

2016

The Helping Profession : Can Pro Bono Lawyers Make Sick Children Well?

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Recommended Citation

Sossin, Lorne. "The Helping Profession : Can Pro Bono Lawyers Make Sick Children Well?" In *In search of the ethical lawyer : stories from the Canadian legal profession*. Dodek, Adam, and Alice Wooley, eds. (Vancouver: University of British Columbia Press, 2016): 150-163. Print.

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Osgoode Legal Studies Research Paper No. 31
Vol. 13/ Issue. 7/ (2017)

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In Search of the Ethical Lawyer: Stories from the Canadian Legal Profession, UBC Press,
2015.

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Abstract:

Can *pro bono* lawyers make sick children well? Surprisingly, the answer might be yes. Or at least *pro bono* lawyers can improve patients' experiences and health outcomes for families caught up in the hospital system. There is an oft-repeated (perhaps apocryphal) story told of a child in Boston taken to the hospital for a respiratory disorder. After checking the chart, the doctor realized that he had treated the same child for the same illness twice before. After interviewing the child's distraught mother, the doctor realized that the heat in their apartment was routinely shut off by the landlord for non-payment of rent. "I can treat his lungs," the doctor said, "but this child needs a good lawyer to make him well."

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The Helping Profession

Can *Pro Bono* Lawyers Make Sick Children Well?

LORNE SOSSIN

Can *pro bono* lawyers make sick children well? Surprisingly, the answer might be yes. Or at least *pro bono* lawyers can improve patients' experiences and health outcomes for families caught up in the hospital system. There is an oft-repeated (perhaps apocryphal) story told of a child in Boston taken to the hospital for a respiratory disorder. After checking the chart, the doctor realized that he had treated the same child for the same illness twice before. After interviewing the child's distraught mother, the doctor realized that the heat in their apartment was routinely shut off by the landlord for non-payment of rent. "I can treat his lungs," the doctor said, "but this child needs a good lawyer to make him well."

Such stories led to a pioneering initiative in Boston to locate legal clinics in hospitals.¹ Word of this experiment reached Pro Bono Law Ontario (PBLO), an organization active in referring hospital cases to lawyers willing to take on *pro bono* cases. The benefits of coordinating such cases through a hospital-based *pro bono* clinic were clear, and the Family Legal Health Program, renamed PBLO at SickKids, was born. The press release accompanying the launch of the program in 2009 featured this perspective from the Director of Social Work at the hospital:

Every day at SickKids, we see children who are affected by the social determinants of health, which are defined as the conditions in which people live and work that impact their health and well-being ... Being able to offer

onsite legal guidance to families who might not otherwise have access to lawyers will play a significant role in improving the health and well-being of these children and their families.²

Are lawyers working with PBLO at SickKids any different from lawyers working with paying clients with health-care or hospital administration disputes? Again, surprisingly, the answer might be yes. Below I explore this claim and its implications for legal ethics and professionalism.

What Is *Pro Bono*, and Why Is It Different?

Pro bono publico literally means “for the public good.” The Canadian Bar Association, in adopting its 1998 resolution Promoting a *Pro Bono* Culture in the Legal Profession, defined lawyers as engaging in *pro bono* practice when they

voluntarily contribute part of their time without charge or at substantially reduced rates, to establish or preserve the rights of disadvantaged individuals; and to provide legal services to assist organizations who represent the interests of, or who work on behalf of, members of the community of limited means or other public interest organizations, or for the improvement of laws or the legal system.³

For my analysis, I use the term simply to refer to legal services provided without expectation of compensation or personal gain. This should not suggest, however, that all *pro bono* practice serves the public interest or is focused on social justice.⁴ As Deborah Rhode began her memorable inquiry into the principles and practice of *pro bono*,

The American bar’s commitment to provide legal service “*pro bono publico*” expresses what is most and least admirable in our profession. Over the course of their careers, many members of the bar contribute hundreds of unpaid hours to causes that would otherwise be priced out of the justice system. Some lawyers also give significant financial support to legal assistance for the poor. Yet the majority do not. Most lawyers make no contributions, and the average for the bar as a whole is less than half an hour a week and fifty cents a day. Moreover, much of what passes for “*pro bono*” is not aid to the indigent or public interest causes, but favors for friends, family, or clients, or cases where fees turn out to be uncollectible. The bar’s *pro bono* commitments are, in short, a reflection of both the profession’s highest ideals and its most grating hypocrisies.⁵

Although we are not always sure what *pro bono* practice is, nonetheless there has been a robust debate over whether it should be seen as an ethical requirement of legal professionalism. The rationale for this link between *pro bono* practice and legal professionalism has a clear point of departure. Since lawyers typically enjoy a monopoly on the delivery of many legal services, and since this creates an artificially high market value for these services, which in turn precludes large swaths of the public from accessing those services, do lawyers have a moral duty to address this gap? In other words, *pro bono* is the *quid pro quo* for lawyers' wealth and privilege.⁶

More recently, the debate has shifted to whether *pro bono* service should be a mandatory requirement for law students and/or lawyers.⁷ *Pro bono* in this context lies at the intersection of two unsettled questions: the scope of legal ethics and professionalism, on the one hand, and the solution for improving access to otherwise unaffordable legal services, on the other. In other words, though few believe that the provision of *pro bono* services is a bad thing, the jury is still out on whether it should be a requirement for every lawyer and even more so on whether it is a solution to the dilemma of access to justice.

In May 2012, New York became the first state in the United States to require those wishing to become lawyers to engage in *pro bono* practice. As one observer noted,

The legal profession faces a number of unprecedented challenges. They include an awful employment market, students graduating with sky high debt, competition from overseas, and lawsuits against law schools for fraudulently reporting employment data. Everybody who cares about the legal profession needs to be rethinking legal education and the delivery of legal services in light of these challenges. Given this state of affairs, I was somewhat surprised that Chief Judge Jonathan Lippman's May announcement that New York would become the first state to require bar applicants to perform *pro bono* service in order to gain admission received so much attention.⁸

While the debate over *pro bono* as a policy matter rages on, rarely do we hear about the realities of *pro bono* practice.⁹ What are the unique challenges to legal professionalism to which *pro bono* practice gives rise? This chapter seeks to fill this lacuna. My focus is on the particular and compelling ethical issues that arise distinctly, if not uniquely, in the context of *pro bono*

practice. Although one could examine ethical issues in *pro bono* practice across an array of settings (housing, immigration, etc.), I focus on the health setting, in which client problems are particularly compelling and access to legal services, for the most part, is out of reach to those who need it most. The insights from one *pro bono* setting might not all be applicable to others, but I believe that most will be and as a whole are sufficiently distinct from legal practice that is not *pro bono* so as to raise different but important ethical challenges.

PBLO at SickKids

One of the most innovative *pro bono* initiatives in Canada is PBLO at SickKids, launched at the Hospital for Sick Children (SickKids) in Toronto in 2009. Its mission is to provide legal services free of charge for patients and families referred by clinical staff (particularly social workers) in addition to engaging in other forms of informal dispute resolution and systemic advocacy in collaboration with doctors, lawyers, and other health professionals. This program has expanded to the Children's Hospital of Eastern Ontario, London Children's Hospital, and Holland Bloorview Kids Rehab Hospital, and it is poised to expand to several other hospitals in Ontario (and elsewhere in Canada).¹⁰

The program focuses on legal assistance that can have impacts on a child's health or a family's capacity to care for a sick child. The program involves training doctors, nurses, and social workers to identify cases that might require legal intervention; referring families to a lawyer whose office is at the hospital; offering legal information to families who need it; and providing access to legal services (sometimes through the lawyer at SickKids, sometimes through referral to a network of participating *pro bono* lawyers, in addition to a range of other legal services in the community). The lawyer at SickKids is also available to meet with families in the office or, if necessary, at the child's bedside, enabling parents to focus on their child. Cases dealt with to date have included housing, immigration, employment, special education, social benefits, and taxation, just to scratch the surface.

The Desbiens family has been featured in a number of discussions about the merits of the program and represents the kind of compelling legal need to which the program responds.¹¹ Charolette, the daughter of Cindy and Jeff Desbiens, was born with a rare form of congenital heart disease. She spent the first four and a half months of her life at SickKids with her parents by her side. When Cindy and Jeff tried to claim a tax credit for the more than

\$12,000 in expenses incurred while travelling to and from their home in Waterloo during their daughter's stay at SickKids, the Canada Revenue Agency (CRA) denied their claim. They were told that the claim would be accepted only if Cindy or Jeff were travelling to receive treatment themselves. Since this was not the case, they were simply considered "visitors" and thus ineligible for the credit. "We needed to be by our daughter's side," Cindy told the CRA. "She was a newborn. She needed her parents' help to recover. How could they say we were just visiting?"¹²

The Desbiens family attempted to appeal the CRA's decision. A referral from their SickKids social worker to Pro Bono Law Ontario connected them with *pro bono* tax lawyers from McMillan LLP, one of the partner law firms of the program. With the assistance of counsel Michael Friedman, Ryan Morris, and Michael Templeton, who filed a Notice of Appeal in the Tax Court of Canada, they were able to resolve the issue and get reimbursed for their expenses. They continue to work with the lawyers to effect change in the current tax laws to help prevent other families from having to face the same challenges. "You never expect your children to be sick and when that happens, it has a huge impact on your family. This program reduced a lot of stress for our family. It means a lot to us," Cindy stated in an endorsement of the program.¹³

Although some of the *pro bono* work is meant to solve problems faced by families of sick children, other legal issues have impacts on children directly, such as the young boy told that he could not attend school because he was on oxygen or the young girl excluded from school because of recurring seizures.¹⁴ In both cases, lawyers negotiated with the schools to ensure that both young people could continue to be educated with their peers rather than being isolated at home. Other clients present PBLO at SickKids with more complex and therefore time-consuming problems. For example, a *pro bono* lawyer successfully appealed the denial of health insurance coverage for a child referred to a hospital in the United States for life-saving treatment.¹⁵ Particularly challenging are cases in which sick children belong to families that have been or are in the process of spousal disputes.¹⁶

What kinds of lawyers seek out *pro bono* services in this type of setting? Torkin Manes LLP lawyers Duncan Embury and Lisa Corrente are good examples. Both have taken on a range of Family Legal Health Program matters. The lawyer at SickKids can call on outside law firms for matters beyond quick advice or filling out forms. Torkin Manes indicates that more than a dozen of its lawyers have been involved with PBLO at SickKids, tackling the following range of cases:

- Obtaining continuation of long-term disability benefits for the mother of a severely ill child, allowing the mother to remain at her daughter's bedside
- Persuading an employer to change its workplace practices by which a child's illness was being exacerbated through airborne pollutants brought home on her father's clothing
- Assisting a mother in obtaining death benefits following the tragic death of her daughter
- Advising a disabled employee (who continues to receive treatment as an adult patient) on improvements to be made in her workplace so that she may continue to perform her job
- Representing a family dealing with living conditions that are adversely affecting their ill child.¹⁷

Typical of lawyers engaged in *pro bono* practice, the program partner lawyers at McMillan, Torkin Manes, and Bellissimo Law Group also manage busy practices of paying clients. In other words, they are not *pro bono* lawyers, but lawyers who happen to take on the occasional *pro bono* case.

The *pro bono* files, however, take on special significance for many of these lawyers. This might be because there is a particular quality and “pay-back” to volunteer work or because such files can enable a lawyer to mix the delivery of legal services with systemic change and law reform. Lisa Corrente, a partner in the Torkin Manes Labour Relations and Employment Group, for example, reported that her work on the program's Systemic Issues Working Group is particularly rewarding: “Helping health practitioners identify legal problems and advocate for legal change in fields that affect family health – where else would you be able to do that?”¹⁸

Systemic advocacy is the third part of the program, in addition to education of staff to spot legal issues and direct legal representation of families. The on-site lawyer is in a unique position to identify broader legal issues that can have impacts on the patient population. As part of the program, lawyers working with social workers, doctors, and nurses can identify and provide expertise on issues that affect children's health. This has resulted in advocacy with governments at all levels, test cases challenging the constitutionality of laws, and submissions on proposed legislation that will have impacts on the health and welfare of children. As evidence of the unique collaboration, a social worker and a lawyer made joint oral submissions to the Ontario legislature on the gaps in protection of and services for the most vulnerable, young people with complex medical issues, who lack the capacity to speak in their own best interests.¹⁹

Pro Bono Legal Ethics

Pro bono representation raises a host of distinct issues for legal ethics and professionalism. Using PBLO at SickKids as a case in point, I discuss three of these issues below.

Gatekeeping Ethics

When a lawyer charges for services or earns a salary to perform a set range of roles, gatekeeping is a relatively straightforward affair. When you pay for a lawyer's services, there is a legal ethics infrastructure that governs when and in what circumstances the lawyer will or will not act on your instructions. When a lawyer offers services without an expectation of being paid, however, the ethical canons governing when and in what circumstances a lawyer can or should take a case are less clear.

Under the "cab rank rule,"²⁰ a lawyer is supposed to take the next client in line regardless of how notorious the alleged wrongdoing or how odious the client. The rule underscores the difference between the role of counsel to advocate zealously on behalf of a client and other players in the legal system (*e.g.*, judges and juries) who pass judgment. There is an important exception to the cab rank rule, however, for clients who cannot pay. It is not unethical for a lawyer to refuse to represent a client who is unwilling or unable to pay for his or her services (though it becomes more complicated if the lawyer signed on when the client could pay and wants to abandon the case when the client no longer can pay).

In *pro bono* cases, the systemic logic of the cab rank rule is no longer available. Rather than asserting the right not to be turned away by a lawyer, a potential client must have a matter deemed by the lawyer worth taking on. Whereas a lawyer might be reconciled to representing people or institutions whether or not they seem to be worthwhile because she is getting paid (recognizing that, without such cases, the rent would go unpaid and payroll could not be met), the lawyer engaged in *pro bono* work makes a different calculus: is this matter worth the effort? This kind of gatekeeping creates new ethical dilemmas for *pro bono* counsel. Lee Ann Chapman, the PBLO lead at SickKids, describes the hardest moments for her when she has to say no to a family in need because there is no reasonable chance of a successful legal outcome.²¹ Particularly challenging are immigration cases in which families face deportation. Although the program now has the expert assistance of Bellissimo Law Group, an immigration law firm, such cases lay bare the limitations both of law itself and of a way of meeting legal needs premised on finding the right lawyer to take on a case without charge.

Even in potentially promising cases, it is important to “manage the expectations” of clients. Referrals from PBLO at SickKids tend to be for consultations only. The firms then determine their own retainers and often impose limits on them. So, while in paid work clients might assume that as long as they pay the fees the lawyer will keep going and exhaust all possible legal avenues, the same is rarely the case in the context of *pro bono* work. Each step in a case is subject to the *pro bono* lawyer (and of course the client) being willing to take it to the next level.

Advocacy within and outside Boundaries

We tend to think of legal problems in a bubble. To most lawyers, legal problems are self-contained. They have a beginning, a middle, and an end. In reality, however, people do not tend to have “legal” problems. Rather, they just have problems. A relationship breaks down. A child is in trouble. A person loses his or her house or job, or a debt goes unpaid. It is the law itself that turns these personal problems into legal problems. Family law regulates how income is divided and children’s needs are addressed when a relationship breaks down, provides recourse for people who have lost their homes or jobs, and dictates what happens after a debt goes unpaid. Just as laws define the scope of legal problems, so too can legal professionalism demarcate the scope of problem solving in which lawyers can engage.

Pro bono legal services can free lawyers to go beyond the silo of legal solutions to legal problems. At PBLO at SickKids, for example, lawyers work with doctors, social workers, hospital administrators, and a range of government officials to solve problems. Lee Ann Chapman, the staff lawyer for the program at SickKids when it was launched, viewed this “relationship building” among hospital staff as critical to success of the program.²² This relationship can also, in turn, change a lawyer’s understanding of the scope of a “legal” problem. For example, because of family status issues, some children at SickKids faced barriers in attempting to access the Make-A-Wish program, which grants seriously ill children the chance to fulfill a wished-for experience (e.g., going to Disneyworld or meeting a sports idol). Outside the SickKids context, it is unlikely that this would be seen as a legal problem to which a lawyer’s advocacy is the solution. Through the PBLO at SickKids lens, however, it falls within the spectrum of dilemmas that can improve health outcomes, for which doctors, social workers, and other health professionals lack the skills to resolve on their own.

Similarly, in the context of the Desbiens family, the legal solution was not simply to ensure that the family had its tax credit but also to ensure that the

CRA changed its policy with respect to “visitors” when the family of a sick child is involved. In such cases, *pro bono* lawyers can more easily pursue systemic solutions.

The ethics of a lawyer’s actions in the context of PBLO at SickKids might relate as much to particular health outcomes as to particular legal outcomes. *Pro bono* practice, in other words, often involves pushing past the boundaries of a lawyer’s role and in this sense adds a fluidity and variability to legal professionalism often missing from the realm of paid work.

Pro Bono Work and the “Good Lawyer”

Just as PBLO at SickKids can expand the scope of advocacy, so too can it have a similar effect on legal professionalism. The act of volunteering or “donating” one’s time is arguably an ethical act in the way that exchanging one’s time for pay is not. *Pro bono* lawyering is encouraged by every branch of the legal community, from the judiciary to the Canadian Bar Association, from the law societies to the law schools. There is also a plausible argument that *pro bono* lawyers cannot act unethically. That is, even if a *pro bono* lawyer violates a well-accepted ethical rule – acting in a conflict of interest,²³ for example – there is the sense that what would otherwise be viewed as unethical is not when the lawyer is pursuing an altruistic goal. For example, a lawyer who contravenes a rule of professional conduct to increase fees might well be viewed differently than a lawyer who contravenes the same rule in a *pro bono* context in order to help a vulnerable client. This ambivalence toward legal ethics in the context of *pro bono* work stems from the fact that we associate unethical conduct with self-dealing or gaining an improper advantage. In addition, many ethical rules arise only in the context of paid work (e.g., rules related to financial disputes between lawyers and clients over billing practices). Put simply, does *pro bono* practice give lawyers a “get out of jail free” card that might make an otherwise unethical act acceptable (or at least mitigate any consequences for the lawyer)?

In several jurisdictions, the *Rules of Professional Conduct* themselves have been adjusted to reflect the fact that *pro bono* practice is “different.” In Ontario, for example, conflict of interest rules for “unbundled” legal services are less strict where the limited retainer is part of a *pro bono* initiative. The “commentary” to this rule provides that

Short term limited legal service programs are usually offered in circumstances in which it may be difficult to systematically screen for conflicts of

interest in a timely way, despite the best efforts and existing practices and procedures of Pro Bono Law Ontario (PBLO) and the lawyers and law firms who provide these services. Performing a full conflicts screening in circumstances in which the pro bono services described in subrule (15) are being offered can be very challenging given the timelines, volume and logistics of the setting in which the services are provided. The time required to screen for conflicts may mean that qualifying individuals for whom these brief legal services are available are denied access to legal assistance.

Subrules (15) to (19) apply in circumstances in which the limited nature of the legal services being provided by a lawyer significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm. Accordingly, the lawyer is disqualified from acting for a client receiving short-term limited legal services only if the lawyer has actual knowledge of a conflict of interest between the pro bono client and an existing or former client of the lawyer, the lawyer's firm or PBLO. For example, a conflict of interest of which the lawyer has no actual knowledge but which is imputed to the lawyer because of the lawyer's membership in or association or employment with a firm would not preclude the lawyer from representing the client seeking short-term limited legal services. The lawyer's knowledge would be based on the lawyer's reasonable recollection and information provided by the client in the ordinary course of the consultation and in the client's application to PBLO for legal assistance.²⁴

This approach to the *Rules of Professional Conduct* alleviates lawyers from taking on clients for *pro bono* work with PBLO at SickKids, where, for example, a client's dispute is with a large health insurance company that the lawyer's firm, in separate retainers, might represent. That said, conflicts of interest continue to be barriers to *pro bono* representation, particularly in settings (as is often the case with PBLO at SickKids) in which the lawyer must provide more than just summary advice.

Although a *pro bono* lawyer will be subject to somewhat different rules than other lawyers, the basis for this differentiation merits closer scrutiny. A number of behavioural theories reject the notion of pure altruism as a motivating factor in voluntary activities such as *pro bono* lawyering. A range of self-interested motivations might enter the calculations of a lawyer who agrees to provide services without charge – from feeling good about oneself to stature in the community to gaining valuable experience and profile to more situational benefits (e.g., helping out a friend or colleague). The very

premise of *pro bono* practice, as noted above, contemplates that personal gain should not enter into the equation. As PBLO at SickKids demonstrates, however, the dividing lines are not always so clear.

The law firm of Torkin Manes, for example, derives no revenue or personal gain for its lawyers when they take on *pro bono* cases from the program. The firm as a whole, however, can enjoy a range of tangible benefits from its involvement in the program. Its website markets the program as a way to enhance the goodwill of the firm to clients to generate new business and enhance existing business and to recruit students. The firm goes on to highlight that two of its lawyers have received a Lexpert Zenith Pro Bono Award for their work at SickKids.²⁵

Pro bono representation can generate value for a lawyer or firm in more concrete ways than just goodwill and positive profile. *Pro bono* representation can be used by lawyers or law firms, for example, to enhance the training of lawyers (based on the problematic belief that “less” might be at stake when a client is not paying). Typically (though the practice varies), lawyers who engage in *pro bono* practice can “count” the hours spent toward their billable hour totals. Paul Schabas (the lead partner for *pro bono* activities at the law firm of Blake, Cassels and Graydon LLP) has described this practice as “a way of putting your money where your mouth is.”²⁶ Although this signals to the lawyer that the work matters, at some point it ceases to represent work undertaken without expectation of compensation.

An interesting question has also arisen with respect to *pro bono* representation and costs. If a case is taken on *pro bono*, but with the expectation that a victory might bring a costs award, is it truly *pro bono* (i.e., work done for the public good without compensation)? If so, how does this differ from contingency fee arrangements (i.e., a lawyer who expects to be compensated if successful but willing to bear the financial risk of an unsuccessful outcome)? One key difference is the *expectation* of compensation. The *pro bono* lawyer does not expect to be paid a fee but might receive costs if successful and if the court awards costs. The lawyer who undertakes representation on a contingency basis, in contrast, does expect to receive compensation at the conclusion of a case if the client is successful and enters into a formal agreement with the client setting out this contingent entitlement to compensation.

The Ontario Court of Appeal addressed this issue in the 2006 *Cavalieri* case,²⁷ a corporate matter involving a default judgment that the successful party’s lawyer had taken on *pro bono*. Neither the Ontario *Rules of Civil Procedure* nor the *Courts of Justice Act*, two authorities governing the

awarding of costs in civil matters in Ontario, address the *pro bono* issue. In its decision, the Court of Appeal accepted that costs should be available at least in some circumstances for parties represented by *pro bono* counsel and adopted “access to justice” as a newly recognized cost criterion in Ontario. To do otherwise, it was argued, would be to place significant disincentives for lawyers who take on cases on this basis (particularly lawyers who practise on their own or in small firms).

Although the Court concluded that it was appropriate for lawyers to have incentives to undertake *pro bono* cases, should they forfeit the benefits of taking on a *pro bono* matter as an ethical matter, where they might stand to profit at the end of the day after all? Perhaps the ethical lens of *pro bono* work should not be that of the virtue of the lawyer but the needs of the client. To the child and her or his family at SickKids, does it matter whether the lawyer at Torkin Manes includes the hours spent on their legal matter as part of his or her billable hours? Either way the needs of clients are being met at no cost to them. From this lens, however, the distinction between *pro bono* and contingency fee representation (or, for that matter, representing a party that qualifies for a legal aid certificate) appears to be less clear.²⁸ In other words, how and why a lawyer takes on a case at no charge to the client matters (at least to the model of legal professionalism being pursued). The ethics of *pro bono* practice, in this sense, must be attentive both to the lawyer’s perspective and to the client’s perspective.

Conclusion

Although lawyers are encouraged to undertake *pro bono* work for mostly good reasons, the implications for legal ethics and professionalism are less clear. Deborah Rhode once referred to a “trickle up” effect of *pro bono* work.²⁹ PBLO at SickKids certainly has witnessed some trickling up. The program, as noted above, is expanding to additional hospitals in Toronto, Ottawa, and London, with more lawyers and firms signing on. Although *pro bono* legal service might not be the answer (or the *only* answer) to access to justice, its success leads to important questions for legal ethics and professionalism. When fees and charges are removed from the equation, how is serving a client’s needs (or solving a client’s problem) viewed differently? As PBLO at SickKids vividly demonstrates, many lawyers have a deeply rooted desire to help others that their “day job” might not satisfy.

As former Chief Justice Roy McMurtry said at the founding of Pro Bono Law Ontario (and on many other occasions), law is a “helping profession.”³⁰ *Pro bono* representation of the kind featured in PBLO at SickKids allows this

aspect of legal professionalism to be given fuller expression. This does not mean that *pro bono* practice does not have its share of ethical challenges and dilemmas. And many of them remain to be fully worked out. Even with its complications, however, the *pro bono* story might well be the one that most captivates the imagination of the public. If lawyers can help to heal sick children, and act in the interests of vulnerable groups without expectation of personal benefit, then there might be hope yet for the legal profession.

Notes

I am grateful to Lee Ann Chapman for sharing some of her experiences with PBLO at SickKids that inform and enrich this chapter. All errors and omissions are my own.

- 1 Erik Eckholm, "When Doctor's Visit Leads to Legal Help" *New York Times* (March 23, 2010), referring to Barry Zuckerman, Chief of Pediatrics at Boston Medical Center, as pioneering this model in the early 1990s, online: *New York Times*, http://www.nytimes.com/glogin?URI=http%3A%2F%2Fwww.nytimes.com%2F2010%2F03%2F24%2Fus%2F24legal.html%3F_r%3D1.
- 2 "SickKids and Pro Bono Law Ontario Launch Canada's First Program to Prescribe Legal Remedies in a Hospital Setting" (November 10, 2009), online: SickKids, http://www.sickkids.ca/AboutSickKids/Newsroom/Past-News/2009/Family_Legal_Health_Program%20.html.
- 3 CBA Resolution 98-01-A. See Standing Committee on Pro Bono, online: CBA, <http://www.cba.org/CBA/groups/probono/>.
- 4 I have explored this question in earlier work, including, for example, L. Sossin, "Professionalism and Pro Bono" in K. Tranter, ed., *Re-Affirming Legal Ethics* (London: Routledge-Cavendish, 2009); and L. Sossin, "The Public Interest, Professionalism, and Pro Bono Publico" (2008) 46 *Osgoode Hall Law Journal* 131. See also Rob Atkinson, "A Social-Democratic Critique of Pro Bono Publico Representation of the Poor: The Good as the Enemy of the Best" (2001) 9 *Journal of Gender, Social Policy, and the Law* 129, online: <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1386&context=jgspl>; and Justice J.C. Major, "Lawyer's Obligation to Provide Legal Services" (1995) 33 *Alberta Law Review* 719.
- 5 Deborah Rhode, "Pro Bono in Principle and Practice" (2003) *Stanford Public Law and Legal Theory Research Series*, Research Paper No. 66 at 1.
- 6 See the discussion in Alice Woolley, "Access to Justice" in Alice Woolley *et al.*, eds., *Lawyers' Ethics and Professional Regulation*, 2d ed. (Toronto: LexisNexis, 2012) at Chapter 12.
- 7 See Robert Granfield and Lynn Mather, eds., *Private Lawyers and the Public Interest: The Evolving Role of Pro Bono in the Legal Profession* (New York: Oxford University Press, 2009).
- 8 B. Cooper, "Mandatory Pro Bono for New York Bar Applicants: Why Not?" (2012), online: American Bar Association, http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/tpl_21_3_20121105.authcheckdam.pdf.
- 9 See Granfield and Mather, *supra* note 7.

- 10 Christopher Guly, "A Legal Prescription for Families with Sick Kids: Pro Bono Law Ontario Program Expands to Ottawa Region" *Lawyers Weekly* (March 28, 2014) 22; P. Small, "Lawyers Donate Expertise to Sick Kids Families" *Toronto Star* (January 8, 2012), online: Toronto Star, http://www.thestar.com/news/gta/2012/01/08/lawyers_donate_expertise_to_sick_kids_families.html.
- 11 *Supra* note 2.
- 12 *Ibid.*
- 13 *Ibid.*
- 14 Interview with Lee Ann Chapman, December 2013.
- 15 *Ibid.*
- 16 *Ibid.*
- 17 Torkin Manes listed these aspects of its work with PBLO as it shared in a Zenith Leadership Award in 2010 for its participation in the Family Legal Health Program See <http://www.newswire.ca/fr/story/630399/innovative-family-legal-health-program-wins-award>.
- 18 *Ibid.*
- 19 *Supra* note <2 or 14?>.
- 20 See Gavin MacKenzie, *Lawyers and Ethics: Professional Responsibility and Discipline* (Toronto: Carswell, 1998) at 4-4.
- 21 Interview with Lee Ann Chapman, December 2013.
- 22 *Ibid.*
- 23 See 3.4-1 of the Law Society of Upper Canada *Rules of Professional Conduct*.
- 24 Law Society of Upper Canada, *Rules of Professional Conduct*, Rules 2.04(15)–(19).
- 25 See online: Torkin Manes, <http://www.torkinmanes.com/about-us/community-involvement>.
- 26 Law Society of British Columbia, "The Future of Pro Bono in Canadian Law Firms" (2004) *Bencher Bulletin* No. 3, online: Law Society of British Columbia, <http://www.lawsociety.bc.ca/page.cfm?cid=1450>.
- 27 *1465778 Ontario Inc. v. 1122077 Ontario Ltd.* (2006), 82 O.R. (3d) 757 (C.A.).
- 28 Law Society of Upper Canada, "Contingency Fees," online: Law Society of Upper Canada, <http://www.lsuc.on.ca/ContingencyFees/>.
- 29 Deborah L. Rhode, "Legal Education: Professional Interests and Public Values" (2000) 34 *Indiana Law Review* 23 at 43.
- 30 R. Roy McMurtry, "The Legal Profession and Public Service" (2004) (remarks to the Third Colloquium of the Chief Justice Advisory Committee on Professionalism), online: Law Society of Upper Canada, http://www.lsuc.on.ca/media/third_colloquium_mcmurtry.pdf at 3.