

2016

## Upstream Advocacy: Addressing Cancer Survivors' Employment Problems Through Medical-Legal Partnerships

Barbara Hoffman

Follow this and additional works at: <https://digitalcommons.law.uw.edu/wlro>



Part of the [Labor and Employment Law Commons](#)

---

### Recommended Citation

Hoffman, Barbara (2016) "Upstream Advocacy: Addressing Cancer Survivors' Employment Problems Through Medical-Legal Partnerships," *Washington Law Review Online*: Vol. 91 , Article 1.

Available at: <https://digitalcommons.law.uw.edu/wlro/vol91/iss1/1>

This Response is brought to you for free and open access by the Law Reviews and Journals at UW Law Digital Commons. It has been accepted for inclusion in Washington Law Review Online by an authorized editor of UW Law Digital Commons. For more information, please contact [cnyberg@uw.edu](mailto:cnyberg@uw.edu).

# UPSTREAM ADVOCACY: ADDRESSING CANCER SURVIVORS' EMPLOYMENT PROBLEMS THROUGH MEDICAL-LEGAL PARTNERSHIPS

Barbara Hoffman\*

## INTRODUCTION

As cancer survival rates rise and quality of life outcomes are factored into cancer care, more cancer survivors are participating in the workforce.<sup>1</sup> Most cancer survivors want to continue working during their treatment; many whose cancer restricts their ability to work want to return to work as soon as possible.<sup>2</sup> They are motivated not only by the need to earn income, but also by a desire to preserve self-esteem, to maintain a routine, and to be productive.<sup>3</sup>

Hodges identifies one of the non-medical consequences of cancer survivors living more productively during cancer treatment, living longer after cancer treatment, and living with cancer as a chronic illness: employment problems that implicate legal issues.<sup>4</sup> As she points out, the reasons for and the nature of cancer survivors' employment problems have been the subject of an increasing number of studies that focus on the impact of cancer on quality of life.<sup>5</sup> Hodges also correctly recognizes that the employment problems faced by cancer survivors are experienced

---

\* Barbara Hoffman is a member of the Rutgers Law School faculty. She is a co-founder of the National Cancer Legal Services Network and of the National Coalition for Cancer Survivorship.

1. See Catherine M. Alfano & Julia H. Rowland, *Recovery Issues in Cancer Survivorship: A New Challenge for Supportive Care*, 12 *CANCER J.* 432, 436 (2006).

2. See Press Release, Cancer & Careers, Newly Released Survey Reveals the Majority of Cancer Patients and Survivors Want to Continue Working, but Need a Little Help Doing So (March 5, 2013) [hereinafter *Cancer Patients Survey*], <http://www.cancerandcareers.org/en/2012-survey/2012-survey-press-release> [<https://perma.cc/JX8Q-S724>].

3. See *id.*

4. Ann C. Hodges, *Working with Cancer: How the Law Can Help Survivors Maintain Employment*, 90 *WASH. L. REV.* 1039, 1041–42.

5. See, e.g., Michael Feuerstein et al., *Work in Cancer Survivors: A Model for Practice and Research*, 4 *J. CANCER SURVIVORSHIP* 415 (2010).

by millions of working-age adults who have other chronic diseases.<sup>6</sup> Thus, the legal remedies she proposes are appropriate for a significant population.<sup>7</sup>

The employment problems of cancer survivors, including those who require legal intervention, are felt most acutely by underserved communities.<sup>8</sup> As Hodges notes, cancer's impact on the ability to work is more negative in African American, Latino, and other minority communities.<sup>9</sup> Survivors who work in blue collar jobs experience more significant employment problems, likely in part to the physical demands of the job, limited education, or hourly—instead of salaried—wages.<sup>10</sup> They are less likely to have sufficient paid medical leave, savings, or retirement income to sustain them through periods of unemployment resulting from cancer treatment.<sup>11</sup> Although researchers concede that most studies of cancer survivors' work experiences disproportionately represent Caucasian populations,<sup>12</sup> the employment consequences of cancer, and thus the related legal needs, are most acute in underserved minority, poor, and rural communities.

To address these issues, Hodges proposes legislative solutions: expanding paid medical leave and amending Equal Employment Opportunities Commission regulations to aid employees who need accommodations.<sup>13</sup> Yet, as Hodges suggests, legislative advocacy has a limited impact;<sup>14</sup> these proposed legislative changes are only one tool in what must be a diverse toolkit.

This Article reviews the cultural changes that affect cancer survivors at work and proposes that medical-legal partnerships—which provide integrated healthcare and legal services in medical settings—are an ideal model to provide legal resources to underserved survivors to help them

---

6. See Hodges, *supra* note 4, at 1042.

7. *Id.*

8. See Randye Retkin et al., *Cancer Patients, Survivors and Their Families*, in POVERTY, HEALTH AND LAW: READINGS AND CASES FOR MEDICAL-LEGAL PARTNERSHIP 395, 397 (Elizabeth Tobin Tyler et al. eds., 2013) [hereinafter Retkin et al., *Survivors and Their Families*].

9. Hodges, *supra* note 4, at 1052.

10. *Id.* at 1052–55, 1062–63.

11. See generally Retkin et al., *Survivors and Their Families*, *supra* note 8, at 397.

12. Michael C. Moskowitz et al., *Function and Friction at Work: A Multi-dimensional Analysis of Work Outcomes in Cancer Survivors*, 8 J. CANCER SURVIVORSHIP 173, 173–82 (2014); see also MARIA HEWITT ET AL., INSTITUTE OF MEDICINE, FROM CANCER PATIENT TO CANCER SURVIVOR: LOST IN TRANSITION 434 (2006) [hereinafter IOM REPORT] (discussing the state of survivorship research and a call for expanding future research).

13. Hodges, *supra* note 4, at 1096–1102.

14. *Id.* at 1102, 1104–05.

avoid and address negative employment consequences of cancer.

## I. CULTURAL TRANSFORMATIONS IN CANCER SURVIVORSHIP

The cultural transformation in how we perceive cancer survivors began with Fitzhugh Mullan's groundbreaking essay, *Seasons of Survival*,<sup>15</sup> which described life after a cancer diagnosis as a multi-staged continuum. To channel the interest created by his article, Dr. Mullan co-founded the National Coalition for Cancer Survivorship (NCCS) in 1986 to advocate for cancer survivors' medical and non-medical needs.<sup>16</sup> NCCS promoted the destigmatization of cancer—which began with the public breast cancer experiences of Betty Ford, Happy Rockefeller, and Betty Rollin—by changing the public lexicon from cancer *patient* and *victim* to cancer *survivor*.<sup>17</sup>

The cultural transformation continued with the publication of *A Cancer Survivors Bill of Rights*, authored in 1988 by health writer Natalie Davis Spingarn.<sup>18</sup> Researchers began to study and analyze the psychosocial consequences of cancer, such as the impact of cancer on employment.<sup>19</sup> Leaders in the survivorship community argued that “[i]n cancer survivorship, advocacy is a continuum” that is most effective with a three-pronged approach: personal advocacy, advocacy for others, and public interest advocacy.<sup>20</sup> A report released by the National Cancer Institute in 1994 recognized the “growth of a consumer movement to

---

15. Fitzhugh Mullan, *Seasons of Survival: Reflections of a Physician with Cancer*, 313 NEW ENG. J. MED. 270 (1985); IOM REPORT, *supra* note 12, at 28; Hodges, *supra* note 4, at 1047, n.44.

16. IOM REPORT, *supra* note 12, at 27–28; NAT'L COALITION FOR CANCER SURVIVORSHIP, [www.canceradvocacy.org](http://www.canceradvocacy.org) [perma.cc/D96B-N62R] (last visited Jan. 16, 2016). The Coalition advocates for quality cancer care for all individuals touched by cancer.

17. See IOM REPORT, *supra* note 12, at 29.

18. Elizabeth J. Clark & Ellen L. Stovall, *Advocacy: The Cornerstone of Cancer Survivorship*, 4 CANCER PRACTICE 239, 240 (1996).

19. See, e.g., Retkin et al., *Survivors and Their Families*, *supra* note 8, at 399; Deborah Welch-McCaffrey et al., *Surviving Adult Cancers. Part 2: Psychosocial Implications*, 111 ANNALS INTERNAL MED. 517 (1989); Cathy J. Bradley & Heather L. Bednarek, *Employment Patterns of Long-Term Cancer Survivors*, 11 PYSCHO-ONCOLOGY 188 (2002); Evalien R. Spelten et al., *Factors Reported to Influence the Return to Work of Cancer Survivors: A Literature Review*, 11 PYSCHO-ONCOLOGY 124 (2002); John F. Steiner et al., *Assessing the Impact of Cancer on Work Outcomes: What Are the Research Needs?*, 101 CANCER 1703 (2004); Deborah S. Main et al., *A Qualitative Study of Work and Work Return in Cancer Survivors*, 14 PYSCHO-ONCOLOGY 992 (2005); Miao Yu et al., *Employment Experience of Cancer Survivors 2 Years Post-Diagnosis, in the Study of Cancer Survivors*, J. CANCER SURVIVORSHIP 210 (2012); Anja Mehnert et al., *Employment Challenges for Cancer Survivors*, 119 CANCER 2151 (2013).

20. Clark & Stovall, *supra* note 18, at 242.

‘advocate for research, healthcare, and social reform on behalf of cancer survivors.’”<sup>21</sup> The National Cancer Institute responded to the concerns addressed by these advocates and researchers by creating the Office of Cancer Survivorship in 1996.<sup>22</sup> As a result of this consumer health movement, cancer survivorship advocates:

- (1) contributed to the passage of the Americans with Disabilities Act and Family and Medical Leave Act;
- (2) advised federal courts and the Equal Employment Opportunity Commission in how these laws should govern cancer-related employment discrimination;
- (3) expanded education of providers, survivors, and employers about survivors’ rights and needs in the workplace;<sup>23</sup> and
- (4) encouraged inclusion of interdisciplinary teams in the delivery of cancer care to address the medical and psychosocial concerns of survivors.<sup>24</sup>

One result of this advocacy was increased attention to the psychosocial needs of cancer survivors, including legal and employment issues. The Institute of Medicine recommended that “[e]mployers, legal advocates, health care providers, sponsors of support services, and government agencies . . . act to eliminate discrimination and minimize adverse effects of cancer on employment, while supporting cancer survivors with short-term and long-term limitations in ability to work.”<sup>25</sup> Accordingly, researchers began to study the psychosocial impact of cancer and advocates sought effective solutions.

---

21. Clark & Stovall, *supra* note 18, at 240 (quoting National Cancer Institute, *Measures of Progress Against Cancer*, in 2 CANCER CONTROL: SIGNIFICANT ACCOMPLISHMENTS, 1982–1992 (National Institute of Health 1994)).

22. See IOM REPORT, *supra* note 12, at 29.

23. This education has, in turn, empowered survivors, who were once passive patients, to advocate for their medical, financial, and employment needs. See Barbara Hoffman & Ellen Stovall, *Survivorship Perspectives and Advocacy*, 24 J. CLINICAL ONCOLOGY 5154, 5156 (2006); see also, IOM REPORT, *supra* note 12, at 10 (recommending that providers “should become familiar with the employment rights that apply to survivors who want to work; make available information about employment rights and programs; and routinely ask patients who are cancer survivors if they have physical or mental health problems that are affecting their work”).

24. See Hoffman & Stovall, *supra* note 23, at 5156 (noting that “[t]he relationship between providers of oncology care and their patients is in transition” because quality of life issues are now recognized as “an important factor in cancer treatment”).

25. IOM REPORT, *supra* note 12, at 10.

## II. THE LEGAL NEEDS OF CANCER SURVIVORS AFFECT QUALITY OF LIFE OUTCOMES.

The non-medical consequences of a cancer diagnosis include financial and emotional distress. Cancer costs billions of dollars to society in general;<sup>26</sup> it can devastate an individual's finances. Working-age cancer survivors, whose treatment costs are typically not covered by Medicare,<sup>27</sup> are hampered with unreimbursed direct and indirect costs of treatment.<sup>27</sup> Financial distress is then exacerbated by income losses attributed to work interruptions. "Psychosocial distress"<sup>28</sup> is also common among cancer survivors. They experience distress from the disease itself and from its impact on their personal and professional lives.<sup>29</sup>

A study conducted by the Livestrong Foundation in 2005 identified survivors' frustration with the lack of responsiveness from the medical community to their holistic cancer-related needs.<sup>30</sup> Of those surveyed, almost 50% "said that nonmedical issues relating to their cancer were unmet by their oncologists, including 35% who said nonmedical issues were wholly unaddressed and another 14% who said they believed their oncologists wanted to assist with nonmedical issues but did not have enough information or experience to do so."<sup>31</sup> A subsequent study of fifty patients at the Roswell Park Cancer Institute similarly found that patients reported that employment problems had a significant impact on the quality of their lives.<sup>32</sup>

---

26. As Hodges notes, cancer treatment—and the resulting lost productivity—costs hundreds of billions of dollars a year. Hodges, *supra* note 4, at 1047.

27. K. Robin Yabroff et al., *Economic Burden of Cancer in the United States: Estimates, Projections, and Future Research*, 20 *CANCER, EPIDEMIOLOGY, BIOMARKERS & PREVENTION* 2006, 2007–08 (2011).

Direct medical costs are those that are associated with services that patients receive, including hospitalizations, surgery, physician visits, radiation therapy, and chemotherapy/immunotherapy, and are typically measured by insurance payments and patient out-of-pocket copayments and deductibles. . . . Indirect costs of cancer are the monetary losses associated with time spent receiving medical care, time lost from work or other usual activities (morbidity costs), and lost productivity due to premature death (mortality costs).

*Id.*

28. "Psychosocial distress" is a "multi-factorial unpleasant emotional experience of a psychological (cognitive, behavioral, emotional), social, and/or spiritual nature that may interfere with the ability to cope effectively with cancer, its physical symptoms, and its treatment." IOM REPORT, *supra* note 12, at 70.

29. *Id.*

30. Stewart B. Fleishman et al., *The Attorney as the Newest Member of the Cancer Treatment Team*, 24 *J. CLINICAL ONCOLOGY* 2123 (2006).

31. *Id.* at 2123.

32. Michael A. Zevon et al., *Medically Related Legal Needs and Quality of Life in Cancer Care: A Structural Analysis*, 109 *CANCER* 2600, 2604 (2007). The authors acknowledged that the

To no surprise, these studies suggested that providing survivors with resources to address their nonmedical needs would reduce their frustrations. Participants in the Livestrong Foundation study reported that the receipt of legal services improved quality of life: seventy-five percent reported reduced stress, fifty percent reported a positive effect on family members, forty-five percent reported a positive effect on their financial situation, thirty percent reported enhanced treatment compliance, and twenty-five percent reported improvement in keeping medical appointments.<sup>33</sup>

Although research has focused on the medical and quality of life consequences of cancer—including employment—little research has been devoted to the legal needs of survivors. Moreover, most of that research involves the legal issues of end-of-life care and not the legal issues faced by survivors who are healthy enough to work.<sup>34</sup> Since approximately two-thirds of all adults diagnosed with cancer will survive at least five years,<sup>35</sup> far more attention must be devoted to measuring the legal needs related to cancer survivors' rights to fair treatment at work.<sup>36</sup>

Hodges outlines the types of employment problems encountered by survivors: reduced income, loss of medical insurance, decreased self-esteem, lost promotional opportunities, and limited work-related social interactions<sup>37</sup> These issues can arise from the day of diagnosis through the end of an individual's career. When survivors are initially diagnosed, they often need time off for doctors' appointments and testing. Once they begin treatment, they may need a flexible work schedule or extended leave to accommodate surgery, radiation, or chemotherapy

---

relatively small sample may have affected the relative importance of self-reported employment issues.

33. Fleishman et al., *supra* note 30, at 2124.

34. *See* Zevon et al., *supra* note 32, at 2600–01.

35. The five-year relative survival rate for all cancers diagnosed between 2004 and 2010 was sixty-eight percent. AM. CANCER SOC'Y, CANCER FACTS AND FIGURES 2015, at 18 (2015), <http://www.cancer.org/acs/groups/content/@editorial/documents/document/acspc-044552.pdf> [<https://perma.cc/Y4EA-TF4Y>].

36. *See* Feuerstein et al., *supra* note 5, at 434–35; *see also* Randy Retkin et al., *Legal Services: A Necessary Component of Patient Navigation*, 29 SEMINARS ONCOLOGY NURSING 149, 150 (2013) [hereinafter Retkin et al., *Legal Services*]. Hodges identifies studies in which cancer survivors report employment problems that implicate legal responses. *See* Hodges, *supra* note 4. A cancer experience also implicates other legal issues in addition to employment and end-of-life-issues. These issues—such as financial planning, insurance claims, child custody, veteran's issues, and the rights of family members and caregivers—are beyond the scope of this article. *See* Zevon et al., *supra* note 32, at 2601–02 for a discussion of the legal needs of cancer survivors.

37. Hodges, *supra* note 4, at 1047–50.

treatments. During and immediately after treatment, they may require workplace accommodations to address the physical or mental health effects of treatment. And because cancer and its treatment can result in long-term and late effects that compromise physical and mental skills, some survivors need long-term or permanent accommodations.

In addition to these adults, survivors of pediatric cancers experience long-term and late effects of treatment that negatively impact their employment.<sup>38</sup> For example, pediatric survivors may need reasonable accommodations to address treatment-related cognitive limitations. Because pediatric survivors are often offered more comprehensive long-term follow-up care than adult survivors,<sup>39</sup> they may need workplace accommodations for time-consuming medical appointments. Moreover, survivors who were diagnosed as young adults may face delays in beginning a career,<sup>40</sup> and they often face employment discrimination when seeking a first job.<sup>41</sup>

Thus, cancer can impact survivors' employment experiences throughout their careers. A cancer experience can affect a survivor's ability to obtain an initial job, maintain employment, make career advancements, and change jobs. At each of these stages, legal resources could help survivors address cancer-related employment obstacles.

### III. MEDICAL-LEGAL PARTNERSHIPS ARE AN IDEAL MODEL TO PROVIDE LEGAL SERVICES TO CANCER SURVIVORS

Hodges thoroughly identifies the law-related employment needs of cancer survivors. The legislative solution she proposes would provide an important, though indirect, response. Federal laws such as the Americans with Disabilities Act,<sup>42</sup> Family and Medical Leave Act,<sup>43</sup> Genetic Information Nondiscrimination Act,<sup>44</sup> and Affordable Care Act<sup>45</sup>—as

---

38. See Barbara Hoffman, *Legal Issues*, in SURVIVORS OF CHILDHOOD AND ADOLESCENT CANCER: A MULTIDISCIPLINARY APPROACH 385, 385–99 (Cindy L. Schwartz et al. eds., 2015).

39. See Kevin C. Oeffinger & Debra A. Eshelman, *Transition Issues*, in SURVIVORS OF CHILDHOOD AND ADOLESCENT CANCER: A MULTIDISCIPLINARY APPROACH, *supra* note 38, at 333, 333–44.

40. David Freyer et al., *Survivorship Transitions following Childhood and Adolescent Cancer*, in SURVIVORS OF CHILDHOOD AND ADOLESCENT CANCER: A MULTIDISCIPLINARY APPROACH, *supra* note 38, at 413, 417–18.

41. See Hoffman, *supra* note 38, at 386–87.

42. 42 U.S.C. §§ 12101–12213 (2012).

43. 29 U.S.C. §§ 2601–2654 (2012).

44. Genetic Information Nondiscrimination Act of 2008, Pub. L. No. 110-233, 122 Stat. 881, (codified in scattered sections of 26 U.S.C., 29 U.S.C., & 42 U.S.C.).

45. Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010),

well as state laws that are modeled on federal law—have created a sea change in survivors’ rights. They have decreased instances of discrimination and provided remedies for survivors who face discrimination.<sup>46</sup> But the mere existence of civil rights laws is inadequate. In the midst of a cancer experience, working-aged adults—especially those in underserved communities—require a direct, immediate solution to the negative employment consequences of their cancer. They need skilled and educated professionals who not only understand the socioeconomic impact of their diagnoses, but who can address those issues quickly and effectively. As Cokie Roberts affirmed, “advocacy is everything.”<sup>47</sup>

Medical-legal partnerships are an ideal vehicle to deliver legal services to cancer survivors with limited resources. Based on models that provide legal services to vulnerable adult patients with HIV/AIDS, Boston Medical Center developed the first formal medical-legal partnership.<sup>48</sup> The Boston Medical Center program served as a model for scores of medical-legal partnerships nationwide<sup>49</sup> and led to the formation of a national advocacy organization—the National Center for Medical-Legal Partnership—in 2009.<sup>50</sup> Although many of the initial medical-legal partnerships were in pediatric settings, they assisted families coping with cancer because parents of pediatric cancer patients face problems at work associated with absences to care for their children. These adults may be entitled to medical leave under the Family

---

*amended by Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029.*

46. See Barbara Hoffman, *The Law of Intended Consequences: Did the Americans with Disabilities Act Amendments Act Make it Easier for Cancer Survivors to Prove Disability Status?*, 68 N.Y.U ANN. SURV. AM. L., 843, 850 (2013).

47. Hoffman & Stovall, *supra* note 23, at 5154 (citing Videotape: Rays of Hope (National Coalition for Cancer Survivorship 2006)).

48. See Lynn Hallarman & Denise Snow, *The Medical-Legal Partnership: An Alliance Between Doctors and Lawyers in the Care of Patient-Clients with Advanced Life-Limiting Illness*, 17 HEALTH L.J. 44, 44 (2012).

49. As of July 25, 2015, medical-legal partnerships were operating in 276 institutions in thirty-six states. See NAT’L CTR. FOR MEDICAL-LEGAL PARTNERSHIP (NCMLP), <http://medical-legalpartnership.org/> [https://perma.cc/6PL6-874N] (last visited Jan. 15, 2016). NCMLP

convenes national partners and local practitioners in the health care, public health and legal fields to: 1) Transform the focus of health care and legal practice from people to populations; 2) Build and inform the evidence base to support the medical-legal partnership approach. . . and 3) Redefine interprofessional education with an emphasis on training health care, public health and legal professionals together.

*The National Center*, NAT’L CTR. FOR MEDICAL-LEGAL PARTNERSHIP, <http://medical-legalpartnership.org/national-center/> [https://perma.cc/4PP5-67JW] (last visited January 15, 2016).

50. See Hallarman & Snow, *supra* note 48, at 44.

and Medical Leave Act<sup>51</sup> and to freedom from discrimination under the Americans with Disabilities Act.<sup>52</sup>

The purpose of medical-legal partnerships is to efficiently integrate medical and legal services into one location.<sup>53</sup> They manage the inefficiencies of professional services delivery by: (1) reducing “the barriers to legal services for the underserved”; (2) screening patient populations “for legal problems and offer[ing] legal assistance, so that potential symptomatic problems can be identified before they become life-threatening medical crises”; (3) measurably improving quality of life; and (4) expanding “access to justice for patient-families.”<sup>54</sup>

A. *Medical-Legal Partnerships Benefit Survivors, Their Families, and Their Healthcare Providers*

The employment consequences of a cancer diagnosis are not resolved the moment an employee concludes cancer treatment.<sup>55</sup> Because the secondary and late effects of cancer can impact a survivor’s ability to work years or decades after the completion of initial treatment, the medical centers where survivors receive follow-up care are ideal locations for medical-legal partnerships to continue to address the work-related and other long-term psychosocial consequences of cancer.

1. *Legal Needs of Cancer Survivors Are Best Provided in an Integrated Setting*

The most effective responses to cancer-related employment problems

---

51. The FMLA gives employees time off to care for family members with a serious illness such as cancer. 29 U.S.C. § 2612(a)(1)(C) (2012).

52. The ADA is unique among employment discrimination laws in that it protects not only the employee who has a disability, but also the employee who faces discrimination “because of the known disability of an individual with whom the qualified individual is known to have a relationship or association.” 42 U.S.C. § 12112(b)(4). “Although an employer does not have to accommodate an employee because of her association with a disabled person, the employer cannot terminate the employee for unfounded assumptions about the need to care for a disabled person.” *Magnus v. St. Mark United Methodist Church*, 688 F.3d 331, 337 (7th Cir. 2012) (citing *Erdman v. Nationwide Ins. Co.*, 582 F.3d 500, 511 (3d Cir. 2009)).

53. See Monica Carmean, *Medical-Legal Partnerships: Unmet Potential for Legislative Advocacy*, 19 GEO. J. ON POVERTY L. & POL’Y 499, 500 (2012).

54. *Id.* at 505–08.

55. “Indeed, survivors are telling us that being disease-free does not mean being free of the disease—or as one survivor said, ‘it ain’t over when it’s over.’” Catherine M. Alfano & Julia H. Rowland, *Recovery Issues in Cancer Survivorship: A New Challenge for Supportive Care*, 12 CANCER J. 432, 432 (2006).

are provided by multi-disciplinary teams “upstream”<sup>56</sup> to prevent work and legal crises. As Randye Retkin, a pioneer of cancer-related legal services, and her colleagues have advocated:

The rationale for public health legal services is simple: that health is substantially rooted in “upstream” social factors, such as housing, access to food and fuel, and availability of benefits . . . .

. . . .

. . . . Front-line healthcare providers are uniquely situated to triage and screen for social determinants of health that are particularly responsive to preventive legal interventions. In doing so, providers and lawyers not only stave off circumstances that contribute to more serious health issues or exacerbate existing disease, but can even move yet farther “upstream” to address care and benefits systems that improve health even more effectively.<sup>57</sup>

The burden that patients experience in seeking legal resources in the midst of a medical crisis can be eased when relevant, affordable legal resources are available in a medical setting. Lower-income cancer survivors struggle to meet their basic financial needs; they are not likely to consider or be able to seek legal services to address those needs.

The experience of early medical-legal partnerships confirmed that locating legal services “within ambulatory cancer centers offers the best chance of integration and collaboration between the two disciplines.”<sup>58</sup> These partnerships can improve treatment outcomes by helping members of the oncology team assist patients with their “unmet nonmedical needs that indirectly impact adherence to treatment,”<sup>59</sup> as well as other quality-of-life consequences.

Moreover, physicians alone cannot provide the advocacy essential to a cancer survivor’s quality of life. “[M]ultidisciplinary teams have been the hallmark of comprehensive quality cancer care.”<sup>60</sup> Similarly, they

56. Upstream advocacy in healthcare directs resources to “interventions that address social and behavioral determinants of health.” Elizabeth Tyler et al., *Medical-Legal Partnership in Medical Education: Pathways and Opportunities*, 35 J. LEGAL MED. 149, 167 (2014); see also Daniel Atkins et al., *Medical-Legal Partnership and Healthy Start: Integrating Civil Legal Aid Services into Public Health Advocacy*, 35 J. LEGAL MED. 195, 201 (2014) (discussing the benefits of moving legal resources “upstream” through medical-legal partnerships).

57. David I. Schulman et al., *Public Health Legal Services: A New Vision*, 15 GEO. J. ON POVERTY L. & POL’Y 729, 778–79 (2008).

58. Fleishman et al., *supra* note 30, at 2123–24.

59. *Id.*

60. Pamela Haylock & Cynthia Cantril, *Introduction*, 29 SEMINARS ONCOLOGY NURSING 71, 71

should be the hallmark of providing comprehensive resources to address the medical and non-medical impact of cancer.

To no one's surprise, patients link their cancer-related legal concerns with their cancer treatment, which in turn affects perceived quality of life.<sup>61</sup> As Zevon noted: "The integration of even minimal legal resources into cancer care can be expected to help limit fragmentation of care and the resulting forced transitions among multiple providers, factors identified as significant problems in delivering high-quality medical care."<sup>62</sup> The trend in cancer care, once provided by an isolated oncologist, is now moving toward coordinated care by a multidisciplinary healthcare team.<sup>63</sup>

This multidisciplinary health care team should include not only physicians, nurses, social workers, and mental health counselors, but attorneys as well.<sup>64</sup> Yet, the integration of legal resources into a medical setting requires a careful balance:

With the advent of multidisciplinary care, the input of interested attorneys benefits patients and their families, oncology professionals, and the offices and cancer centers where the professionals practice. Other barriers to proactive attorney involvement include the prioritization of the tasks of treatment over personal issues until they impede care, a lack of immediate and easy access to legal counsel, and a lack of knowledge based within the cancer treatment team, delaying intervention until it is too late.<sup>65</sup>

Legal problems, like cancer itself, are often best resolved with early detection and immediate advocacy. Recognizing the need for legal intervention and accessing legal services, however, requires a patient to expend scarce time, energy, and financial resources. Cancer patients are often overwhelmed with the medical and psychosocial consequences of managing their disease and treatment. Hospitalized patients, in particular, face acute law-related problems such as the consequences of their inability to attend work.<sup>66</sup> Members of their healthcare team are often the first to recognize the impact of employment problems on their patients' mental and physical wellbeing. They see first-hand how their

---

(2013).

61. See Zevon, et al., *supra* note 32, at 2605.

62. *Id.*

63. See Hoffman & Stovall, *supra* note 23, at 5156–58.

64. Fleishman et al., *supra* note 30, at 2123.

65. *Id.*

66. See Hallarman & Snow, *supra* note 48, at 44.

patients' employment problems can affect their mental and physical health.<sup>67</sup>

Thus, oncologists, oncology nurses, and oncology social workers are in ideal positions to connect patients with legal resources.<sup>68</sup> Beginning as early as when taking medical history at initial appointments and continuing throughout treatment,<sup>69</sup> medical providers "routinely access data that screen for legal issues (although they may not realize it)."<sup>70</sup> With appropriate training, hospital staff—as upstream providers—can link their patients with legal resources.

Retkin identified four ways medical-legal partnerships can address the work-related legal needs of cancer survivors:

1. Partnerships can provide survivors documentation of their cancer diagnosis, treatment summary, and "whether, in the provider's professional medical opinion, the patient is able to carry out the duties of his or her job."<sup>71</sup> The ADA prohibits discrimination against "qualified individual[s]," defined as those who "can perform the essential functions of the employment position that such individual holds or desires."<sup>72</sup> Employers are less likely to discriminate if they believe that an applicant or employee can perform the essential functions of the job. A physician can dispel negative assumptions about cancer by explaining the applicant's or employee's abilities. Although an employer is the authority on what the essential functions of a job are, the healthcare provider is the authority on each individual patient's abilities and limitations.

2. Partnerships can support their patients' requests for reasonable accommodations.<sup>73</sup> Some patients may be unaware of their right to seek an accommodation. Others may be unable to effectively propose accommodations "that will not interfere with (and which, in some cases, may be anticipated to improve) the worker's productivity without posing an undue burden on the employer."<sup>74</sup> The ADA permits an employer to

---

67. Randy Retkin et al., *Lawyers and Doctors Working Together—A Formidable Team*, 20 HEALTH L., Oct. 2007, at 33, 34 [hereinafter Retkin et al., *A Formidable Team*].

68. See Fleishman et al., *supra* note 30, at 2124.

69. Hallarman & Snow, *supra* note 48, at 45 ("Screening for health-related legal problems or potential problems should be part of all comprehensive patient care. Physicians are especially well positioned to identify legal issues that can directly impact patients/families.")

70. Fleishman et al., *supra* note 30, at 2124.

71. Retkin et al., *Survivors and Their Families*, *supra* note 8, at 415.

72. 42 U.S.C. § 12111(8) (2012).

73. See Retkin et al., *Survivors and Their Families*, *supra* note 8, at 415.

74. *Id.*

ask an applicant or employee for evidence to support his or her request for a reasonable accommodation.<sup>75</sup> A physician's letter could explain the patient's physical or mental limitations in sufficient detail to allow the employer to craft the appropriate accommodation.

3. A partnership can provide "an assessment for an individual cancer patient."<sup>76</sup> Because a healthcare provider knows each patient's prognosis, treatment plan, and response to that treatment plan, the healthcare provider can provide a clinically-supported assessment of the patient's ability to work and need for accommodations. For example, a patient who experiences fatigue—a common side effect of cancer treatment—may need several daily rest breaks. A physician could help the patient monitor how many and what length breaks are needed to address the fatigue without disrupting the patient's ability to perform the job's essential functions. An attorney could negotiate with the employer to ensure the patient receives the rest breaks recommended by his physician.

4. A partnership can provide medical information to support a patient's request for leave under the FMLA.<sup>77</sup> The FMLA allows an employer to require certification by the employee's health care provider that the leave request is medically justified.<sup>78</sup> The employer can request details about the employee's diagnosis and treatment relevant to his need for leave.<sup>79</sup> The healthcare provider is best situated to estimate how

---

75. 29 C.F.R. § 1630.2(o)(3) (2015). The ADA requires the employer and employee to engage in "an informal, interactive process . . . [to] identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations." *Id.* EEOC Interpretive Guidance to the ADA provides: "When the need for an accommodation is not obvious, an employer, before providing a reasonable accommodation, may require that the individual with a disability provide documentation of the need for accommodation." *Id.* § 1630.9 app.

76. Retkin et al., *Survivors and Their Families*, *supra* note 8, at 415.

77. *Id.*

78. 29 U.S.C § 2613(a) (2012).

79. The employer can request:

- (1) the date on which the serious health condition commenced;
- (2) the probable duration of the condition;
- (3) the appropriate medical facts within the knowledge of the health care provider regarding the condition; . . .
- (4)(B) . . . a statement that the employee is unable to perform the functions of the position of the employee;
- (5) in the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;
- (6) in the case of certification for intermittent leave, or leave on a reduced leave schedule, . . . a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule.

*Id.* § 2613(b)(1)–(6).

much leave the patient may need based on the patient's prognosis, treatment, and job responsibilities.

By providing legal services to cancer survivors to address employment-related problems, medical-legal partnerships help address social disparities that are exacerbated by a cancer diagnosis,<sup>80</sup> including employment disruptions. Legal intervention can help alleviate the stress of the psychosocial consequences of cancer, and thus help improve medical outcomes.<sup>81</sup> By providing legal services in the healthcare setting, survivors can immediately access answers to their legal questions and potential advocacy and representation.<sup>82</sup> Moreover, medical-legal partnerships have enhanced interdisciplinary training and services by reducing traditional barriers between medical and legal communities.<sup>83</sup> Because medical-legal partnerships take a holistic approach to patient/client care, assisting survivors with one type of problem often improves outcomes with other issues. For example:

- A survivor who receives transportation assistance may be better able to attend work and medical appointments.
- A survivor who receives medical leave may be better able to attend medical appointments.
- A survivor who receives a physical reasonable accommodation, such as being exempt from lifting heavy objects, may heal more quickly from treatment.
- A survivor who has assistance with addressing discrimination in a job application may be better able to pay for medical care.

## 2. *Healthcare Providers Benefit from Medical-Legal Partnerships*

In a famous *New Yorker* cartoon entitled *Hippocrates off the Record*, cartoonist Lee Lorenz features the father of modern medicine lecturing to medical students, "First, treat no lawyers."<sup>84</sup> Medical malpractice lawsuits and a dearth of interdisciplinary training can exacerbate inter-professional antagonism.<sup>85</sup> Although popular culture often portrays

---

80. See Retkin et al., *Legal Services*, *supra* note 36, at 151.

81. *Id.*

82. *Id.* at 152.

83. See Retkin et al., *A Formidable Team*, *supra* note 67, at 34.

84. Lee Lorenz, *Hippocrates off the Record*, *NEW YORKER*, Mar. 7, 2005, at 53.

85. Retkin et al., *A Formidable Team*, *supra* note 67, at 33. Retkin notes: "Attorneys generally work to safeguard their clients' autonomy and liberty. Doctors seek to protect and care for the health of their patients. While often interrelated, in reality these may be conflicting goals." *Id.*

attorneys and physicians as adversaries,<sup>86</sup> the relationship between legal and medical communities is improving as multidisciplinary teams become the standard of oncology care.

Their partnership can result in considerable time and financial savings to healthcare providers.<sup>87</sup> Patients who are compromised by legal problems, including employment issues, may be less able to follow treatment protocols, including keeping appointments for treatment and follow-up care.<sup>88</sup> Survivors may consider their providers in a new light, not only as individuals who treat a disease, but also as individuals who care for a whole person. As medical centers increasingly compete for new patients, the availability of multi-disciplinary services in one setting can become attractive marketing tools.

Moreover, medical-legal partnerships can be more directly financially rewarding for healthcare providers where attorneys secure insurance and entitlement benefits to pay for patient care.<sup>89</sup> Healthcare providers who have a team of legal resources on site can easily refer their patients without having to devote their own time to addressing the non-medical complexities of cancer care.<sup>90</sup> Because patients with access to on-site legal resources have improved medical outcomes, providers can benefit from reduced demands on healthcare resources.<sup>91</sup>

---

86. See Carmean, *supra* note 53, at 502–04.

87. The experiences of physicians who team with attorneys help dispel the myth that attorneys and physicians are natural adversaries. For example, Dr. Steward Fleishman, a medical oncologist in New York City, comments:

As a result of our partnership with the attorneys, our medical professionals are better able to identify the legal needs of their patients and make convenient referrals to the legal clinic attorneys on site. Many of the obstacles that patients face in adhering to treatment have been overcome with the assistance of the dedicated attorneys who are familiar with the wide range of legal problems that can beset vulnerable cancer patients and complicate their care and recovery.

Retkin et al., *Survivors and Their Families*, *supra* note 8, at 430.

88. Fleishman et al., *supra* note 30, at 2125.

Such interruptions in treatment can reduce its effectiveness because both chemotherapy and radiation therapy rely on optimal treatment administered sequentially over time. . . . Patients' legal difficulties lead to missed appointments and treatment interruptions that can be costly when chemotherapy or radiation therapy need to be administered or when a patient does not show for a prescheduled surgical procedure.

*Id.*

89. See Kerry J. Rodabaugh et al., *A Medical-Legal Partnership as a Component of a Palliative Care Model*, 13 J. PALLIATIVE MED. 15, 16 (2010); Fleishman et al., *supra* note 30, at 2126; Atkins et al., *supra* note 56, at 207.

90. See 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, 185 (2014).

91. *Id.* at 185.

*B. Models of Integrating Legal Services into Cancer Care*

Integrated legal services models have proven to help address survivors' law-related employment concerns. For example, attorneys answer patients' questions about their rights to medical leave, reasonable accommodations, privacy, benefits, and a non-discriminatory work environment.<sup>92</sup> They negotiate with third parties to avoid problems from escalating and advocate where legal representation is necessary.

Medical-legal partnerships in an oncology setting are typically collaborations between medical centers and either legal services organizations or law school clinical programs.<sup>93</sup> Legal services attorneys are well suited to provide legal services to cancer survivors because they are experienced in the legal implications of poverty and crisis management.

LegalHealth developed the first fully staffed program that brought free legal services to cancer survivors in a medical setting.<sup>94</sup> Staff attorneys, who are based in New York City cancer centers and community cancer centers, intercede to prevent issues from becoming crises and provide traditional legal services where needed.<sup>95</sup> At more than two dozen medical centers, LegalHealth attorneys meet with patients to address legal needs related to employment, housing, benefits, end-of-life planning, domestic issues, finances, and immigration.<sup>96</sup> In addition to providing direct legal services, LegalHealth attorneys train medical staff to recognize and respond to their patients' non-medical concerns.<sup>97</sup>

In medical-legal partnerships between medical providers and law school clinics, students are trained in the law and patient communication.<sup>98</sup> Where legal needs implicate complex legal issues,

---

92. Fleishman et al., *supra* note 30, at 2126; *see also* Retkin et al., *Survivors and Their Families*, *supra* note 8, at 411.

93. A directory of partnerships between oncology providers, legal services organizations, and law schools can be found at the website for the NAT'L CANCER LEGAL SERVS. NETWORK, [www.nclsn.org](http://www.nclsn.org) [<https://perma.cc/D439-JS9U>] (last visited Jan. 16, 2016).

94. Fleishman et al., *supra* note 30, at 2124. "LegalHealth, which is a project of a larger nonprofit law office, provides free legal services to individuals with chronic illness and trains health care professionals on the legal issues affecting their patients." *Id.*

95. *Id.*

96. *See* LEGALHEALTH, [www.legalhealth.org](http://www.legalhealth.org) [<https://perma.cc/7LAE-7KGJ>] (last visited Oct. 3, 2015).

97. *See id.*

98. *See* Retkin et al., *Legal Services*, *supra* note 36, at 154.

licensed attorneys may provide direct legal services.<sup>99</sup> Law students not only provide critical legal services, they receive essential practical training as members of a multidisciplinary team and seed a cohort of future attorneys with experience and personal investment in providing legal services to the underserved.<sup>100</sup>

For example, the Cancer Legal Resource Center<sup>101</sup>—a program of the Disability Rights Legal Resource Center—works with law and undergraduate students in California to advocate for the legal needs of individuals with disabilities. The Cancer ProBono Legal Project is a partnership between the George Washington University Law School and George Washington University Cancer Institute. Attorneys supervise law students' efforts to resolve their clients' cancer-related employment, financial, and end-of-life legal issues.<sup>102</sup>

Although traditional medical-legal partnerships between cancer centers and legal services attorneys or law school clinics are the most common models, effective partnerships for cancer survivors can take many forms. Some communities are not large or wealthy enough to support traditional medical-legal partnerships. In these communities, partnerships may be formed between volunteer attorneys and small hospitals, physicians, social workers, nurses, and patient navigators. Cancer advocacy organizations, cancer support groups, or other non-profit agencies may help coordinate legal services for local patients. Local bar associations may also manage referrals from health care providers.

Legal services attorneys, law school clinicians, and cancer advocates have begun to coordinate their work to provide support for and models of medical-legal partnerships in oncology settings. The National Cancer

---

99. *See id.*

100. *See* Jane R. Wettach, *The Law School Clinic as a Partner in a Medical-Legal Partnership*, 75 TENN. L. REV. 305, 310–12 (2008).

101. The

Cancer Legal Resource Center (CLRC) provides information and education about cancer-related legal issues to the public through its national telephone assistance line. The CLRC also conducts national education and outreach programs for community groups, employers and healthcare professionals and is actively involved in community activities to raise public awareness of cancer-related legal and public policy issues.

*Cancer Legal Resource Center*, DISABILITY RIGHTS LEGAL CTR., <http://www.disabilityrightslegalcenter.org/cancer-legal-resource-center> [https://perma.cc/P32G-7SEF] (last visited Jan. 16, 2016).

102. Retkin et al., *Legal Services*, *supra* note 36, at 153; *see also* GW Cancer Pro Bono Legal Project, GW CANCER INST. <https://smhs.gwu.edu/gwci/patient-care/legalprogram> [https://perma.cc/SYQT-AZ7J] (last visited Jan. 16, 2016).

Legal Services Network<sup>103</sup> was established by LegalHealth<sup>104</sup> in 2010 to promote free and low-cost legal services to cancer survivors and their families. This multidisciplinary coalition of attorneys, advocates, and scholars provides direct legal services, education, and advocacy “to alleviate the legal and economic consequences of cancer so that those affected may focus on their medical care and quality of life.”<sup>105</sup> It maintains a database of attorneys and organizations that provide cancer-related legal services, including those in medical-legal partnerships. Through an extensive resource database, the National Cancer Legal Services Network provides attorneys educational materials on the legal rights of survivors, unique needs of cancer survivors, and strategies to achieve individually-tailored remedies, to prepare attorneys to be more effective advocates for their clients.

### C. *Educating Survivors, Healthcare Professionals, and Employers*

#### 1. *Educating Survivors*

Any legal services delivery model must be paired with education. Education should begin with survivors so they can advocate for themselves when possible and recognize when and how to access professional help. Most individuals in cancer treatment rightly focus on their medical needs first. Patients, especially those in underserved communities, are often “unaware or misinformed about their legal rights.”<sup>106</sup> Traditionally, nonprofit organizations provided education through publications and programs.<sup>107</sup> Some major cancer centers developed educational programs to help patients reintegrate into the workplace.<sup>108</sup>

The current trend is to integrate patient education as part of multidisciplinary patient navigation in the oncology care setting. “Patient navigation” refers to “a patient-centered health care service delivery model” designed to guide a “patient through an often complex health

---

103. See NAT'L CANCER LEGAL SERVS. NETWORK, *supra* note 93.

104. LegalHealth is a division of the New York Legal Assistance Group in New York City.

105. Retkin et al., *Legal Services*, *supra* note 36, at 154.

106. *Id.* at 151.

107. For example, nonprofit organizations like the National Coalition for Cancer Survivorship, Cancer Care, Inc., Livestrong, and the American Cancer Society provided consumer materials on the employment rights of cancer survivors.

108. For example, Memorial Sloan Kettering Cancer Center created in 1988 Partners Achieving Total Health (PATH) (later renamed the Post-Treatment Resource Program) to educate patients about their non-medical needs after treatment.

care continuum.”<sup>109</sup> Dr. Harold P. Freeman developed the modern model for patient navigation<sup>110</sup> in 1990 to address healthcare disparities in minority communities at Harlem Hospital Center in New York.<sup>111</sup> Although initially designed to improve medical outcomes in underserved communities,<sup>112</sup> patient navigation is expanding to address the holistic impact of cancer on all individuals. Professionals who are trained as patient navigators, such as oncology nurses and oncology social workers, assist patients with not only their medical needs, but they also address the psychosocial consequences of cancer.<sup>113</sup> As a result, well-trained navigators form alliances with other providers, including attorneys.<sup>114</sup>

As Dr. Freeman recognized, attorneys can play a vital role in patient navigation.<sup>115</sup> Organizations like the Harold Freeman Patient Navigation Institute and LegalHealth train patient navigators to recognize the legal implications of cancer and to learn how to access legal services for their patients.<sup>116</sup>

## 2. *Educating Employers*

Employers who are aware of the impact that cancer has on their employees are less likely to engage in unlawful discrimination and are more likely to provide reasonable accommodations. Managers’ biases—often fueled by falsely equating all cancer diagnoses with disability and death—have limited employment opportunities for cancer survivors.<sup>117</sup> Employment problems can be avoided and/or resolved by dispelling myths about the impact of a cancer diagnosis on the ability to work and by training employers to understand their employees’ legal rights.

---

109. Harold P. Freeman, *The History, Principles, and Future of Patient Navigation: Commentary*, 29 SEMINARS ONCOLOGY NURSING 72, 74 (2013).

110. “Patient navigation is a process by which patients, families, and caregivers are guided through the health care continuum.” Retkin et al., *Legal Services*, *supra* note 36, at 149.

111. Freeman, *supra* note 109, at 72; Cynthia Cantril & Pamela J. Haylock, *Patient Navigation in the Oncology Care Setting*, 29 SEMINARS ONCOLOGY NURSING 76, 77 (2013).

112. See Freeman, *supra* note 109, at 72–73; Lori McMullen, *Oncology Nurse Navigator and the Continuum of Cancer Care*, 29 SEMINARS ONCOLOGY NURSING 105, 106 (2013).

113. Cantril & Haylock, *supra* note 111, at 78.

114. *Id.*

115. Retkin et al., *Legal Services*, *supra* note 36, at 150.

116. *Id.*

117. See Brigida Hernandez et al., *Reflections from Employers on the Disabled Workforce: Focus Groups with Healthcare, Hospitality and Retail Administrators*, 20 EMP. RESPON. & RTS. J. 157, 163 (2008); H. Stephen Kaye et al., *Why Don’t Employers Hire and Retain Workers with Disabilities?*, 21 J. OCCUPATIONAL REHABILITATION 526 (2011).

Although significant guidance to employers is available online,<sup>118</sup> and some organizations such as CancerCare<sup>119</sup> and Cancer and Careers<sup>120</sup> provide outstanding programs to employers, far more employer education is needed.<sup>121</sup>

### 3. *Educating Healthcare Providers*

Although all members of the healthcare team need some exposure to their patients' legal needs, the primary duty of oncologists and oncology nurses is to provide quality cancer care. They cannot realistically, nor should they, devote considerable time to learning to recognize and address their patients' need for legal services. Most physicians are not ignorant of the impact cancer has on their patients' ability to work, but they have neither the time nor training to address those consequences.<sup>122</sup> Medical-legal partnerships respect the time-pressured environment of cancer care by training physicians to recognize when they should refer their patients to the legal members of the team.<sup>123</sup>

Cancer survivors who need reasonable employment accommodations rely on their medical team for evidence to support their requests. Hodges wisely devotes nearly one-third of her Article to the ADA's mandate to provide reasonable accommodations to employees with disabilities,<sup>124</sup> because the right to receive reasonable accommodations is the foundation of most survivors' employment concerns. Of these accommodations, flexibility in the workplace most greatly enhances

---

118. See, for example JOB ACCOMMODATION NETWORK, <http://www.askjan.org> [<https://perma.cc/LRL3-P6FP>] (last visited Jan. 16, 2016), a program of the United States Department of Labor's Office of Disability Employment Policy that provides free, expert, and confidential guidance on workplace accommodations and disability employment issues.

119. CancerCare, an organization of oncology social workers, provides "telephone, online and face-to-face counseling, support groups, education, publications and financial and co-payment assistance. Professional oncology social workers offer personalized care, and all of our services are free of charge." CANCERCARE, <http://www.cancercare.org> [[perma.cc/DR6D-28DR](https://perma.cc/DR6D-28DR)] (last visited Jan. 16, 2016).

120. Cancer and Careers is a program of the Cosmetic Executive Women Foundation. CANCER & CAREERS, <http://www.cancerandcareers.org/en> [<https://perma.cc/LVL2-2ARA>] (last visited Jan. 16, 2016).

121. Moskowitz et al., *supra* note 12, at 178; Mehnert et al., *supra* note 19, at 2155.

122. See Atkins et al., *supra* note 56, at 199.

123. For example, to ensure that the time of each professional is best used according to his or her training and skills, LegalHealth trains physician and nurses "to actively triage to the attorney. Physicians are taught to ask a few basic questions that will elicit the information needed to assess whether a legal intervention is necessary . . . . [T]he physician's role is clearly defined so as not to add unwarranted responsibilities." Fleishman, *supra* note 30, at 2124.

124. 42 U.S.C. § 12112(b)(5)(A) (2012); Hodges, *supra* note 4, at 1072-93.

cancer survivors' ability to return to work.<sup>125</sup>

Healthcare providers can improve the employment outcomes of their patients by providing medical records to support patients' requests for reasonable accommodations. For those patients who are temporarily unable to work, healthcare providers can also provide records to support claims for private or public disability insurance.<sup>126</sup> In an era where health insurers increasingly rely on their own panels of medical experts to evaluate whether a claimant is entitled to benefits, the opinion of the cancer patient's treating medical-legal team can paint a more accurate assessment of the employee's abilities and requirements.

## CONCLUSION

As Hodges argues, the complexity of survivors' needs and gains in legislative advocacy necessitate that we "begin the dialogue about the best way for the law to address the needs of survivors and their families."<sup>127</sup> Because nearly 14 million cancer survivors have different medical and psychosocial experiences, no single solution will address all cancer-related legal needs. But medical-legal partnerships are one proven model to provide legal services, especially to underserved survivors. This cost-effective model pairs perfectly with the goals of life-saving oncology care by allowing survivors to receive non-medical services related to their cancer diagnoses in an integrated setting.

---

125. Moskowitz et al., *supra* note 12, at 177 (noting that studies of cancer survivors "report that flexibility in quantity of work hours, control over workday pacing, adjustment of physical demands, and reduction in work-related travel requirements facilitate return to work and work sustainability").

126. See Cathryn Miller-Wilson, *Medical-Legal Partnerships: Origins and Ethical Issues*, 93 NEB. L. REV. 636, 668 (2015).

127. Hodges, *supra* note 4, at 1041.