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MAKING MEDICAL EDUCATION (AND LEGAL EDUCATION) MORE HUMANE

Lawrence S. Weisberg, MD*

The title of this Article, suggested to me by the organizers of this symposium, implies that medical education is inhumane. As it turns out, there is abundant evidence to support that contention. The Association of American Medical Colleges administers a graduation questionnaire annually to fourth-year medical students.[1] Among its many questions is one that asks students whether they have experienced mistreatment at any time in their medical school career.[2] Roughly 40% of medical students respond positively to that question, and that proportion has remained constant for decades.[3] So, using that metric, one may logically conclude that medical education is inhumane.

"Inhumane" focuses exclusively on the learner's experience of the learning environment. I would rather widen the lens to think about the quality of the learning and working environment and its impact on the people we serve: our patients. Perhaps, then, the title of this Article should be, "Making Medical Education (and Legal Education) More Humanistic."

Humanism is a set of virtues or beliefs. These virtues or beliefs become manifest as the behaviors that comprise professionalism.[4] Cohen posits that "humanism is seen as the passion that animates professionalism" in the medical

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[1] ASSOCIATION OF AMERICAN MEDICAL COLLEGES, MEDICAL SCHOOL GRADUATION QUESTIONNAIRE 2023, ALL SCHOOLS SUMMARY REPORT (2023), https://www.aamc.org/data-reports/students-residents/report/graduation-questionnaire-gq.

[2] *Id.* at 43 tbl.19.

[3] *Id.* at 3, 45.

[4] Jordan J. Cohen, *Viewpoint: Linking Professionalism to Humanism: What It Means, Why It Matters*, 82 ACAD. MED. 1029, 1029 (2007).

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context.[5] Relevant humanistic values in this context are altruism, respect, integrity, striving for excellence and empathy. Table 1 shows a translation of these values into observable professional behaviors.[6]

The amount of attention paid to medical professionalism has soared in recent decades.[7] The curve inflects sharply upward in the mid to late 1990s, before which there was only modest interest in the topic. Two factors began to exert their influence around that time that have posed significant challenges to medical professionalism. First is the commercialization of medicine. Health care in the United States is now a $4.5 trillion enterprise.[8] This tremendous pot of money has attracted the interest of venture capitalists and large for-profit enterprises.[9] This, in turn, creates many opportunities for conflicts of interest on the part of practitioners who may have a financial stake in their "business of medicine."[10] Moreover, the commercialization of medicine sets the stage for tolerance of incompetent physicians who may be financially productive, for misaligned incentives, and for escalating costs and static quality.[11] Second, medical practice has become increasingly technical, with the advent of astoundingly powerful diagnostics and therapeutics.[12] This "technicalization" of health care tends to lead physicians to devalue, and underrepresent, traditional professional behaviors, with the presumption that the value of those behaviors pales beside the powerful tools they wield.[13] In addition, the ubiquitous availability of medical information and advice online, and the insatiable thirst for it on the part of the general public (there are

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[5] *Id.*

[6] *See* Table 1 *infra* p. 425.

[7] *See* Figure 1 *infra* p. 426.

[8] *National Health Expenditure Data*, CENTER FOR MEDICARE & MEDICAID SERVICES, https://www.cms.gov/data-research/statistics-trends-and-reports/national-health-expenditure-data/historical (last modified Sept. 6, 2023).

[9] Arnold S. Relman, *Medical Professionalism in a Commercialized Health Care Market*, 298 JAMA 2668, 2668 (2007).

[10] *Id.*

[11] *See* Catherine Lucey & Wiley Souba, *Perspective: The Problem with the Problem of Professionalism*, 85 ACAD. MED. 1018, 1019 (2010).

[12] Charles E. Rosenberg, *The Tyranny of Diagnosis: Specific Entities and Individual Experience*, 80 MILBANK Q. 237, 237, 249–50 (2002).

[13] Relman, *supra* note 9, at 2668–69.

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over 1 billion Google searches a day for health-related questions[14]) has encouraged patients to question their physicians' knowledge and judgment.[15] These influences have led to an erosion of trust in the medical profession from society and individual patients.[16] The loss of social trust leads to increased administrative scrutiny and oversight, with the attendant reduction in autonomy and self-regulation.[17] The loss of interpersonal trust has important effects on clinical outcomes, although such a relationship has been difficult to quantify.[18] No one would deny, however, that the *sine qua non* of a therapeutic relationship is the patient's trust that their physician places their health and well-being above the physician's self-interest or the interests of the physician's organization.

Reinvigorating medical professionalism—and restoring trust—in the face of these threats depends on a return to the humanistic virtues that underlie professionalism.[19] Among those, empathy stands out as the principal driver; that is if a physician has real empathy—"defined as the ability to sense, feel, and understand another's emotions"[20]—she or he will be motivated to be altruistic, to show respect, to act with integrity, and to strive for excellence. Sadly, empathy has been shown to decline over a student's course through medical school. The decline is most dramatic over the course of the third year of medical school,[21] during which students begin to have intensive patient contact as they rotate through the core clinical clerkships. This erosion of empathy in the third year may be viewed as

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[14] Margi Murphy, *Dr. Google Will See You Now: Search Giant Wants to Cash in on Your Medical Queries*, TELEGRAPH (Mar. 10, 2019, 6:01 PM), https://www.telegraph.co.uk/technology/2019/03/10/google-sifting-one-billion-health-questions-day/.

[15] *See* J. David Johnson, *Health-Related Information Seeking: Is It Worth It?*, 50 INFO. PROCESSING & MGMT. 708, 710 (2014).

[16] *See* Lucey & Souba, *supra* note 11, at 1018.

[17] *See* Hudson Birden, Nel Glass, Ian Wilson, Michelle Harrison, Tim Usherwood & Duncan Nass, *Defining Professionalism in Medical Education: A Systematic Review*, 36 MED. TCHR. 47, 57 (2014).

[18] Johanna Birkhäuer, Jens Gaab, Joe Kossowsky, Sebastian Hasler, Peter Krummenacher, Christop Werner & Heike Gerger, *Trust in the Health Care Professional and Health Outcome: A Meta-Analysis*, PLOS ONE, Feb. 7, 2017, at 1, 9.

[19] *See* Table 1 *infra* p. 425.

[20] Sundip Patel, Alexis Pelletier-Bui, Stephanie Smith, Michael B. Roberts, Hope Kilgannon, Stephen Trzeciak & Brian W. Roberts, *Curricula for Empathy and Compassion Training in Medical Education: A Systematic Review*, PLOS ONE, Aug. 22, 2019, at 1, 2.

[21] Mohammadreza Hojat, Michael J. Vergare, Kaye Maxwell, George Brainard, Steven K. Herrine, Gerald A Isenberg, Jon Veloski & Joseph Gonnella, *The Devil Is in the Third Year: A Longitudinal Study of Erosion of Empathy in Medical School*, 84 ACAD. MED. 1182, 1186 (2009).

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paradoxical: As students intensify their contact with patients, their empathy declines. Elements of the student experience in the third year, however, seem to conspire to erode empathy. For example, in the third year, medical students are abruptly faced with the death and suffering of patients. If students have no mechanism through which to process these experiences, they can lead to depersonalization and callousness.[22] In addition, reports of student mistreatment by superiors or mentors are most prevalent in the third year.[23] Mistreatment leads to student distress, which has been associated with the erosion of empathy.[24] Third-year students are generally more socially isolated, spending less time with family and friends, and this has been associated with a decline in empathy.[25] Other factors associated with the decline in empathy in the third year include the heavy workload, long hours, and the short length of patients' hospital stay, all of which obstruct the formation of authentic therapeutic relationships.[26] Finally, the powerful influence of the "hidden curriculum"—the norms and values transmitted by role models and the organizational culture that are contrary to the explicit curriculum—can engender cynicism and cripple professional development.[27]

How can we prevent the erosion of empathy in our students and trainees? First is to heed the words of William Osler, revered as the quintessential physician-educator in the early twentieth century. He is often quoted as saying, "The good physician treats the disease; the great physician treats the patient who has the disease."[28] Put another way, we cannot hope to provide optimal care for our patients and to take advantage of the formidable therapeutic power of empathy and compassion, if we do not know our patients as individuals. To that end, we have implemented a variety of curricular innovations in our medical school.

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[22] *See* Colin P. West & Tait D. Shanafelt, *The Influence of Personal and Environmental Factors on Professionalism in Medical Education*, 7 BMC MED. EDUC. 1, 6 (2007).

[23] Joyce M. Fried, Michelle Vermillion, Neil H. Parker & Sebastian Uijtdehaage, *Eradicating Medical Student Mistreatment: A Longitudinal Study of One Institution's Efforts*, 87 ACAD. MED. 1191, 1196 (2012).

[24] Melanie Neumann, Friedrich Edelhäuser, Dietard Tauschel, Martin R. Fischer, Markus Wirtz, Christiane Woopen, Aviad Haramati & Christian Scheffer, *Empathy Decline and Its Reasons: A Systematic Review of Studies with Medical Students and Residents*, 86 ACAD. MED. 996, 998 (2011).

[25] *Id.*

[26] *Id.*

[27] West & Shanafelt, *supra* note 22, at 5.

[28] *Sir William Osler and Internal Medicine*, AM. COLL. OF PHYSICIANS, https://www.acponline.org/about-acp/about-internal-medicine/sir-william-osler-and-internal-medicine (last visited Jan. 8, 2024).

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In the first two years of medical school, during which students traditionally spend most of their time in the classroom, we have introduced early clinical experiences. Starting early in the first year and extending through the third year, all our students participate in the *Ambulatory Clerkship* course, in which they provide primary care for patients from the community, all of whom are uninsured and many of whom are undocumented immigrants. Their care is supervised by faculty physicians, who help the students navigate the patients' complex social drivers of health. Also in the first two years, our students learn advanced, relationship-based communication skills as part of the *Foundations of Medical Practice* course. Training in such skills has been shown to be effective at cultivating empathy and communicating compassion.[29] In addition, our students are required to devote forty hours per year to community service learning in areas outside of medical practice. Apart from providing needed assistance to local community service organizations, the service-learning time helps our students come to know the population and the people for whom they provide care. Finally, in the first two years of school, our students are required to enroll in two *Selectives in the Medical Humanities* courses to foster their development as empathetic practitioners. Selective courses include *Applied Medical Ethics, Narrative Medicine, Audio Storytelling, The Art of Observation, Racism in Medicine*, among many others.

In the crucial third year of medical school, in which students rotate among the core clinical clerkships, all our students enroll in the *Becoming a Doctor, Staying Human* course. Through facilitated discussions in small groups, this course provides students with a safe space to reflect on their powerful experiences with patients and team members. Such reflective practice has been shown to preserve empathy among third-year medical students.[30]

Finally, our school embarked on a mission to end mistreatment in the learning and working environment by convening a task force. The task force, composed of students, faculty, nurses, and administrators, first created a consensus list of behaviors that constitute mistreatment, with input from the entire community. They disseminated that list of "never behaviors" to the entire school and health care community, along with a "tip sheet" for all learning teams, focusing on guidance for creating a culture of psychological safety. To create such a culture requires that we recognize that the work we do caring for patients is extremely complex, that the

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[29] Patel et al., *supra* note 20.

[30] Alexandra Imperato & Lisa Strano-Paul, *Impact of Reflection on Empathy and Emotional Intelligence in Third-Year Medical Students*, 45 ACAD. PSYCHIATRY 350, 352 (2021).

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stakes are very high, and that we will make mistakes. With that in mind, we encourage anyone on the care team to feel empowered to ask questions about anything of anyone at any time, without fear of embarrassment or retribution.

As an outsider, I am acutely aware of my risk of sounding naïve and presumptuous to propose ways to make legal education more humanistic. Nonetheless, I will try to respond to the task set for me by the organizers of this symposium. My comments will be very general, of course. I propose that for legal education to become more humanistic, it should do what we in medical education are trying to do: preserve or enhance the students' empathy with the people they serve. That requires that students know their clients as people. To that end, they might participate in community-based, service-learning activities. They should work in law clinics, learning particularly about the social drivers of the legal problems that face their clients, and learning to tell their clients' stories. And finally, they should center their work on the human consequences of the actions they take.

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Table 1.

Humanistic value	**Professional behavior**
Altruism	• Put patients' interests above your own • Treat all patients, regardless of ability to pay
Respect	• Embody cultural humility • Treat others as you would want to be treated
Integrity	• Be honest • Be reliable • Act ethically • Be trustworthy • Be accountable for yourself and others
Striving for excellence	• Learn continuously • Reflect on your practice • Foster a culture of safety • Foster a culture of excellence
Empathy	• Be compassionate

Figure 1. Number of publications related to "medical professionalism" per year, indexed by the National Library of Medicine, accessed through PubMed April 1, 2023.[31]

[31] The data in this graph was retrieved by going to PubMed's website (https://pubmed.ncbi.nlm.nih.gov/) and searching the term "medical professionalism." A CSV file indexing the results of the search by year of publication was then downloaded and used to make this Figure.

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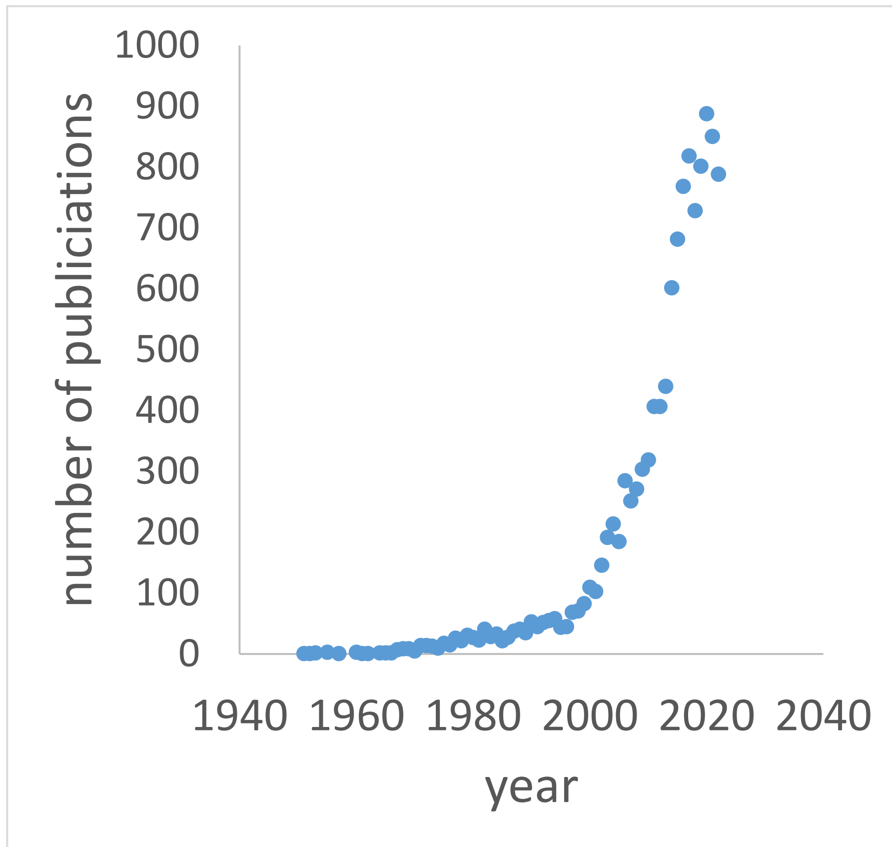

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