

President's Message

by Doris Henderson Causey



Legalcare and Legalaid

THIS ISSUE OF *Virginia Lawyer* focuses on health law, and with all the news concerning the overhaul of the Affordable Healthcare Act I began to think about the concept of creating legal insurance for everyone — legal insurance similar to medical insurance. I'm thinking about legal insurance programs that are federally and state sponsored and supported by federal and state funding — similar to Medicare and Medicaid. Private legal insurance would be available as well, creating a new legal marketplace. Most importantly, this would also significantly reduce the justice gap.

It is disheartening to see citizens of Virginia facing evictions, writs of *feri facias*, warrants in debts, foreclosure, garnishments, bankruptcy, etc., without any legal representation. Across the commonwealth, many lawyers are working very hard on closing the justice gap. While people have a right to an attorney in criminal cases, they don't in civil cases, and many citizens in Virginia cannot afford an attorney in civil cases. This population of clients that cannot afford an attorney certainly deserves the same level and quality of representation as those who can afford to pay an experienced attorney. Additionally, when a person has legal representation, the probability of receiving a favorable outcome increases. How can we accomplish the goals of providing legal representation to all in civil cases and eliminating the justice gap? These persons could have legal insurance similar to Medicare and Medicaid.

Let's have Legalcare and Legalaid. Legalaid would be a jointly funded federal-state legal insurance program for low-income and needy people. Legalcare would be a federal program that provided legal coverage if you are 65 or older, or have a severe disability. Legalcare and Legalaid are just an idea that could possibly help.

How would this model work? Legal aid programs (similar to federally funded health care centers) would continue to assist those households that have gross incomes below 125 percent of the federal poverty guidelines and up to 200 percent in certain cases. However, legal aid programs could also charge according to a sliding fee scale. Fees would be based on the gross household income that is above the 125 percent of the federal poverty guidelines. For example, if a person fell within 126 percent to 200 percent of the poverty guideline they would pay a rate of \$50/hour and the rate would increase along the scale.

Thus, attorneys could all receive some federal or state reimbursement based on the number served in a particular category. It would be an opt-in program for every legal provider. Currently, every medical provider does not accept federal or state insurance and legal providers should have the same option. Every service provider, including legal aids, could accept private legal insurance. This idea does not advocate for the end of pro bono services. As we have seen with the medical models, pro bono will still be greatly needed.

Thus, the need for more attorneys to do pro bono. Many attorneys do low bono cases after completing a minimum number of pro bono cases, which is similar to medical providers. The Access Now program is a local program where doctors/specialists provide a fixed number of free services to the uninsured or underinsured. This program could also work with legal services. Firms, as well as general and solo practitioners, would donate representation for a fixed number of cases for individuals that are legally uninsured or underinsured. However, they would continue to represent others accordingly. This insured representation would only apply to individuals — not companies.

There are a few firms throughout the country that have begun to model this thought. The firms represent individuals that fall below the poverty guidelines for a reduced rate, and increase the rate as the household income increases. Open Legal Services in Utah is an example of a program with income-based fees. Thus, prepaid legal services has modeled the health insurance marketplace for years.

The benefits of legal insurance would be great. Legal insurance would assist the community, attorneys, and the courts. Many of the alternative legal service providers/insurance providers are doing very well financially. The market for affordable legal services is huge — and the benefits of such a market immeasurable. It would

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assist in law students having jobs upon completion of law school and passing the bar. Individual citizens would have a variety of places to receive services. The courts would have more represented litigants. On the other hand, many would think before filing lawsuits if the other side was also represented. They would do the right thing.

The legal need will still be great. Medicare, Medicaid, and the Affordable

Care Act (Obamacare) were all created to assist with medical needs. They have not solved the medical needs or insurance gaps. Moreover, legal insurance will not solve all the legal needs. Your help is still greatly needed. Until everyone is entitled to an attorney in both civil and criminal cases, we must live up to Rule 6.1.

Sign up for Virginia.freelegalanswers.org.

Support your local legal aid society.

Free and Low Cost Legal Resources Pamphlet

A guide for helping low- and modest-income Virginians obtain legal services.

See: <http://bit.ly/2xdBBM6>



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Greater Richmond Bar Foundation



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PROMISE

The Greater Richmond Bar Foundation wishes to thank its loyal volunteers, donors, community and corporate partners, Firms In Service — Richmond and the Virginia Law Foundation for supporting our efforts to close the justice gap.

In 2016, our Richmond Pro Bono Promise participants (listed below) provided **over 38,000 hours** of pro bono service and **over \$200,000** in monetary support of pro bono service programs.

GRBF Pro Bono Promise Participants (Richmond area only):

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