

# Social Determinants of Health: As Seen in a Courtroom

## Currents in Contemporary Ethics

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**Abstract:** To provide effective care physicians must attend, not just to medical issues, but also to the social determinants of health — racial factors, food insecurity, housing instability, transportation barriers and beyond. Social determinants also include a largely underrecognized dimension: legal vulnerabilities such as rental evictions and debt adjudications. Yet rarely do medical trainees have an opportunity to witness legal vulnerabilities, firsthand.

### Overview

To provide effective care physicians must attend, not just to medical issues, but also to social determinants of health (SDOH)<sup>1</sup> such as racial factors, food insecurity, and housing instability. Legal vulnerabilities present another, largely underrecognized dimension. Recent evidence suggests, e.g., that rental evictions harm children's health,<sup>2</sup> yet rarely do medical trainees have an opportunity to witness evictions, first hand. As SDOH are better appreciated experientially<sup>3</sup> than through PowerPoint lectures, since January 2020, two rotations in the University of Tennessee College of Medicine's (UTCoM's) Pediatrics department have included a morning in court.

### The Two Rotations

The Community Medicine rotation, required for all third-year Pediatrics residents, visits schools, community centers, parenting programs and health departments to explore community resources and witness patients' and families' lived realities.

Memphis Children's Health Law Directive is a medical-legal partnership joining LeBonheur Children's Hospital, University of Memphis Law School, UTCoM, and Memphis Area Legal Services to provide direct legal services on such matters as disability, housing, and special education. Residents provide client intake, shadow law students, and attend legal proceedings.

### The Court

In Tennessee, General Sessions civil courts address lawsuits valued up to \$25,000 — minor car crashes, inept wedding planners, home-renovation-gone-bad, and beyond. Most common, by far, are evictions and debt adjudications. Although parties in General Sessions need not have attorneys, all parties — including *pro se* litigants (without attorney) — must know enough about the Rules of Evidence and of Civil Procedure to properly present their case.

The *Morning in Court* program takes residents and some fourth-year medical students to General Sessions court, accompanied by a College of Medicine faculty member (HM) who also is a licensed attorney. They meet a half-hour early for pre-briefing on key terminology they will hear, plus the basics of Tennessee's Landlord-Tenant Act and debtor-creditor law.

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During court the faculty attorney writes “simultaneous translation” notes to explain what is occurring. Once they have seen cases in one of the court’s six divisions, they often move to another, to see other cases and judicial styles. Because the attorney for *Morning in Court* is acquainted with local judges, trainees have been invited into judges’ chambers for informal conversations on many occasions.

Fairly often, following the “rocket docket” — a frighteningly fast run-

which disburses Section 8 rent subsidies, mandates that both MHA and the tenant attest with signatures when repairs are complete and satisfactory. However, this particular tenant had refused to sign, hence MHA could not pay its share of the rent, hence the tenant was in default. The landlord sued for eviction.

The tenant was defiant, citing a completely different problem: rats in the attic. She was confident — certain — the judge would not evict her, because surely no one should have to

now with eviction on her record, her odds of finding housing were dismal.

Another poignant eviction. The tenant had cared for her grandchildren for six years. Mixups regarding one source of income left her unable to pay rent recently, so the landlord sued. Although the mixup was now resolved and the tenant expected a large check soon, the landlord still wanted her out. Quietly weeping, the tenant explained that if she were evicted, her grandchildren would go into foster care. As the faculty attor-

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through of, often, dozens of cases — a more involved trial ensues. Sometimes one side has an attorney, sometimes both, sometimes neither. Here we see more fully how the legal system works, including the vulnerability of a *pro se* party who does not understand that system — even where s/he is sure s/he knows the law.

Afterward the experience is debriefed as residents and students, now having witnessed poignant stories as well as the overall process, share their insights.

### The Morning in Court

#### Poignant Stories

In one case, a woman whose rent was subsidized via federal “Section 8” appeared in court to defend against eviction. Months earlier the water heater in her attic had overflowed, damaging ceilings, walls, and floors below. She sent her landlord the legally required 14-day written notice and repairs were completed. Memphis Housing Authority (MHA),

live with rats.

Unfortunately, she had not given the requisite 14-day written notice for that issue. Her refusal to sign off on the earlier repairs left MHA no choice, which left the judge no choice: eviction.

The tenant left the courtroom. Moments later we heard loud shouting in the hall — a woman’s voice. The deputy exited the courtroom. Moments later the tenant re-entered. The judge was furious. “You will *never* speak that way in this court! I can put you in jail!! Do you understand?!” Defiance melted into tears as the woman realized what she had lost. The landlord said she was a good tenant — not destructive, always paying on time, until this episode. And now she would be homeless with just 10 days to move everything she owned to ... where? She still qualified for Section 8 subsidy. But with myriad other qualified applicants waiting for a home amidst inadequate supply, and

ney later explained to the resident, children in Tennessee’s Department of Children’s Services are at high risk for instability, typically placed in three or more homes in a single year.<sup>4</sup> Rather than evict, the judge continued (postponed ruling on) the case for a few weeks, to permit the tenant potentially to catch up on rent.

A final story. If a debt remains unpaid at the end of ten years, courts can grant another decade. Here, the creditor sought a second extension as an initial debt of \$11,000 had now ballooned to \$31,000, including interest. The debtor stood before the judge, distraught, clueless, clearly unable to pay, but now encumbered for another decade — even as his meager wages are garnished up to 25%, when he can find work.

#### Broader Insights

During our post-court debriefing residents have articulated many newly-gained insights into the social determinants of health and into the legal

system. Often independently echoing each other, their observations include:

- Debt collection sometimes includes lengthy dockets of hospitals and physician groups suing for unpaid medical bills — which become adjudicated debts a patient/family perhaps cannot pay ... which then may later become an eviction. Residents begin to recognize more deeply the importance of cost-conscious, high-value care, as marginally indicated admissions, tests and treatments can lead to medical debt and life-altering consequences for patients and families.
- Trainees know that the clinical setting can be intimidating, sometimes overwhelming. But in court, as someone stiffly fidgets or stammers a reply to the judge, trainees themselves feel overwhelmed just watching this alien process. In this frightening speed of events, it is often obvious that when someone “agrees,” e.g., to pay a certain monthly amount to a creditor, “yes, your honor” may reflect bewildered acquiescence more than genuine agreement. The same, trainees realize, is often true in the clinical setting, as the inevitable speed of clinical workloads likewise does not always leave time for exploring patients’ reservations and questions.
- Residents often comment on the role of expert help. On one hand, they may be annoyed with patients and families who “know” their diagnosis and best treatment from Dr. Google. However, at court residents and students sometimes recognize that their own beliefs about law came from “Attorney Google.” When a *pro se* Plaintiff suing for the costs of car repair presents mechanics’ written estimates, the judge will say “put those away — they are hearsay, inadmissible.” The litigant is stunned to see her whole case just fizzled. The resident, equally surprised, now better appreciates how patients’ and families’ medical

best-guesses may be very plausible in their own eyes. Just as it seems expensive and unnecessary to consult an attorney when one “knows the law,” similarly healthcare often carries large costs — medical bills, childcare, time off work, etc. — which may seem unnecessary. Residents appreciate better the value of patience with their patients.

- Trainees see the face of poverty as a defendant says “Your honor, I can’t afford more than \$25 a month. I just lost my job, and last week we buried my father ...” A litigant arriving late may be chastised by the judge, notwithstanding her explanation that the bus was late. Roughly one-third of Memphis’ citizens live near or below the federal poverty line. Such explanations are not frivolous. Residents now better appreciate that their patients’ missed appointments may not be frivolous.
- Trainees more clearly see legal proceedings’ implications for health. For someone just evicted, the necessity to find lodging and secure all one’s possessions in just ten days becomes a prime concern overtaking adherence to medical therapy or daily family obligations. Although trainees are often peripherally aware of such challenges, directly seeing SDOH realities in court strengthens their desire to help patients and families navigate such complex challenges.

### Replicability

Although the *Morning in Court* program may be unique, it is surprisingly replicable. Many academic medical centers include bioethicists, many bioethicists have J.D. credentials, and a number of health law professors have connections with clinical centers. Every law graduate has learned the rules of civil procedure and evidence, and the laws of property, contract, and tort. Hence any J.D. can do this, maybe brushing up a bit on old law school notes. Moreover, many specialties beyond pediatrics — e.g. family medicine, psychiatry, internal

medicine — could equally benefit from a Morning in Court.

The UTCOM program has no special cost. The program’s attorney/faculty counts this as standard teaching activity. Additionally, many state bars encourage attorneys to provide *pro bono* (unpaid) service to the community, and retired attorneys may be especially interested to step up. Local bar associations could help establish connections.

Although each state has its own court structure, virtually all will include a court focusing on lower-dollar cases, which is where eviction and debt collection cases are typically heard.

Finally, courts in the U.S. are generally open, with no special permission needed to attend. Some proceedings are closed, e.g. juvenile matters, but otherwise, residents, students and faculty mentors are welcome to attend.

### Conclusion

Residents and students have found the program to be enjoyable, informative, and often quite disturbing. For many this is like visiting another country: strange language, unfamiliar customs, and oneself as an outsider while everything happens at “warp speed.” Trainees often assume a lawyer must be present for every litigant, hence are shocked at how many parties have no attorney to guide them. They see themselves in the fidgeting, stumbling litigants, and they absorb the rising panic in the *pro se* party who realizes he will surely lose because he did not know how to find his own way.

In these overwhelmed souls they see the people who, in another moment, are their own patients. Although the physician-patient relationship ideally is very personal, trainees recognize that often they meet patients and families as strangers, hence now better appreciate the vulnerability patients and families may feel in the clinical setting.

Most broadly, trainees see, on one hand, how legal vulnerabilities can affect patients’ health and ability to participate in their healthcare and, on the other, how their own medical

decisions can affect patients' finances and thereby their lives.

In the end, a *Morning in Court* helps physicians to provide more empathic, comprehensive, and perhaps even more judicious medical care.

#### Note

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