

# INTRODUCTORY REMARKS

## “INCREASING ACCESS TO HEALTH CARE: METHODS TO ADDRESS THE NATIONAL CRISIS”

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This issue of *Legislation and Public Policy* is the result of a unique collaboration between the Journal and the New York University Health Law Society. We designed this year’s symposium, “Increasing Access to Health Care: Methods to Address the National Crisis,” to raise awareness of the critical need for increased access to health care, create a dialogue between health care advocates and providers on the varied approaches to the problem, and highlight divisions and opportunities for collaboration in the legal community.

We expected that there would be differences in opinions on the most effective approaches; to our surprise, we found that two practitioners whose careers focus on increasing access to health care could be found at separate counsel tables in a courtroom, debating each other in a policy discussion, or representing opposing political candidates. It seemed that the divisions among legal activists, practitioners, and academics in the pursuit of a solution to the problems that plague the current system were not limited to outcomes, but concerned the very questions that advocates should be asking.

How should an advocate evaluate the effects and effectiveness of methods such as impact litigation, community education, regulatory control, and legislative movements on access to health care? What are the advantages, shortcomings and potential unintended consequences of each of these tactics? How can these approaches work in concert to achieve more efficient results or impede progress by working against each other? Should disparities in access to quality health care be addressed on an individual level through impact litigation or by questioning the legality of the policies that inadvertently or maliciously

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create these disparities? How do health care providers and hospitals fit into the problem or the solution?

In order to begin addressing these questions, with this symposium we assembled a diverse group of practitioners who have devoted much of their professional lives to this issue. The participants represented varied beliefs on both the causes of the health care crisis and the best methods to remedy the situation, and contributed expertise from wide-ranging backgrounds, including both the private and public interest law sectors, health care delivery, patient advocacy, policymaking, and academia.

The symposium took place at the New York University School of Law on February 3, 2004. Bruce Vladeck, Professor of Health Policy and Geriatrics at Mount Sinai School of Medicine, delivered the keynote address, "Approaching the Health Care Crisis," which provided an overview of the imminent and growing problem as well as methods to evaluate its magnitude. Dr. Vladeck served as the Administrator of the Health Care Financing Administration of the U.S. Department of Health and Human Services (now the Centers for Medicaid and Medicare) from 1993 to 1997 and was subsequently appointed to the National Bipartisan Commission on the Future of Medicare by President Clinton.

Sylvia Law, Elizabeth K. Dollard Professor of Law, Medicine, and Psychiatry at New York University School of Law, moderated the panel discussion. Five health care or health law practitioners participated in the discussion. All panelists were invited to contribute articles for this issue of *Legislation and Public Policy*.

Elisabeth Benjamin is the Director of the Health Law Unit in The Legal Aid Society's Civil Division, which helps low-income consumers obtain access to health care and benefits. She has litigated significant federal and state cases and has published extensively about access to health care. Her current work addresses the barriers that uninsured patients face when seeking medical care, specifically, hospital requirements that uninsured patients pay for services up front or the significant markup these patients are charged. She discussed The Legal Aid Society's recent report investigating the government's failure to ensure that uninsured and underinsured patients have access to state charity funds. The article she co-authored with New York University School of Law graduate Kat Gabriesheski, "The Case for Reform: How New York State's Secret Hospital Charity Care Pool Funds Fail to Help Uninsured and Underinsured New Yorkers," follows in the Symposium Articles section of this issue.

Rose Cuison Villazor served as a Staff Attorney in the Access to Health Care program at New York Lawyers for the Public Interest, Inc. This program advocates on behalf of individuals who are denied access to health care in area hospitals because of race, color, national origin, language limitations, disability, or low-income status. She suggested that litigation may not be the best way to increase access to care for these vulnerable groups and described the “community lawyering” approach through which a community defines its own health care access needs and the methods that will best address these needs, including protesting, media campaigns, or obtaining justice through the courts. Her article, “Community Lawyering: An Approach to Addressing Inequalities in Access to Health Care for Poor, Of Color and Immigrant Communities,” describes this approach in more detail.

Hal Strelnick, Professor of Family and Social Medicine at the Albert Einstein College of Medicine, is Director of Einstein’s Institute for Community & Collaborative Health, Hispanic Center of Excellence, and Bronx Center to Reduce & Eliminate Ethnic & Racial Health Disparities. As a physician, Dr. Strelnick has dedicated himself to providing community-based health services to New York City neighborhoods and was instrumental in the creation of several community health centers in the Bronx and Upper Manhattan. In his statements on the panel, he expressed concerns that federal programs define access to health care services based on population status (i.e. veterans, the mentally ill, substance abusers), not individual need, and that critical specialty services are not being provided. Immigration reform has made these issues even more complicated for immigrant populations. Because the issue of health care coverage is addressed in a piecemeal way and not as a universal right, Dr. Strelnick argued, many people are uninsured and are unable to access necessary medical services. His article in this issue explores the history and present role of community health centers.

Additional panelists included a former politician and policy analyst and a lawyer who represents businesses in the health care industry. As Lieutenant Governor of New York State from 1994 to 1998, Betsy McCaughey drafted legislation dealing with Medicaid reform, clinical trials access, hospital financing, and insurance reform. She is currently an Adjunct Senior Fellow at the Hudson Institute. As a part of the panel discussion, she posited that, due to an increasing number of medical errors, health insurance alone does not guarantee access to quality health care. Robert Belfort is a health care partner at Manatt, Phelps and Phillips, LLP and his clients include hospitals, community health centers, mental health providers, insurers, and managed care

plans. He has lectured and written extensively on managed care issues. In his comments he focused on the number of people that are eligible for but not enrolled in provider-sponsored health plans and the barriers and solutions to changing this trend.

The goal of this symposium was to highlight some of the progress, disagreements and potential for cooperation in increasing access to health care. By demonstrating a wide range of approaches to the problem, we hope to present lawyers and health care practitioners with difficult questions to consider and viewpoints that will encourage continuing dialogue and scholarship.