impacts of the Recession*, 22 HEALTH L. 29, 32 (2009).

15. TISHA BEESON ET AL., MAKING THE CASE FOR MEDICAL LEGAL PARTNERSHIPS: A REVIEW OF THE EVIDENCE 3 (2013); Rebecca L. Huston et al., *Virtual Mentor*, *Heath Law: Medical-Legal Partnerships*, 13 AMA J. ETHICS 555, 556 (2011); Sandel et al., *supra* note 3, at 1699; Edward Paul

measured at the level of the patient, clinic, and legal environment.<sup>16</sup> This paper argues that community engagement should be a fourth core activity, and that change should also be measured at the level of the community. Community engagement can take place through rights-literacy initiatives that train communities on rights and legal protections, employment of community-based paralegals, and involvement of communities in program design. Moreover, community partners would strengthen the third component focused on systemic advocacy, and community organizing can complement more legal approaches to address health disparities and social injustice. If MLPs aim to advance the rights of marginalized groups, adopting a community-centered approach is particularly critical.

The following section brings a legal-empowerment lens to MLP work. It lays out the basic principles of legal empowerment and examines the application of three key elements to the MLP context: (1) bringing services to communities; (2) investing in rights literacy initiatives; and (3) partnering with community-based paralegals. Part III discusses the potential for a second transformation in health and legal services provided by MLPs to a community-centered approach. Such a transformation would rethink service delivery so that it is less institutional and conceives of communities as active partners and participants in program design and development, rather than mere passive recipients of care. It also calls for a shift from a needs-based to a rights-based framework.

## I. TAKING A LEGAL EMPOWERMENT APPROACH

MLPs would benefit from a legal-empowerment lens, recognizing and supporting the agency of communities. The concept of legal empowerment was defined in 2008 by an independent commission supported by the United Nations Development Program as “a process of systemic change through which the poor and excluded become able to use the law, the legal system, and legal services to protect and advance their rights and interests as citizens and economic actors.”<sup>17</sup> Stephen Golub, the Franklin and Betty Barr Professor of Economics at Swarthmore

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et al., *Medical-Legal Partnerships: Addressing Competency Needs through Lawyers*, J. GRADUATE MED. EDUC. 304, 305 (2009).

16. Lynn Hallarman et al., *Blueprint for Success: Translating Innovations from the Field of Palliative Medicine to the Medical-Legal Partnership*, 35 J. LEGAL MED. 179, 183 (2014) (“MLP integrates legal care directly into patient healthcare using three levels of legal intervention: (1) directly with the patient, (2) at the clinic level, and (3) through policy advocacy.”); BEESON ET AL., *supra* note 15, at 8 (“The National Center for Medical-Legal Partnership . . . has promulgated a three-level model for the impacts generated by MLPs, including (1) changes in the health and wellbeing of patients; (2) improvements in the institutions services and practices; and (3) improvements in the policies, laws, and regulations that affect vulnerable populations.”).

17. 1 COMM’N ON LEGAL EMPOWERMENT OF THE POOR, U.N. DEVELOPMENT PROGRAMME, MAKING THE LAW WORK FOR EVERYONE 3 (2008).

College,<sup>18</sup> has further developed this concept, defining it as “the use of legal services and related development activities to increase disadvantaged populations’ control over their lives” and differentiating it from rule of law orthodoxy.<sup>19</sup> He explained that unlike traditional top-down approaches, under legal empowerment, “attorneys support the poor as partners, instead of dominating them as proprietors of expertise,” and “the disadvantaged play a role in setting priorities.”<sup>20</sup>

The Open Society Foundations has additionally embraced the legal-empowerment concept and has dedicated several initiatives to its advancement.<sup>21</sup> The Open Society Public Health Program defined legal empowerment as the “transfer of power from the usual gatekeepers of the law—lawyers, judges, police, and state officials—to ordinary people who make the law meaningful on a local level and enhance the agency of disadvantaged populations.”<sup>22</sup> To increase access to justice for socially excluded groups in the context of health, it found standard approaches to legal aid inadequate since they “typically rely on external professionals who tend to monopolize legal expertise and lack incentives to transfer knowledge or decision-making to their clients.”<sup>23</sup> Rather, the program sought to operate within a framework of participation and inclusion regarding communities “as vital actors in the justice system, rather than as its victims or passive beneficiaries.”<sup>24</sup>

This paper analyzes three critical elements of community engagement under the legal-empowerment approach and their applicability to MLPs. The first is bringing services to communities, an area where MLPs have already made significant headway. The second is providing communities with basic rights literacy, and the third is involving communities in the delivery of legal services—

18. See *Stephon Golub*, WORLD BANK BLOGS, <https://blogs.worldbank.org/team/stephen-golub> [https://perma.cc/TUT3-8UD4]

19. Stephen Golub, *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative 5* (Carnegie Endowment for Int’l Peace, Working Paper No. 41, 2003), <http://carnegieendowment.org/files/wp41.pdf> [https://perma.cc/8XJB-N94E] (emphasis removed).

20. *Id.* at 6.

21. See, e.g., Zaza Namoradze, *Scaling Up on Legal Empowerment*, OPEN SOC’Y FOUND. (Apr. 22, 2016), <https://www.opensocietyfoundations.org/voices/scaling-legal-empowerment> [https://perma.cc/RLX6-3VYL]; *Projects: Legal Empowerment*, OPEN SOC’Y FOUND. (Sept. 15, 2014), <https://www.opensocietyfoundations.org/projects/legal-empowerment> [https://perma.cc/V935-JSZV].

22. *Bringing Justice to Health: The Impact of Legal Empowerment Projects on Public Health*, OPEN SOC’Y FOUND. 1 (2013), [https://www.opensocietyfoundations.org/sites/default/files/bringing-justice-health-20130923\\_0.pdf](https://www.opensocietyfoundations.org/sites/default/files/bringing-justice-health-20130923_0.pdf) [https://perma.cc/N8UX-23DZ].

23. Ryan Quinn & Tamar Ezer, *Justice Programs for Public Health: A Good Practice Guide*, OPEN SOC’Y FOUND. 8 (2015), [https://www.opensocietyfoundations.org/sites/default/files/justice-programs-public-health-20150701\\_1.pdf](https://www.opensocietyfoundations.org/sites/default/files/justice-programs-public-health-20150701_1.pdf) [https://perma.cc/SHB6-K65R]; see also Meena Jagannath et al., *A Rights-Based Approach to Lawyering: Legal Empowerment as an Alternative to Legal Aid in Post-Disaster Haiti*, 10 NW. J. INT’L HUM. RTS. 7 (2011) (“[T]raditional legal assistance to marginalized communities tends to be top-down and exclusionary.”).

24. Quinn & Ezer, *supra* note 23, at 7.

both areas MLPs can generally strengthen. The sections below address each of these in turn.

### *A. Bringing Services to Communities*

MLPs understand the importance of leaving the law office and engaging in outreach to best provide legal services to communities. Based in health care settings, they are proactive in identifying legal needs, rather than waiting for clients to seek them out.<sup>25</sup> MLPs recognize that in resource-poor settings, people “will often forgo either medical or legal assistance if they must travel to two different places” for services.<sup>26</sup> The MLP model further builds on established trust between patients and health care providers.<sup>27</sup> As Dr. Laurie Harkness, the former director of the Errera Community Care Center, the site of an MLP serving veterans, explained, “The veteran sees the legal team as part of our team, which makes the trust much easier to establish,” and helps veterans feel comfortable engaging with the lawyers.<sup>28</sup>

However, not all health facilities are well-integrated into communities. Additionally, community members may be distrustful of the medical establishment and see providers as merely “proprietors of expertise.”<sup>29</sup> Recognizing these dynamics, MLPs can benefit from engaging in additional outreach and pursuing partnerships with community organizations, such as tenant associations. Some MLPs are pioneering these strategies. For instance, MLPs collaborating with the Association of Asian Pacific Community Health Organizations (AAPCHO) bridge community and health resources to provide culturally integrated care and assistance for Asian Americans, Native Hawaiians, and other Pacific Islanders.<sup>30</sup>

Increased access and trust are particularly critical when serving marginalized communities. MLPs serving the mentally ill and homeless have found that many would have had difficulty traveling to a legal-service organization or even identifying their legal needs.<sup>31</sup> At times, transportation to a health facility may also

25. Tyler, *supra* note 1, at 236.

26. Zuckerman et al., *supra* note 9, at 101.

27. Retkin et al., *supra* note 14, at 32.

28. Rishi Manchanda et al., *The Invisible Battlefield: Veterans Facing Health-Harming Legal Needs in Civilian Life*, OPEN SOC’Y FOUND. 15 (2016), <http://medical-legalpartnership.org/wp-content/uploads/2016/06/The-Invisible-Battlefield.pdf> [https://perma.cc/ES5B-E8WE].

29. Golub, *supra* note 19, at 6.

30. *Providing Civil Legal Aid Through Medical-Legal Partnerships: A Critical Enabling Service for Health Centers Serving Asian Americans, Native Hawaiians and Pacific Islanders*, ASS’NS ASIAN PAC.COMMUNITY HEALTH ORGS. 10 (2016), [http://www.aapcho.org/wp/wp-content/uploads/2016/10/AAPCHO-Hawaii-MLP-Case-Study-FINAL\\_100416.pdf](http://www.aapcho.org/wp/wp-content/uploads/2016/10/AAPCHO-Hawaii-MLP-Case-Study-FINAL_100416.pdf) [https://perma.cc/2ZUE-NYH5] (“In the beginning, I used to hear a lot of, ‘She’s not that kind of lawyer,’ because low-income families rarely get lawyers unless something bad is happening. But within six months, families were saying, ‘Hey, the lawyer lady is here!’” (quoting Dina Shek, a lawyer at the Medical-Legal Partnership for Children in Hawaii)).

31. Catherine F. Wong et al., *Helping Veterans with Mental Illness Overcome Civil Legal*

be a barrier. The AIDS Project of Pennsylvania, an MLP serving people with HIV, is located within a few blocks of the state's largest HIV/AIDS health care clinic and social-service agency.<sup>32</sup> Additionally, it makes regular home and hospital visits<sup>33</sup> and provides legal services at the city's needle-exchange program.<sup>34</sup> Similarly, the New York Legal Assistance Group provides services at home for cancer patients.<sup>35</sup>

Moreover, the key to good care is more than just physical access, but also adopting a community-centered approach and a nonjudgmental, harm-reduction philosophy.<sup>36</sup> The AIDS Project of Pennsylvania considers it "critically important to provide services by meeting people where they are."<sup>37</sup> OSF has defined a "lawyering for the marginalized approach," which entails a commitment to learning about the groups served and gaining their trust, working outside regular office hours, engaging in outreach, and meeting clients with openness and acceptance.<sup>38</sup> It is also important to respect the agency of community members. As Christine Zuni Cruz, a pioneer of the community-lawyering movement articulates, "[L]awyering which respects those who comprise the community as being capable and indispensable to their own representation and which seeks to understand the community yields far different results for the community and the lawyer."<sup>39</sup>

When MLPs work well, they strengthen relations with communities and attract people to services. Not only do MLPs connect people at a health facility with legal help they otherwise may not have sought, but the legal services also draw people to the health facility. This is the case with a veterans MLP at the Errera Community Care Center in West Haven, Connecticut, which, according to the former director, "[s]ees more people come off the street looking for legal services who then realize the other services offered here, such as mental health, primary

*Issues: Collaboration Between a Veterans Affairs Psychosocial Rehabilitation Center and a Nonprofit Legal Center*, 10 PSYCHOL. SERVS. 73, 74 (2013).

32. Ronda B. Goldfein & Sarah R. Schalman-Bergen, *From the Streets of Philadelphia: The AIDS Law Project of Pennsylvania's How-To Primer on Mitigating Health Disparities*, 82 TEMP. L. REV. 1205, 1214–15 (2010).

33. *Id.* at 1214.

34. *Id.* at 1215.

35. *LegalHealth: Cancer Advocacy*, N.Y. LEGAL ASSISTANCE GRP., <http://nylag.org/units/legalhealth/projects/cancer-advocacy> [<https://perma.cc/W4AK-Z4XN>].

36. Harm reduction is social-justice movement, rooted in respect for the rights of people who use drugs, and a set of practical strategies meeting people who use drugs "where they're at" with the aim of reducing the negative consequences of drug use. See generally *Principles of Harm Reduction*, HARM REDUCTION COAL., <http://harmreduction.org/about-us/principles-of-harm-reduction> [<https://perma.cc/PRC2-5JFH>].

37. Goldfein & Schalman-Bergen, *supra* note 32, at 1214.

38. Quinn & Ezer, *supra* note 23, at 9; see also Tamar Ezer, *Injustice is Bad for Your Health*, OPEN SOC'Y FOUND. BLOG (July 8, 2015), <https://www.opensocietyfoundations.org/voices/injustice-bad-your-health> [<https://perma.cc/LY9L-UC9Y>].

39. Susan L. Brooks & Rachel E. Lopez, *Designing a Clinic Model for a Restorative Community Justice Partnership*, 48 WASH. U. J. L. & POL'Y 139, 140 (2015).

care, or job training, fit their needs.”<sup>40</sup> MLPs can thus serve as important gateways to services and support for communities.

### *B. Investing in Rights Literacy*

As Vivek Maru, a legal-empowerment pioneer and founder of an organization dedicated to its global expansion,<sup>41</sup> states, “[e]ducation is a critical first step in giving people power.”<sup>42</sup> If MLPs truly aim to achieve social change and address disparities, integrating rights literacy-- or training on rights and legal protections for community members-- is essential. This can build on trainings MLPs already conduct with health care providers, enabling them to recognize legal issues and address social determinants of health. Rights-literacy initiatives can take different forms, including workshops, pamphlets, posters, and documentaries that further rights awareness.<sup>43</sup> Rights literacy should teach about the formal legal system, as well as provide practical guidance on how to claim rights.<sup>44</sup>

Rights literacy can both stimulate greater community engagement and help justice programs be most effective. Conducting rights trainings is a way to invest in communities and build trust and relationships. Moreover, people are also more likely to benefit from legal services when they can connect their experiences with the law and available remedies.<sup>45</sup> Rights literacy also equips people with the tools to take steps on their own to improve their condition<sup>46</sup> and engage in systemic advocacy.<sup>47</sup>

Rights literacy should do more than merely convey knowledge to communities. It is also an opportunity to engage in dialogue and learn from communities about their concerns to ensure MLPs best meet their needs. For instance, the Community Lawyering Clinic at Drexel University’s Law School has found “Law Days,” where lawyers provide community trainings on various legal issues, to be valuable forums through which they can connect with community members and learn about their needs.<sup>48</sup> Furthermore, it is important to recognize that communities are not homogenous and to provide space for diverse voices.

40. MANCHANDA ET AL., *supra* note 28, at 14.

41. See Vivek Maru, NAMATI, <https://namati.org/people/vivek-maru> [<https://perma.cc/D9KR-CC32>].

42. Vivek Maru, *Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide*, 31 YALE J. INT’L L. 427, 428 (2006).

43. Quinn & Ezer, *supra* note 23, at 74.

44. *Id.* at 75.

45. *Id.* at 8; Ezer, *supra* note 38.

46. OPEN SOC’Y FOUNDS., *supra* note 22, at 3.

47. Tyler, *supra* note 7, at 87 (“[A] key component of advocacy is educating people in a given community about their rights, human rights principles, and the potential for using law as a tool to promote those rights.”).

48. Brooks & Lopez, *supra* note 39, at 168 (noting, for example, that the first Law Day highlighted the need to offer “a continuum of legal services”).

Communities are multi-dimensional, with regard to geography, culture, politics, and power, and “an awareness of the complexity of the tensions that exist within communities, as well as . . . the connections—both self-identified and externally imposed” is critical.<sup>49</sup>

While MLPs can generally expand and strengthen work on rights literacy for communities, some MLPs already provide good examples in this area, and there are important lessons to draw from the HIV field. The Austin MLP, a collaboration between Texas Legal Services Center and People’s Community Clinic (PCC), has prioritized rights literacy.<sup>50</sup> For 2016, they proactively set a goal of at least two “know your rights” projects a year at the primary PCC clinic, and they are currently aiming to make those trainings quarterly. Additionally, starting in the fall of 2017, a dedicated attorney posted at PCC’s Center for Women’s Health will develop and provide know-your-rights sessions as part of group prenatal visits. Each know-your-rights project consists of training for both patients, as well health care providers and/or staff, and is accompanied by onsite legal assistance.<sup>51</sup> For instance, a fall 2016 training focused on supported decision making under Texas law, a spring 2017 training helped Medicare beneficiaries learn more about Medicaid eligibility, and recent trainings have focused on the interaction between federal immigration policy and Medicaid systems, as well as immigration rights for patients.<sup>52</sup> Moreover, patients had access to a panel of immigration attorneys available onsite with the capacity for representation.<sup>53</sup> Another example of an MLP engaged in rights literacy is a project with the University of California San Francisco, which serves patients facing dementia and makes good use of rights-literacy handouts.<sup>54</sup>

The HIV crisis in the 1980s highlighted the need for legal services for people to cope with social and economic factors related to illness.<sup>55</sup> HIV legal services pioneered a partnership between lawyers and health care providers and are, in fact, one of the “historical antecedents” for MLPs.<sup>56</sup> Now included in the broader MLP

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49. Brooks & Lopez, *supra* note 39, at 151.

50. Elizabeth Tobin Tyler, Issue Brief, *Improving Outreach and Enrollment Efforts in Health Centers through Medical-Legal Partnership*, NAT’L ASS’N CMTY. HEALTH CTRS., Feb. 2017, at 13, <http://www.nachc.org/wp-content/uploads/2015/11/O-E-MLP-Feb-2017-Issue-Brief-FINAL-for-website.pdf> [<https://perma.cc/UG3W-3YUG>].

51. Email from Keegan Warren-Clem, Attorney, Austin MLP (AMLP), to author (April 9, 2017, 9:12 PM) (on file with author).

52. *Id.*; see also Tyler, *supra* note 50, at 15.

53. Email from Keegan Warren-Clem, *supra* note 51.

54. For an example, see *Who Can Make Financial Decisions for Me?*, YUKON PUB. LEGAL EDUC., <http://yplea.com/seniors-education/who-can-make-financial-decisions-for-me-2> [<https://perma.cc/T2V5-NPYV>] (developed by YUKON Public Legal Education Association and used by the University of California San Francisco MLP focused on dementia).

55. Schulman et al., *supra* note 2, at 769–70; Stewart B. Fleishman et al., *The Attorney As the Newest Member of the Cancer Treatment Team*, 24 J. CLINICAL ONCOLOGY 2123, 2123 (2006).

56. Hallarman et al., *supra* note 16, at 184; Hum & Faulkner, *supra* note 13, at 105.

movement, they also bring distinct lessons. HIV legal services typically involve a client-and-community-education component, which empowers people to solve many problems themselves.<sup>57</sup> The AIDS Project of Pennsylvania, for instance, heavily invests in training and education for people with HIV, their friends and family, social workers, and health care providers.<sup>58</sup> It offers free monthly seminars on topics, such as leaving a job, returning to work, landlord-tenant law, confidentiality of medical records, and access to social benefits.<sup>59</sup>

### C. Partnering with Community-Based Paralegals

At the heart of a legal empowerment project are community-based paralegals. As Vivek Maru, explains, “Paralegals are often closer to the communities they serve. They tend to be ‘of’ those communities while lawyers are frequently outsiders and elites.”<sup>60</sup> Moreover, paralegals can bring “a wider and more flexible set of tools, including community education, mediation, and community organizing.”<sup>61</sup> The Open Society Foundations supports projects that train paralegals who are from the marginalized groups they serve.<sup>62</sup> These community-based paralegals are well-situated to provide rights education, address multiple legal and non-legal needs, and deliver “legal first aid” by responding quickly as issues arise and connecting their peers to any further support they may need.<sup>63</sup> Additionally, these paralegals have their community’s trust, better access to the groups they serve, and a deeper understanding of a community’s needs and challenges. As one sex worker working as a community-based paralegal put it, “We speak the same language.”<sup>64</sup> Community-based paralegals can thus serve as an important link between lawyers and marginalized groups.<sup>65</sup>

In turning to community-based paralegals, MLPs can learn from the health

57. David I. Schulman, *Making a Difference with HIV Legal Checkups*, 31 HUM. RTS. 18, 18 (2004); Goldfein & Schalman-Bergen, *supra* note 32, at 1223.

58. Goldfein & Schalman-Bergen, *supra* note 32, at 1223.

59. *Id.*

60. Maru, *supra* note 42, at 470; see also Zachary H. Zarnow, *Obligation Ignored: Why International Law Requires the United States to Provide Adequate Civil Legal Aid, What the United States is Doing Instead, and How Legal Empowerment Can Help*, 20 J. GENDER SOC. POL’Y & L. 273, 301 (2011) (“Distinctive among [legal empowerment’s] features is a belief in community-based organizing and a bottom-up approach to problem solving that uses locally-based actors to effect locally-controlled change. . . . This often means using non-lawyers, such as community-based paralegals, to provide legal services.”).

61. Maru, *supra* note 42, at 470; see also OPEN SOC’Y FOUNDS., *supra* note 22, at 3 (“[L]egal empowerment projects reveal the powerful role to be played by paralegals, who facilitate access to government agencies, assist with litigation in civil disputes, promote alternative forms of conflict resolution, and mobilize the broader community to attend to the human rights issues around them.”).

62. OPEN SOC’Y FOUNDS., *supra* note 22, at 46; Quinn & Ezer, *supra* note 23, at 8.

63. Quinn & Ezer, *supra* note 23, at 8; Ezer, *supra* note 38.

64. Quinn & Ezer, *supra* note 23, at 34; Ezer, *supra* note 38.

65. OPEN SOC’Y FOUNDS., *supra* note 22, at 46; Quinn & Ezer, *supra* note 23, at 34.

profession, which has improved quality of and access to care through the use of community health workers—also known as patient navigators and health coaches. Access-to-justice advocates in the United States have already turned to the health profession to explore possible models “to combine the expertise of lawyers with the lower cost of nonlawyers in ways that can increase affordable access while ensuring an adequate level of competence to protect consumers.”<sup>66</sup> Legal-empowerment programs themselves have taken inspiration from health care, and envision “a small corps of lawyers with a larger frontline of community paralegals who, like primary health workers, are closer to the communities in which they work and employ a wider set of tools.”<sup>67</sup>

The success of community health workers stems from their “strong ties with the communities they serve,” facilitating communication.<sup>68</sup> For instance, patient-navigator programs have been lauded for their effectiveness in assisting cancer patients by employing cancer survivors who “can relate directly to the patient experience and provide comfort and guidance.”<sup>69</sup> A randomized controlled trial in a New Haven clinic that serves patients who were recently released from prison showed that support from a community health worker “with a personal history of incarceration”<sup>70</sup> could lead to a fifteen percent absolute reduction in the proportion of patients with any Emergency Department visits and a fifty-one percent drop in the frequency of Emergency Department visits among other patients.<sup>71</sup> These community health workers aided patients in navigating medical and social services, such as accompanying patients to appointments; provided referrals to

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66. Laurel A. Rigertas, *Collaborations Between Lawyers and New Legal Professionals: A Path to Increase Access to Justice and Protect Clients*, 24 KAN. J.L. & PUB. POL’Y 539, 553 (2015).

67. Vivek Maru, *Allies Unknown: Social Accountability and Legal Empowerment*, 12 HEALTH & HUM. RTS. 83, 83 (2010); see also Zarnow, *supra* note 60, at 303 (“To provide an adequate level of access and service, the medical community has embraced levels of specialization and care that include community health workers, EMTs, nurses, nurse practitioners, physician assistants, doctors, and specialists. Community health workers, which are the most analogous to community-based paralegals, have made dramatic contributions to the health of the communities they serve.”); Maru, *supra* note 42, at 476 (“Paralegals relate to lawyers and the formal legal system not unlike the way primary health workers relate to doctors and the formal medical system: a dynamic force at the frontline, with a wider set of tools and aims; a force which, when necessary, facilitates communication between the people and the experts.”).

68. Peter Shin et al., *Medical-Legal Partnerships: Addressing the Unmet Legal Needs of Health Center Patients*, 18 GEIGER GIBSON/RCHN COMMUNITY HEALTH FOUND. RES. COLLABORATIVE 12 (2010); see also Ankita Rao, *How Community Health Workers Dramatically Improve Healthcare*, THE ATLANTIC, Feb. 4, 2014, <https://www.theatlantic.com/health/archive/2014/02/how-community-health-workers-dramatically-improve-healthcare/283555> [<https://perma.cc/95D9-T49K>] (“The area where community health workers catch on is where they retain their community identity and their advocacy for their community and yet have a sharply defined role in their health care system.” (quoting Dr. Prabhjot Singh, chairman of the One Million Health Worker Campaign)).

69. Shin et al., *supra* note 68, at 12.

70. Emily Wang et al., *Engaging Individuals Recently Released From Prison Into Primary Care: A Randomized Trial*, 102 AM. J. PUB. HEALTH e22, e23 (2012).

71. *Id.* at e27.

social services; and assisted with chronic-disease management, including support for medication adherence through home visits.<sup>72</sup> A program in Atlantic City found that employing health coaches, mainly from patient communities, who spoke the patients' languages and who had personal experience with chronic illness, led to a host of health improvements: emergency room visits and hospital admissions dropped by forty percent, surgical procedures decreased by a quarter, patients with high cholesterol had an average fifty-point drop in their levels, and sixty-three percent of smokers with health and lung disease quit smoking.<sup>73</sup> Community health workers can thus effectively prevent disease complications and emergency-room visits, in turn curbing health care costs.<sup>74</sup> For example, one study focusing on using community health workers to assist underserved men in Denver showed that using community health workers actually saved \$2.28 for each dollar spent by avoiding hospital expenses.<sup>75</sup>

Just as legal empowerment is a global phenomenon with links to development,<sup>76</sup> the community-health-worker movement in the United States has also drawn inspiration and models from abroad. As of 2014, India had more than 800,000 "accredited social health activists," Malawi had 11,000 "health extension workers," and Ethiopia had 38,000 "health extension workers," all playing integral roles in those countries' health care systems.<sup>77</sup> The idea for health coaches in the Atlantic City program came from the "promotoras" in the Dominican Republic, who work with doctors but see patients more often.<sup>78</sup> The health-coach program in Harlem drew inspiration from a South African model, which seeks to address the shortage in doctors, widespread mistrust of the health system, and poverty by working with trusted community leaders.<sup>79</sup> The United States now has about 38,000 community health workers, and Massachusetts and Minnesota have led the way in developing legislation defining their role in the health care system.<sup>80</sup>

As with community-based paralegals, community education is a critical component of the work of community health workers. In Florida and Texas, community health workers specialize in managing chronic disease and engaging in community education.<sup>81</sup> In Ethiopia, community health workers hold coffee

72. *Id.* at e23.

73. Atul Gawande, *The Hot Spotters: Can We Lower Medical Costs By Giving The Neediest Patients Better Care?*, THE NEW YORKER, Jan. 24, 2011, at 49.

74. Rao, *supra* note 68.

75. Elizabeth M. Whitley et al., *Measuring Return on Investment of Outreach by Community Health Workers*, 17 J. HEALTH CARE FOR POOR & UNDERSERVED 6, 10 (2006).

76. Golub, *supra* note 19, at 3.

77. Rao, *supra* note 68.

78. Gawande, *supra* note 73, at 47.

79. Sarah Varney, *An Idea Borrowed from South Africa: Ordinary Citizens Fill Gaps in Health Care*, KAISER HEALTH NEWS (Oct. 20, 2016), <http://khn.org/news/an-idea-borrowed-from-south-africa-ordinary-citizens-fill-gaps-in-health-care> [<https://perma.cc/24PN-VJ5V>].

80. Rao, *supra* note 68.

81. *Id.*

ceremonies “to bring people together to discuss health issues.”<sup>82</sup> In South Africa, health coaches “conduct classes in garages and visit people in their homes.”<sup>83</sup> In Harlem, health coaches help patients keep track of appointments and questions for their doctor. They see “teaching patients to be better advocates for themselves” as an integral part of their job.<sup>84</sup>

Additionally, incorporating community-based paralegals more broadly as part of MLPs has the exciting potential to further increase access to justice and civil legal services. In fact, access to justice advocates in the United States have argued for decades that paralegals should be increasingly used.<sup>85</sup> MLPs are already making use of non-lawyers and partnering with various staff at the health facility, including nurses, care managers, behavior health specialists, community health workers, and social workers to help secure legal rights for patients. For instance, some MLPs have trained social workers and medical staff on what certification requirements seriously ill patients must meet to avoid having their utilities shut off.<sup>86</sup> There is an opportunity to build on these efforts by hiring paralegals from the communities they serve, who could assist their peers in a range of ways, including providing basic legal knowledge, navigating administrative systems, drafting documents, mediating disputes, documenting rights violations, and mobilizing community members by leading roundtable discussions and know-your-rights campaigns.<sup>87</sup> Community-based paralegals can also help lead advocacy on issues identified through the MLP, such as housing problems affecting health.

One promising initiative of potential interest to MLPs is the introduction of “court navigators,” echoing patient navigators, who help patients navigate housing courts. While these navigators are non-lawyers and cannot argue cases, they can help tenants fill out paperwork and participate effectively in proceedings.<sup>88</sup> According to a 2016 study by the American Bar Foundation and National Center for State Courts, navigators in a Brooklyn court were “highly successful” in preventing evictions, obtaining court orders for needed repairs from landlords, and enabling tenants “to tell their side of the story to the court.”<sup>89</sup> MLPs can experiment

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82. *Id.*

83. Varney, *supra* note 79.

84. *Id.*

85. Zarnow, *supra* note 60, at 302; *see also* Richard Zorza & David Udell, *New Roles for Non-Lawyers to Increase Access to Justice*, 41 *FORDHAM URB. L.J.* 1259, 1263–64 (2014).

86. Martin et al., *supra* note 14.

87. Quinn & Ezer, *supra* note 23, at 36.

88. Beth Fertig, *For Tenants in Housing Court, Study Finds ‘Navigators’ Can Be Good Alternatives to Lawyers*, WNYC NEWS (Dec. 13, 2016), <http://www.wnyc.org/story/tenants-housing-court-study-finds-navigators-can-be-good-alternatives-lawyers> [<https://perma.cc/D8DP-FGZZ>]; *see also* Rigertas, *supra* note 66, at 542–43; Angie M. Dorsch, *Examining the Role of Non-Lawyers in the Legal System*, 39 *WYO. LAW* 30, 32 (2016) (describing the court-navigator program in New York City and the legal-technician program in Washington state).

89. Fertig, *supra* note 88; *see also* REBECCA L. SANDEFUR & THOMAS M. CLARKE, *ROLES BEYOND LAWYERS* (2016) (providing a detailed report of the results of the study).

with integrating initiatives of this sort.

### III. TRANSFORMING MLPS TO COMMUNITY-CENTERED CARE

MLPs already brought a transformation in medical and legal services. As Elizabeth Tobin Tyler, an MLP leader,<sup>90</sup> describes, “By partnering lawyers and physicians to address the broader context affecting the health and stability of families and children, practitioners become holistic problem-solvers, not narrow specialists. In a sense, doctors become advocates for their patients and lawyers become healers for their clients.”<sup>91</sup> MLPs have not only shifted medicine to a more holistic outlook, but have also shifted legal work to a more preventive approach. As a number of MLP founders explain, “For lawyers, it presented an opportunity to change the way legal services are typically delivered, away from crisis-generated litigation toward *preventive law*.”<sup>92</sup> This is a perspective borrowed from medicine, which seeks to “resolve problems ‘upstream’ before they turn into crises ‘downstream.’”<sup>93</sup>

It is time now for a second transformation in care to a community-centered approach. MLPs should be proactive in partnering with communities, and communities can play a critical role as active partners and agents of change. This would strengthen individual care, as well as enforce a model of systemic advocacy envisioned as part of the MLP concept. Community engagement and grassroots mobilization can complement more legal approaches.

Such a transformation may require a rethinking of service delivery. The Errera Community Care Center, the site of the an MLP serving veterans in West Haven, Connecticut, did exactly that. They moved services from the hospital and into the community. By taking veterans out of an institutional setting, they hoped to foster their social integration and independent living.<sup>94</sup> As the Center’s director explained:

You co-locate programs, and you get the veterans out of the institutional setting because, when they’re in the institution, everybody feels they are a patient. What are the hallmarks of a patient? Let’s see—passive, helpless, things are done sequentially, and well, and that is not how people recover. That is not how people

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90. Elizabeth Tobin Tyler, HEALTH AFF. BLOG, <http://healthaffairs.org/blog/author/tyler> [https://perma.cc/MCP4-88ER] (describing Tyler as “a national expert in the development of medical-legal partnerships”).

91. Elizabeth Tobin Tyler, *Allies Not Adversaries: Teaching Collaboration to the Next Generation of Doctors and Lawyers to Address Social Inequality*, 11 J. HEALTH CARE L. & POL’Y 249, 254 (2008).

92. Schulman et al., *supra* note 2, at 759.

93. Mallory Curran, *Preventive Law: Interdisciplinary Lessons from Medical-Legal Partnership*, 38 N.Y.U. REV. L. & SOC. CHANGE 595, 602 (2014).

94. ELIZABETH BRADLEY & LAUREN TAYLOR, THE AMERICAN HEALTH CARE PARADOX: WHY SPENDING MORE IS GETTING US LESS 131 (2013).

learn to live the lives they want or dream of.<sup>95</sup>

Additionally, the Errera Community Care Center employs veterans, who make up almost half of the staff, and clients participate in the organization's governance, helping draft and co-sign policies.<sup>96</sup> Although MLPs are based in health care settings, both physical space and governance can have greater community orientation, recognizing members as more than just passive recipients of care. This is a principle various MLPs located in community health centers already embrace, serving as hubs of community support.<sup>97</sup>

Community involvement in MLP governance further points to a role for communities in program design and development. This starts with community participation in a needs assessment. A needs assessment can be a helpful tool for determining the type of services that should be provided and how these services can be provided most effectively, clarifying both the problems to be addressed and the context in which a program will operate. A needs assessment can also serve as a baseline against which to measure a program's progress.<sup>98</sup> Community participation through interviews, group discussions, and surveys is critical to ensure the accuracy and usefulness of the assessment. It enables an understanding of the priorities of the program's intended beneficiaries, their experiences with the legal and policy framework, and potential partnerships and resources. It is also an opportunity to connect and build trust with communities.<sup>99</sup> However, it is important to recognize that communities are not monolithic and collect disaggregated data.<sup>100</sup>

Community partners can further provide critical guidance as the program develops. Interview participants can become long-term partners.<sup>101</sup> A community advisory board can provide essential input not only at the program's inception, but throughout its operation. When starting its Community Lawyering Clinic, Drexel University's law school hosted an "open house" for community members to help shape its work. Recognizing the value of this engagement, they decided to make the open house an annual event "to solicit the community's feedback on the

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95. *Id.*

96. *Id.*

97. For instance, this is a core principle for MLPs working with the Association of Asian Pacific Community Health Organizations. See ASS'N OF ASIAN PACIFIC CMTY. HEALTH ORGS., *supra* note 30; see also INSTITUTE FOR PATIENT- AND FAMILY-CENTERED CARE, <http://www.ipfcc.org> [<https://perma.cc/9DUR-UANK>] (providing resources on which MLPs can draw).

98. Quinn & Ezer, *supra* note 23, at 70. Such needs assessments were conducted by the Open Society Public Health Program before rolling out a project on Roma health rights in Macedonia, Romania, Serbia and by the African Palliative Care Association before integrating legal services into palliative care in Uganda. *Id.* at 71, 72.

99. Quinn & Ezer, *supra* note 23, at 70, 72.

100. *Id.* at 71.

101. *Id.* at 72.

effectiveness of [the legal] programs as well as their future direction.”<sup>102</sup> As the Open Society Public Health Program explained, “It is important to partner with socially excluded groups by involving them in the design, delivery, and evaluation of access to justice programs intended to support and benefit them.”<sup>103</sup> This method of partnering “helps ensure the work responds to the needs and priorities of these groups. It is also a key marker of a human rights–based approach.”<sup>104</sup>

A transformation in service delivery further calls for a shift from a needs-based to a rights-based approach. MLPs generally operate from a needs framework. As MLP theory sets out, “MLPs are built on the understanding that social determinants of health often manifest in the form of legal needs, and that attorneys have special tools and skills to address these needs.”<sup>105</sup> MLPs traditionally then bring together health teams and lawyers “to address the needs of vulnerable patients and communities by identifying, solving, and preventing health-harming legal needs.”<sup>106</sup> In this depiction, communities are “vulnerable” and passive objects with needs, rather than subjects with rights or partners who can create change.

MLP leaders, however, are already taking some promising steps to explore a rights framework. In a 2013 article looking at MLPs through a health-and-human-rights lens, Elizabeth Tobin Tyler writes: “The ultimate goal is systems accountability and change. This will only come with lawyers and health care providers partnering with and empowering communities to enforce and articulate their rights as human rights.”<sup>107</sup> MLPs would benefit from taking these words to heart and investing in efforts to develop this approach.

In this way, the MLP movement can build on examples of good work, moving beyond the confines of the doctor-patient or lawyer-client relationship and partnering with communities to revamp care. If the goal is social change and addressing disparities, MLPs would benefit from adopting a legal-empowerment approach and expanding their community engagement. This would require greater

102. Brooks & Lopez, *supra* note 39, at 148.

103. Quinn & Ezer, *supra* note 23, at 8.

104. *Id.*

105. Ellen M. Lawton & Megan Sandel, *Investing in Legal Prevention: Connecting Access to Civil Justice and Healthcare Through Medical-Legal Partnership*, 35 J. LEGAL MED. 29, 33 (2014); see also Tyler, *supra* note 1, at 234 (“The premise of MLP is that unmet legal needs are social determinants of health: ‘A legal need is an adverse social condition with a legal remedy—that is, an unmet basic need that can be satisfied via laws, regulations, and policies. Unmet legal needs, which can lead to poor health outcomes, are critical social determinants of health.’” (quoting Ellen Lawton et al., *Medical-Legal Partnership: A New Standard of Care for Vulnerable Populations*, in POVERTY, HEALTH & L. 71, 72 (Elizabeth Tobin Tyler et al. eds., 2011))).

106. Curran, *supra* note 93, at 595.

107. Tyler, *supra* note 7, at 88; see also *id.* at 92 (“To be an effective human rights strategy, however, advocates must engage and mobilize affected individuals and communities to give voice to the indignities and rights violations that occur every day across the US and to challenge the social conditions which harm their health.”).

investment in rights-literacy programs, integration of community-based paralegals, partnership with communities in program design and development, and adoption of a rights- rather than needs-based framework. MLPs have the exciting potential to strengthen both care and advocacy, contributing to systemic change and building a more just and healthy society.