1-2026

Health Truth to Power: Professional Collaboration to Bolster Trust Against Misinformation

William M. Sage

Keegan D. Warren

Houston Journal of Health Law & Policy

HEALTH TRUTH TO POWER: PROFESSIONAL COLLABORATION TO BOLSTER TRUST AGAINST MISINFORMATION

William M. Sage* and Keegan D. Warren**

* University Distinguished Professor, Professor of Law, and Professor of Medicine, Texas A&M University; Faculty Director, Institute for Healthcare Access, Texas A&M Health

** Executive Director, Institute for Healthcare Access, Texas A&M Health; Adjunct Professor, School of Law, Texas A&M University

"I planted myself upon the truth and the truth only, so far as I knew it, or could be brought to know it."

(Abraham Lincoln, 1858)

INTRODUCTION

There is no greater threat to America's health than the erosion of trust, and no greater threat to trust than misinformation. Information and trust lie at the heart of individual therapeutic relationships. They are also essential to defending and improving the public's collective health—as much or more in our prosperous, democratic nation as in lower-resourced parts of the world with less educated populations.

It is a truism that we live in an information society, supported by an information economy. Information generation, exchange, and interpretation—accelerated, globalized, and monetized by the digital revolution—have become the core businesses of our largest corporations, the principal battleground for electoral contests, and the routine or even preoccupation of the majority of our citizens.[1] But accessibility of information does not assure its accuracy or utility, especially when the platforms conveying and amplifying it are subject to algorithms that favor overconfidence, extremism, division, and political or commercial benefit.

"Division, and political or commercial benefit" captures the unsettling essence of the present moment. There are three principal sources of power to misinform: the government, industry, and what for lack of a better term one can call the "crowd." Each, it seems, potentially has means, motive, and opportunity to maim or slaughter the truth. By "maim," we mean sow doubt and distrust, and by "slaughter," we mean replace true with false premises and conclusions. For purposes of this essay focused on medicine and public health, we postulate that there is something called "truth" which, while often a work in progress, builds its conclusions on facts, educed from experience and experimentation, and honors a commitment to keep studying and learning.

---

[1] Romina Bandura et al., *Unpacking the Concept of Digital Public Infrastructure and Its Importance for Global Development*, CTR. FOR STRATEGIC & INT'L STUD. (Dec. 20, 2023), https://www.csis.org/analysis/unpacking-concept-digital-public-infrastructure-and-its-importance-global-development.

The question we discuss here is speaking "health truth" to power: truth to government, truth to industry, and truth to the crowd. Our principal speakers are relevant professions and professionals—medicine, nursing, pharmacy, social work, public health, biomedical science, and importantly, law—because at least for the moment they retain significant clinical and financial authority in health matters, and they still enjoy more than a modicum of public trust. We recognize that, in this moment of rebellion against "elites" (ironically led by different elites), we are to some extent invoking an *ancien regime*. Nonetheless, we believe that today's professions can approach this challenge with humility rather than with hubris, acknowledge uncertainty rather than pretend omniscience, and seek collaboration rather than claim exclusivity.

We rely on a core ethic in the professions—formulated in different ways from profession to profession with undeniable tensions among them—of service to individuals and service to the broader society. One can frame this ethic using former Harvard Law School Dean Roscoe Pound's definition of a profession as a learned art practiced as a common calling in the nature of a public service.[2] In this view, professionalism may include a degree of insulation from economic competition but signifies more than collective self-interest and protectionism.[3] We also believe that professions can learn from one another and, where meaningful, can join together and speak with a shared voice—while admitting that strong differences of perspective and opinion exist among members even of a single profession, and that individual professionals sometimes feel greater commonality with others outside the profession—who share an economic position, a religious affiliation, or a partisan sympathy—than with those within it.

This Article is about health, leaving aside more general challenges to shared civic information today. The Article begins by surveying the principal challenges for health information in post-pandemic, arguably post-truth America, and then describes briefly the sources and limits of medical professional authority. Noting the double-edged sword of free speech guarantees under the U.S. Constitution, the

---

[2] Edward D. Re, *The Profession of the Law*, 15 J. C.R. & ECON. DEV. 109, 130 (2000) https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1238&context=jcred.

[3] *See id.* at 126.

Article continues by commenting on speaking truth to government, to industry, and to the crowd. Next, the Article considers the physicians' role in speaking truth to power from the perspective of standard medical professional ethics and identity, comparing it to that of lawyers. Finally, this Article comments on the potential benefits for trust and truth from collaborations between professions (e.g., medical-legal partnership), and with communities, when engaging public controversies that encompass not only medical science and social circumstance but also what Donald Berwick has called the moral determinants of health.[4]

I. CHALLENGES FOR HEALTH INFORMATION IN POST-PANDEMIC, ARGUABLY POST-TRUTH AMERICA

The challenges for health information today are legion. Many relate to individual medical care, including prevention, diagnosis, and treatment for both acute and chronic conditions.[5] Accessing reliable information when families are making decisions regarding children or older persons can be particularly stressful. In addition to clinical aspects of care, information may also be conflicting or misleading regarding the additional steps that the U.S. healthcare system demands of its users, including obtaining insurance, locating care, paying for services, and sharing personal data.[6] Physicians and other health professionals are the primary, but not exclusive, source of the former category of individually relevant healthcare information, but are less commonly versed in the details of insurance, payment, or privacy.[7]

---

[4] Donald M. Berwick, *The Moral Determinants of Health*, 324 JAMA NETWORK OPEN 225 (2020), https://jamanetwork.com/journals/jama/fullarticle/2767353 (making the case for social justice and other general principles as part of health reform).

[5] *See generally* INST. OF MED., CROSSING THE QUALITY CHASM: A NEW HEALTH SYSTEM FOR THE 21ST CENTURY (2001).

[6] Kaye Pestaina et al., *Navigating the Maze: A Look at Health Insurance Complexities and Consumer Protection*, KAISER FAM. FOUND. (Mar. 3, 2025) https://www.kff.org/private-insurance/issue-brief/navigating-the-maze-a-look-at-health-insurance-complexities-and-consumer-protections/.

[7] Raj Tek Sehgal & Paul Gorman, *Internal Medicine Physicians' Knowledge of Health Care Charges*, 3 J. GRAD. MED. EDUC. 182, 184 (2011).

Informational challenges can also relate to collective "public health"—many heightened by the uncertainty and consequent skepticism regarding expertise that arose during the politically polarized response to the COVID-19 pandemic.[8] Some contentious public health issues arise in situations indisputably implicating disaster preparedness and emergency response, ranging from toxic releases to epidemics and pandemics to hurricanes, tornados, earthquakes, fires, and floods.[9] Others are more quotidian but no less important, relating to acute and chronic illnesses that are most effectively forestalled or addressed at the community level, whether or not they are person-to-person communicable as with many infectious diseases.[10] Health professionals are common sources of information in these circumstances, but government—especially at the state and local levels—tends to play a leading role through elected officials, public health agencies, and the education and environmental sectors.[11] To be accessible and effective, these activities often involve the corporate and nonprofit sectors within communities, including major employers and retailers, faith organizations, social service providers, and volunteer and charitable entities.

For both organic and instrumental reasons, including the reawakening of historical patterns of anti-intellectualism, anti-elitism, and more, trust in the informational ecosystem of health seems to be at an historical low.[12] This is the case notwithstanding, and plausibly a partial result of, the scientific successes of the medical and public health establishment. For example, individuals refusing vaccination

---

[8] *See* P. Sol Hart et al., *Politicization and Polarization in COVID-19 News Coverage*, 42 SCI. COMMC'N, 679, 681 (2020).

[9] *See Public Health Emergency Preparedness (PHEP) Program and Guidance*, CTR. FOR DISEASE CONTROL & PREVENTION (Aug. 16, 2024), https://www.cdc.gov/readiness/php/phep/index.html.

[10] *See generally* LISA A. KISLING & JOE M. DAS, PREVENTION STRATEGIES (Statpearls Publishing, 2023), https://www.ncbi.nlm.nih.gov/books/NBK537222/.

[11] *See* Paula Sanford & Joshua Franzel, *Local Governments Play Critical Role in Achieving Public Health Goals, New ICMA Report Reveals*, INT'L CITY/CNTY. MGMT. ASS'N, (Feb. 5, 2020), https://icma.org/articles/local-governments-play-critical-role-achieving-public-health-goals-new-icma-report-reveals.

[12] *See* Eric Merkley, Univ. of B.C., Anti-Intellectualism, Anti-Elitism, and Motivated Resistance to Expert Consensus 1–3, Presentation at the Annual Meeting of the Western Political Science Association (Apr. 18, 2019); *See also* Eric Merkley & Peter J. Loewen, *Anti-Intellectualism and the Mass Public's Response to the COVID-19 Pandemic*, 5 NATURE HUM. BEHAV. 706, 706 (2021).

against a potentially deadly but familiar pathogen may falsely believe that the risks to them outweigh the benefits mainly because vaccines have quietly protected them and their communities throughout their lifetimes.[13] It is therefore particularly important for health professionals and others who are committed to the traditional goals of the health and healthcare systems to prioritize trustworthiness, even when multiple actors and technologies seem arrayed against it.

II. FIRST AMENDMENT LAW WON'T HELP

When law and truth mix, it is natural to seek solace in constitutional rights. And, indeed, the First Amendment to our federal Constitution does much to safeguard rights of speech, religious exercise, public assembly, and the functions of a free press against restrictions and obligations imposed by the government.[14] Unfortunately, the First Amendment—even though (perhaps because) it has been so fiercely defended by recent Supreme Court decisions—can do little by itself to promote truthful health information in the world that exists today and may even make things worse.[15]

The longstanding premise of First Amendment protections, which traditionally focused on the rights of listeners to hear what speakers had to say, is that the remedy for false speech is more speech.[16] This approach was prudent and plausible when the alternative was to allow direct government censorship of information perceived as subversive by defenders of a narrow, exclusionary status quo. Truth also usually outcompeted falsity when an investment by news organizations in gathering facts and offering expert interpretation was rewarded with

---

[13] *See Vaccine Hesitancy: A Growing Challenge for Immunization Programmes*, WORLD HEALTH ORG. (Aug. 18, 2025), https://www.who.int/news/item/18-08-2015-vaccine-hesitancy-a-growing-challenge-for-immunization-programmes.

[14] U.S. CONST. amend. I.

[15] *See generally* Nathan Cortez & William M. Sage, *The Disembodied First Amendment*, 100 WASH. U. L. REV. 707, 734 (2023).

[16] Justice Brandeis provided the iconic formulation of the counterspeech doctrine: "If there be time to expose through discussion, the falsehoods and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence." Whitney v. California, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).

paying subscribers and paid advertising, leaving fringe voices crying alone in the wilderness.[17]

Today, however, government stepping out of the way means that there are no constitutional rights to vindicate, as the First Amendment does not preclude distortions of speech by private parties who might restrict or compel it in the marketplace or in society at large.[18] Moreover, truth no longer can reliably outcompete falsehood in a world of instant digital connection. Factually ungrounded speech is now costless to produce and disseminate online, the most extreme and controversial speech often generates the most attention, and the business model for conventional, fact-based journalism has substantially eroded.[19]

With respect to assuring truth regarding medicine, the First Amendment may be more hindrance than help within the professional domain. Medical licensing boards tend to represent consensus views among physicians about health matters.[20] However, they also are "state actors," to which First Amendment restrictions apply.[21] This makes it difficult for them to bring disciplinary actions against physicians who spread misinformation—as evidenced by the small number of complaints pursued by licensing boards during the pandemic.[22] Fortunately, private medical associations, private hospitals, and private universities that employ physicians and scientists are not similarly constrained.[23]

First Amendment rights to religious free exercise—greatly expanded by the Supreme Court in the three decades since the enactment of the Religious Freedom Restoration Act—can also be

---

[17] Cortez & Sage, *supra* note 15, at 762.

[18] *See* Manhattan Cmty. Access Corp. v. Halleck, 587 U.S. 802, 802–04 (2019).

[19] *See* DENIS WILDING ET AL., CTR. FOR MEDIA TRANSITION, THE IMPACT OF DIGITAL PLATFORMS ON NEWS AND JOURNALISTIC CONTENT 24, 131 (2018).

[20] Christopher G. Roy, *Patient Safety Functions of State Medical Boards in the United States*, YALE J. BIOLOGY & MED. 165, 165–66 (2021).

[21] William M. Sage & Y. Tony Yang, *Reducing "COVID-19 Misinformation" While Preserving Free Speech*, 327 JAMA 1443, 1443 (2022).

[22] Richard S. Saver, *Medical Board Discipline of Physicians for Spreading Medical Misinformation*, 7 JAMA NETWORK OPEN 1, 6 (2023).

[23] Sage & Yang, *supra* note 21.

detrimental to scientific truth.[24] Notably, the pandemic-era rulings on federal and state infection control measures began deferentially based on scientific fact, but became skeptical or dismissive over time, eventually invalidating several COVID-19 restrictions as unconstitutionally infringing religious rights.[25]

First Amendment protections as interpreted by the Supreme Court have also shifted more toward protecting speech for the speaker's sake, even when the speaker is a corporation or other non-human, and even when the speech takes the form of spending money or accessing data.[26] This further encourages weaponized speech, as the government has less ability to police misinformation even if it desires to do so.[27] Although false speech made specifically to defraud remains punishable by law without offending the Constitution, the First Amendment, perhaps surprisingly, has been interpreted as conferring a right to lie.[28]

Enhanced protection for corporate speech, which may include invalidating legal requirements of truthful disclosure, further emboldens already powerful entities that may have strong incentives to misinform the public, which also crowds out individual voices whose speech the First Amendment was originally designed to protect.[29] At the same time, internet service providers and social media companies are being discouraged or prohibited from monitoring content on their platforms even though, as private actors, they are not directly subject to First Amendment constraints.[30] The cacophonous

---

[24] Religious Freedom Restoration Act of 1993, Pub. L. No. 103-141, 107 Stat. 1488 (1993) (codified at 42 U.S.C.A § 2000bb1–4 (West)).

[25] *E.g.*, Tandon v. Newsom, 593 U.S. 61, 62 (2021); Roman Catholic Diocese of Brooklyn v. Cuomo, 592 U.S. 14, 16–17 (2020); Capitol Hill Baptist Church v. Bowser, 496 F. Supp. 3d 284, 299-300 (D.D.C. 2020); Maryville Baptist Church, Inc. v. Beshear, 957 F.3d 610, 615 (6th Cir. 2020); Roberts v. Neace, 958 F.3d 409, 415 (6th Cir. 2020).

[26] *See* Citizens United v. FEC, 558 U.S. 310 (2010); *see also* Sorrell v. IMS Health, Inc., 564 U.S. 552 (2011).

[27] Michelle M. Mello, *Vaccine Misinformation and the First Amendment—The Price of Free Speech*, 3 JAMA HEALTH FORUM 1, 1–2 (2022).

[28] United States v. Alvarez, 567 U.S. 709 (2012) (declaring unconstitutional the Stolen Valor Act of 2005, which applied criminal sanctions to falsely representing that one had earned military decorations).

[29] Mello, *supra* note 27.

[30] Pamela Samuelson, *Do Social Media Platforms Have Free Speech Rights to 'Censor' Conservatives?*,

"marketplace of ideas" that results from these trends in constitutional interpretation places the burden of determining truth—and acting accordingly—squarely on the listener, who is very often unequipped to do so.[31]

III. TRUTH AND POWER

Three sources seem to dominate today's information ecosystem: our governments; the world of business, commerce and industry; and the large number of people who receive and share information on social media.[32] Building truth and trust around health necessarily depends on supporting each when they are constructive but working to counter or moderate them when they are not. In health, as in most areas, they will not always be aligned with one another. Yet neither are they independent, competing centers of power as they arguably were half a century ago, before technology created new methods to divide, realign, distort, and profit from the attention of the populace.[33]

A. Truth and the Government.

It is often observed that the United States has a "negative Constitution," meaning that the federal government is constitutionally prohibited from doing many things but constitutionally obligated to do very little.[34] One thing it is not obligated to do is educate, although state governments may be.[35] Another is to tell the truth, which is why

67 COMMC'NS ACM 24, 24–25 (2024).

[31] G. Michael Parsons, *Fighting for Attention: Democracy, Free Speech, and the Marketplace of Ideas*, 104 MINN. L. REV. 2157, 2158, 2159 (2020).

[32] *Social Media by Political Actors an Industrial Scale Problem – Oxford Report*, U. OXFORD (Jan. 13, 2021), https://www.ox.ac.uk/news/2021-01-13-social-media-manipulation-political-actors-industrial-scale-problem-oxford-report.

[33] *The Attention Economy-Why Do Tech Companies Fight for Our Attention?*, CTR. FOR HUMANE TECH., https://www.humanetech.com/youth/the-attention-economy. (Last updated Aug. 17, 2021).

[34] *See* Ashley Ganesh, *The Negative Constitution: When Do We Hold the Government Accountable?*, BROWN UNDERGRADUATE L. REV. (Dec. 12, 2022), https://pear-radish-kz25.squarespace.com/blogposts/the-negative-constitution-when-do-we-hold-the-government-accountable.

[35] *Federal Role in Education*, U.S. DEP'T OF EDUC., https://www.ed.gov/about/ed-overview/federal-role-in-education (last reviewed Jan. 14, 2025).

the press and the people have the right to call it to account.[36] The government may not lawfully silence other voices, but it can speak with its own.[37] The government can craft whatever message it wishes, and can even pay others, including health professionals, to echo its positions and refrain from uttering contrary views.[38] Today, a central government actor that aligns with a favored broadcast or social media company can amplify its messages sufficiently to drown out many independent opinions.[39]

Health information from government has generally been accurate.[40] Health information is usually based on scientific and professional expertise and then vetted and refined through deliberate and extensive bureaucratic review.[41] There have been exceptions and missteps—most, if not all, inadvertent—but norms of both trustworthiness and trust, by and large, have prevailed.[42] Things changed during the pandemic—or perhaps changes predating the pandemic were revealed only when it arose. The government's health messages concerning COVID-19 were repeatedly and aggressively called into question for a variety of reasons and with multiple motivators.[43]

---

[36] *See* Helen Norton, *What the Constitution Can —and Can't—Do About the Government's Lies*, KNIGHT FIRST AMEND. INST. (Jan. 24, 2022), https://knightcolumbia.org/blog/what-the-constitution-canand-cantdo-about-the-governments-lies.

[37] Phelan v. Laramie Cnty. Cmty. Coll. Bd. of Trs., 235 F.3d 1243 (10th Cir. 2000).

[38] *See* Rust v. Sullivan, 500 U.S. 173 (1991) (upholding restrictions on physician speech associated with government funding of services).

[39] *See Drowning out Democracy*, 137 HARV. L. REV. 2386, 2398 (2024), https://harvardlawreview.org/print/vol-137/drowning-out-democracy/.

[40] Kelly Johnson-Arbor, *I Read Health Information Online—Can I Trust It?*, 184 JAMA INTERNAL MED. 1138, 1138 (2024), https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2817486.

[41] *See Evaluating Health Information*, UCSF HEALTH (Apr. 1, 2025, 1:10 PM), https://www.ucsfhealth.org/education/evaluating-health-information.

[42] *See generally* VIVEK H. MURTHY, CONFRONTING HEALTH MISINFORMATION: THE U.S. SURGEON GENERAL'S ADVISORY ON BUILDING A HEALTHY INFORMATION ENVIRONMENT, OFF. OF THE SURGEON GEN. 4–5 (2021).

[43] *See* James Devitt, *Political Polarization Poses Health Risks, New Analysis Concludes*, N.Y. UNIV. (Oct. 25, 2024), https://www.nyu.edu/about/news-publications/news/2024/october/political-polarization-poses-health-risks—new-analysis-conclude.html.

Today, there is less assurance that the government will speak truth about health. Backlash against pandemic-era mandates and restrictions, fed by partisanship, have led to the suppression of messages that do not fit the politically dominant narrative, even if that approach contradicts medical and scientific consensus.[44] Changes in partisan control of government now portend rapid reversals in the completeness and reliability of the information conveyed.[45] In many domains, moreover, amplification of uncertainty and the fear that often accompanies it has become a government strategy, including with respect to the legality of politically controversial medical procedures.[46]

Whether a message conveyed or required by the government must be dispassionate, even if factual, under the law is also unsettled.[47] Federal administrative agencies are held to a fairly rigorous standard.[48] At least until now, agencies engaged in notice-and-comment rulemaking have been required by the executive branch—and, if challenged, by courts—to explain in factual terms the rationale for their regulatory proposals, anticipate real-world risks and uncertainties, address questions and criticisms, and take account of important considerations outside their expertise, such as economic and environmental impact.

For example, the United States Food and Drug Administration (FDA)'s preliminary "graphic warning labels" for cigarette packaging, which Congress in the Tobacco Control Act of 2009 specifically directed the agency to develop and impose on manufacturers, were immediately challenged in court and invalidated.[49] Among other things, the appellate court was troubled that the proposed images

---

[44] *See id.*; *see generally* Zara Abrams, *How to Reverse the Alarming Trend of Health Misinformation*, 55 MONITOR ON PSYCH. 62 (Jul. 2024), https://www.apa.org/monitor/2024/07/ending-health-misinformation (examples of misinformation contrary to scientific advice and research).

[45] *See* Devitt, *supra* note 43.

[46] *See id.*

[47] Gia B. Lee, *Persuasion, Transparency, and Government Speech*, 56 HASTINGS L.J. 983, 993 (2004–2005).

[48] *See* 5 U.S.C. § 706.

[49] Family Smoking Prevention and Tobacco Control Act, Pub.L. No. 111–31, 123 Stat. 1776 (2009); R.J. Reynolds Tobacco Co. v. Food & Drug Admin., 696 F.3d 1205 (D.C. Cir. 2012), *overruled by* Am. Meat Inst. v. USDA, 760 F.3d 18 (D.D.C. Cir. 2014).

induced an emotional response—disgust at the effects of smoking—rather than helping convey dispassionate information about risks that might rationally induce smokers to quit.[50] While the images were factual and consistent with the larger public health goal of reducing smoking, the court's reaction to the psychological dimensions of labeling demonstrated that government-sponsored health information can be understood as existing in expropriative tension with what industry considers its marketing informational space.[51]

Legislatures, which by design have less expertise than administrative agencies but are more directly accountable to voters, are not legally constrained by fact or truth beyond judicial review for constitutionality and public scrutiny by opposing interest groups or the media.[52] In the last major Supreme Court case invalidating a state legislative restriction on abortion as an "undue burden" before the federal constitutional right to abortion was eliminated, the majority discussed the lack of factual support for "TRAP" laws (Targeted Regulation of Abortion Providers) that sought to deter abortions by subjecting physicians and clinics to costly, time-consuming regulations disproportionate to the safety risks involved.[53]

In general, however, legislative leeway to ignore or distort the facts is considerable. For example, courts have condoned legislated "informed consent" requirements imposed on health professionals that lacked scientific authority, often regarding the alleged health risks of abortion, although these have yet to be tested under the Supreme Court's tightened standard for compelled commercial speech.[54] And the "rational basis" required by the Supreme Court for government to justifiably regulate an area not involving a constitutionally protected actor or activity (e.g., minority groups, speech, religious exercise) is

---

[50] *See R.J. Reynolds*, 696 F.3d at 1217.

[51] Keegan Warren-Clem, *PMI v. Uruguay: Public Health and Arbitration Intertwined and Undermined*, 21 LAW & BUS. REV. AM. 395, 407 (2015).

[52] *See* Whole Woman's Health v. Hellerstedt, 579 U.S. 582, 608–09, *abrogated* by Dobbs v. Jackson Women's Health Org., 597 U.S. 215 (2022); *see also* F.C.C. v. Beach Commc'ns, Inc., 508 U.S. 307, 315 (1993) ("[A] legislative choice is not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data.")

[53] *Whole Woman's Health*, 579 U.S. at 582 (invalidating Texas laws requiring that physicians performing abortions maintain admitting privileges at a nearby hospital and that abortion clinics meet the same standards as ambulatory surgical centers).

[54] *See* Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833, 883 (1992).

oriented more to avoiding clearly arbitrary enforcement than to demanding a factually true premise.[55]

Moreover, recent re-interpretations of federal administrative law by the Supreme Court, sometimes with a constitutional gloss, have served to shift regulatory support from scientific expertise to partisanship.[56] Separation of powers doctrine now includes a "major questions doctrine," which bars administrative agencies from engaging issues that appear to the courts to be beyond the scope of delegation by Congress.[57] The Court also overturned the "Chevron doctrine," potentially replacing reasonable interpretations of ambiguous provisions of statute by the relevant expert agencies with the ad hoc judgments of federal courts.[58]

At the same time, the Court has signaled that Congress may not insulate administrative agencies or their officers from "unitary executive" control, however ill-informed or political. For example, the Court upheld as constitutional the appointment of an expert advisory body, the United States Preventive Services Task Force (USPSTF), with discretion under the Affordable Care Act to determine which preventive services must be covered by private health plans without patient cost-sharing. But the Court did so only by confirming that members of the USPSTF may be appointed or removed at will, and that their recommendations may be modified or delayed, by the federal Secretary of Health and Human Services.[59]

B. Truth to Industry.

The political capture of health communication is a recent phenomenon.[60] Commercial distortion of health messaging has a much longer history, including marketing of tobacco and other harmful substances, unhealthful foods, or ineffective or hazardous

---

[55] *See id*. at 878.

[56] West Virginia v. EPA, 597 U.S. 697, 721 (2022) (limiting the EPA's authority to regulate emissions from existing power plants).

[57] *Id.*

[58] Loper Bright Enterprises v. Raimondo, 603 U.S. 369, 412 (2024) (payment of cost of federal monitors aboard fishing boats).

[59] Kennedy v. Braidwood Management, Inc., 606 U. S. ____ (2025) (decided June 27, 2025).

[60] *Communicating in the Context of Polarization, Politicization, and Conflict*, COLLABORATIVE ON MEDIA & MESSAGING, https://commhsp.org/areas-of-focus/polarization-and-politicization/.

medicines.[61] Broader business interests also concern themselves with health information, from media companies, to large employers that sponsor health coverage for their workers, to the hospital systems and private insurance companies and other corporate organizations that earn revenue within the healthcare system.[62]

Some of the ways in which government regulates business are inherently or dominantly informational. Federal regulation of corporate securities, for example, requires companies issuing investment interests to the public to disclose fully and truthfully all material risks of investing.[63] In the healthcare area, federal drug regulation began in the early twentieth century as an assurance of accurate, complete ingredient disclosure by manufacturers through prohibitions on adulteration or misbranding.[64] Through required disclosures, government warnings, and limitations on misleading advertising, information remains a mainstay of FDA regulation even today, as it does of tobacco regulation.[65]

However, recent Supreme Court decisions have conferred constitutional rights on corporate actors engaged in commercial speech that are nearly as strong as those long conferred on human actors engaged in political or religious speech.[66] As a result, required product disclosures and marketing restrictions in these established regulatory schemes are no longer free from judicial scrutiny, and constitutional concerns increasingly preclude government agencies from compelling private parties to speak the government's message

---

[61] Andy Tan & Cabral Bigman, *Misinformation About Commercial Tobacco Products on Social Media—Implications and Research Opportunities for Reducing Tobacco-Related Health Disparities*, 110 AM. J. PUB. HEALTH S281, S281 (2020).

[62] COMM. ON ASSURING THE HEALTH OF THE PUB. IN THE 21ST CENTURY, THE FUTURE OF THE PUBLIC'S HEALTH IN THE 21ST CENTURY, INST. OF MED. (U.S.) 268–71 (2002).

[63] Securities Act of 1933, 15 U.S.C. § 77k (2016); U.S. SEC. & EXCH. COMM'N, *The Laws That Govern The Securities Industry*, INVESTOR.GOV, https://www.investor.gov/introduction-investing/investing-basics/role-sec/laws-govern-securities-industry.

[64] *80 Years of the Federal Food, Drug, and Cosmetic Act*, U.S. FOOD & DRUG ADMIN. (July 11, 2018), https://www.fda.gov/about-fda/fda-history-exhibits/80-years-federal-food-drug-and-cosmetic-act.

[65] *Advertising and Promotion*, U.S. FOOD & DRUG ADMIN., https://www.fda.gov/tobacco-products/products-guidance-regulations/advertising-and-promotion (last updated Jan. 30, 2020).

[66] Citizens United v. FEC, 558 U.S.310, 317 (2010).

along with or instead of their own.[67] The general effect of these cases is to further privilege constituencies that already assert influence over the political as well as the consumer realm, straying from the First Amendment ideal of empowering individuals. Similarly, experience with corporate reports on climate health and environmental sustainability suggests that required disclosures without standards may pollute the informational environment by inviting contextless data in official form, generating unearned recognition for check-the-box documentation.[68]

On the other hand, it is possible that stricter protection of corporate speech may actually help counter government speech of dubious veracity. Although tobacco companies and their ilk may wish to make consumers less healthy, other corporate actors do not have that incentive.[69] General employers that sponsor costly health coverage for their workers and that also bear the costs of lower productivity from worker ill health may take up the banner of health promotion if government fails to do so.[70] Hospitals and other large healthcare employers may have external responsibilities (e.g. nonprofit missions, local or national reputations, community benefit obligations, informed consent duties) and internal constituencies—such as nurses, physicians, and others—that cause them to commit resources to truthful communication involving health and healthcare.[71] First Amendment protections for corporate speech also generally enable private healthcare organizations to ensure that their employees and affiliates are not spreading health misinformation

---

[67] Nat'l Inst. of Family & Life Advocates v. Becerra, 585 U.S. 755, 755–67 (2018).

[68] Amanda Carter, *Corporate Climate Disclosure Has Passed a Tipping Point. Companies Need to Catch Up*, WORLD RES. INST. (May 6, 2024), https://www.wri.org/insights/tipping-point-for-corporate-climate-disclosure.

[69] Carmen Paun, *Big Pharma Battles Big Tobacco Over Smokers*, POLITICO (June 24, 2019), https://www.politico.eu/article/big-pharma-battles-big-tobacco-over-smokers/.

[70] Leonard L. Berry & Ann M. Mirabito, *Partnering for Prevention with Workplace Health Promotion Programs*, 84 MAYO CLINIC PROC. 335, 336 (2011).

[71] Rick Pollock, *Hospitals and Health Systems Can Be Leaders in Combating Public Health Misinformation*, AM. HOSP. ASS'N. (Mar. 17, 2023, 6:00 AM), https://www.aha.org/news/perspective/2023-03-17-hospitals-and-health-systems-can-be-leaders-combatting-public-health-misinformation.

contrary to organizational interests without restriction or other interference from states or the federal government.[72]

C. Truth to the Crowd.

In many ways, speaking health truth to the crowd is the most challenging problem of all, because so much mystery and uncertainty shroud its incentives, its constituents, and its potential consequences. Virtual crowds, which in today's digital environment are nearly costless to assemble and mobilize, can drown out and harass online speakers with whom they disagree, can increase or diminish the status of real individuals and organizations, and can make sudden live appearances that can disorder and threaten as well as inform and persuade.[73] In other words, the speech rights of crowds are not just about informational freedom but also about harm in the physical world—the right to wave a virtual fist will routinely result in encountering real noses.

These risks are magnified to the extent that government can avail itself of informal enforcement through crowds of censorship that the Constitution does not permit it to impose directly.[74] Many aspects of the current environment point in this direction. Nearly all of the largest corporations today are based primarily in the digital economy. Most of those are American, and all have strong business incentives to accommodate the requests of government and avoid the wrath of crowds.[75]

Content moderation has faded under pressure to allow unconstrained speech, even though private organizations have no duty to do so under the Constitution, with a background threat of regulatory changes that would eliminate social media's corporate

---

[72] Stacy Weiner, *Is Spreading Medical Misinformation A Physician's Free Speech Right? It's Complicated*, AAMCNEWS (Dec. 26, 2023), https://www.aamc.org/news/spreading-medical-misinformation-physician-s-free-speech-right-it-s-complicated.

[73] JESSICA L. BEYER, *What Makes a Crowd?*, *in* THE BARONS AND THE MOB: ESSAYS ON CENTRALIZED PLATFORMS AND DECENTRALIZED CROWDS 33 (Charles Duan & James Grimmelmann eds., 2024) .

[74] Yonatan Lupu et al., *Offline Events and Online Hate*, 18 PLOS ONE 1, 2(2023), https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0278511.

[75] *See* PAUL OHM, *Business Models, Privacy Practices, and the Healthiness of Crowds*, *in* THE BARONS AND THE MOB: ESSAYS ON CENTRALIZED PLATFORMS AND DECENTRALIZED CROWDS 117–18 (Charles Duan & James Grimmelmann eds., 2024).

immunity from private litigation associated with their content moderation decisions.[76] There is, moreover, no workable version in today's environment of the "fairness doctrine" that obligated the old guard of network broadcasters to give equal airtime to opposing viewpoints on issues they covered.[77] And traditional media sources of generally reliable information, such as newspapers, have found their freedom to publish under threat from private litigants alleging libel or other reputational torts as the federal courts revisit the longstanding standard of "actual malice" that was necessary to bring such cases against so-called public figures.[78]

IV. THE SCOPE AND LIMITS OF MEDICAL PROFESSIONAL AUTHORITY

Although the informational environment outlined above is perilous, the authority of medical professional remains a force to be reckoned with. As Paul Starr explained in his magisterial book, "The Social Transformation of American Medicine," the organized medical profession in the United States has repeatedly, and successfully, warded off incursions on its authority from both government and commercial enterprises.[79] At the same time, Lewis Grossman and others have noted an opposing thread of "therapeutic freedom" that runs throughout American history, a resistance to the medical establishment that seems aggressively ascendant as one manifestation of a general if often orchestrated backlash against "elites" and "intellectuals."[80] However, this has not undercut the core of medical professional authority. Knowledge may be more accessible today, but the need for knowledge is proportionately greater as well. Consequently, the combination of expertise and compassion conveyed

---

[76] CLARE CHO & LING ZHU, CONG. RSCH. SERV., R46662, SOCIAL MEDIA: CONTENT DISSEMINATION AND MODERATION PRACTICES 17 (Mar. 20, 2025).

[77] John Villasenor, *Why Creating an Internet "Fairness Doctrine" Would Backfire*, BROOKINGS INST. (June 24, 2020), https://www.brookings.edu/articles/why-creating-an-internet-fairness-doctrine-would-backfire/.

[78] N.Y. Times Co. v. Sullivan, 376 U.S. 254 (1964).

[79] PAUL STARR, THE SOCIAL TRANSFORMATION OF AMERICAN MEDICINE ? (2d ed., 2017) (exploring the American medical profession's centuries-long interactions with government).

[80] LEWIS A. GROSSMAN, CHOOSE YOUR MEDICINE: FREEDOM OF THERAPEUTIC CHOICE IN AMERICAN LAW AND HISTORY (Oxford Univ. Press, 2021).

by physicians, and nurses, carries with it a substantial amount of trustworthiness and trust.[81]

Moreover, medicine is where the money is. Physicians remain in control of several trillion dollars of annual financial flows.[82] Physician fees account for only about 15% of annual U.S. health expenditures, but physicians' referrals, orders and prescriptions direct roughly two-thirds of that massive amount of revenue.[83] A large portion of physicians' financial authority is exercised in the hospital setting, accounting for both "facility" and "professional" fees and giving the medical profession an organized, well-capitalized, community-connected corporate platform for expressing expertise and enhancing trust.[84] More importantly, technical progress has carried with it specialization, so that the self-regulatory authority of physicians is exercised in parallel through many professional subgroups and societies, as well as through umbrella organizations both advisory (e.g., the American Medical Association) and obligatory (e.g., state medical licensing boards).[85] These organizations do not align on all issues, but physician-led organizations are fundamentally conformist and tend to speak with a coherent voice on issues that these organizations consider within their scope of expertise and responsibility.[86]

There also are significant caveats to the exercise of medical professional authority. Many of these are familiar, and some are longstanding, such as the tendency of powerful professions to prioritize their own financial interests over serving their clients or patients, much less pursuing the common good.[87] More recent, but

---

[81] Sydney Malenfant et al., *Compassion in Healthcare: An Updated Scoping Review of the Literature*, 21 BMC PALLIATIVE CARE 1,19 (2022).

[82] Herbert L. Fred, *Cutting the Cost of Health Care: The Physician's Role*, 43 TEX. HEART INST. J. 1, 1 (2016).

[83] *See id*.

[84] Matthew McGough et al., *How has U.S. Spending on Healthcare Changed Over Time?*, PETERSON CTR. ON HEALTHCARE & KFF (Dec. 20, 2024), https://www.healthsystemtracker.org/chart-collection/u-s-spending-healthcare-changed-time/.

[85] William D. White, *Professional Self-Regulation in Medicine*, 16 AM. MED. ASS'N J. ETHICS 275, 276–77 (2014).

[86] *Id.*

[87] *See id.* at 277.

still evident for the last several years, is the medical profession's post-Medicare stranglehold on public resources, which among other things results in "medicalizing" an array of social problems that might be addressed more cheaply and effectively through other professions or non-professional entities.[88] This crowding-out of social care by medical care persists even though non-medical drivers of health, many of which operate at the level of community or policy, are more familiar to physicians now than a decade ago.[89]

Other actual or potential counter-pressures to physician authority seemed unlikely until very recently. Most fundamentally, physicians' exclusive clinical authority and accompanying market power represents a delegation from state governments, and with respect to payment, the federal government.[90] That grant can be limited or withdrawn should governmental actors so determine, appearing far less secure today than in recent history with respect to both its substance and its procedural safeguards.[91] Initially with respect to reproductive rights, and then more generally during the pandemic, state legislatures became emboldened to legislate contrary to medical consensus, and recent federal executive orders do similarly.[92] New challenges also come from the "financialization" of many profitable sectors of healthcare, which for the most part accommodates physicians' clinical control but which—much more than even the largest nonprofit hospital systems—situates what physicians do in a world of unfamiliar, but extremely powerful, actors such as private equity firms, venture capital firms, and the billionaires who direct them.[93] Moreover, with respect to the critical issue of informational authority, conformity within the medical establishment—which has

---

[88] *See* Paula M. Lantz et al., *The Perils of Medicalization for Population Health and Health Equity* 101 MILBANK Q. 61, 63 (2013).

[89] *See id.* at 64–65.

[90] *See* White, *supra* note 85.

[91] *See id.*

[92] *See* Richard J. Baron & Ezekiel J. Emanuel, *Politicians Should Not be Deciding What Constitutes Good Medicine*, STAT (Mar. 7, 2022) https://www.statnews.com/2022/03/07/politicians-should-not-be-deciding-what-constitutes-good-medicine/; *see also* Stacy Weiner, *Emergency Doctors Grapple with Abortion Bans*, AAMCNEWS (Oct. 22, 2024), https://www.aamc.org/news/emergency-doctors-grapple-abortion-bans.

[93] *See* Benjamin M. Hunter & Susan F. Murray, *Deconstructing the Financialization of Healthcare*, 50 DEV. & CHANGE 1263, 1279 (2019).

sometimes muted countercurrent but intelligent voices,—can backfire in a fragmented, social media-driven environment that greedily amplifies the most controversial physicians, however ill-informed.[94]

V. TRUST, TRUTH, AND MEDICAL-LEGAL PARTNERSHIP

Speaking health truth to power requires partnership. Partnership with hospitals as community institutions and as major local employers. Partnership with other non-medical community actors, including faith institutions. Partnership among the health professions. And partnership with lawyers, who are expert in the levers of social change.[95]

For physicians, nurses, and other clinical professions, speaking health truth to power also requires learning new skills and perspectives.[96] Medical-legal partnership (MLP)—especially in integrated clinical settings such as federally qualified community health centers (FQHCs) or in connection with health professions training in academic health systems—can center some of these relationships on building and retaining the trust of individuals and communities.[97] Berwick's "moral determinants of health" frame urges physicians to embrace ethical commitments that are beyond the familiar, comfortable domains of health insurance coverage, access to affordable care, and charitable direct service.[98] Lawyers are good role models in this process because they combine more effectively than physicians the two forms of professional service: expert knowledge and social trusteeship.[99]

---

[94] Wen-Ying Sylvia Chou et al., *Where We Go From Here: Health Misinformation on Social Media*, 110 AM. J. PUB. HEALTH 273, 273 (2020).

[95] James E. Moliterno, *The Lawyer as Catalyst of Social Change*, 77 FORDHAM L. REV., 1559, 1561 (2009).

[96] Charles R. Stoner & Jason S. Stoner, *Today: The Case For Physician Leadership*, AM. ASS'N PHYSICIAN LEADERSHIP (Feb. 25, 2022), https://www.physicianleaders.org/articles/today-case-physician-leadership

[97] Jenny Ajl, Putting the T In MLP: The Role of Trust In Medical Legal Partnerships (Jan. 1, 2019) (M.P.H. thesis, Yale Univ.), https://elischolar.library.yale.edu.

[98] Berwick, *supra* note 4, at 225–26.

[99] STEVEN BRINT, IN AN AGE OF EXPERTS: THE CHANGING ROLES OF PROFESSIONAL IN POLITICS AND PUBLIC LIFE (Princeton University Press, 1994).

Moreover, the archetypal common law lawyer serves as a "zealous advocate" for individuals, seeking in court to protect each client from the unlawful exercise of corporate or government power.[100] Physicians, by contrast, are typically cast as battling the dangers of nature, not those of society, and adopt that professional role in public discourse.[101] Medical-legal partnership offers the potential for a productive degree of role convergence with lawyers around non-medical drivers of health, requiring expertise and advocacy both within and outside what we typically consider medical care.[102]

Speaking truth to power lay at the heart of the most famous declaration of zealous advocacy by lawyers, which was issued in conjunction with the first English royal scandal to be reported to the public in real time.[103] In 1820, Queen Caroline of England was brought before the House of Lords to answer charges of adultery, which would justify passage of a bill declaring her no longer married to King George IV.[104] Speaking for the defense in view of not only the court and gallery but also the earliest generation of tabloid journalists, Lord Brougham proclaimed the strength of his professional commitment to the Queen:

> [A]n advocate, in the discharge of his duty, knows but one person in all the world, and that person is his client. To save that client by all means and expedients, and at all hazards and costs to other persons, and, among them, to himself, is his first and only duty; and in performing this duty he must not regard the alarm, the torments, the destruction which he may bring upon others. Separating the duty of a patriot from that of an advocate, he must go on reckless of consequences, though it should be his unhappy fate to involve his country in confusion.[105]

---

[100] Brad Rudin & Betsy Hutchings, *Zealous Advocacy: A Doctrine Whose Time Has Passed?*, N. Y. STATE BAR ASS'N (Aug. 20, 2024), https://nysba.org/zealous-advocacy-a-doctrine-whose-time-has-passed/.

[101] STEPHEN SCHER & KASIA KOZLOWSKA, RETHINKING HEALTH CARE ETHICS 40 (Singapore: Springer Nature, 2018).

[102] Elizabeth Tobin-Tyler & Joel B. Teitelbaum, *Medical-Legal Partnership: A Powerful Tool for Public Health and Health Justice*, 134 PUB. HEALTH REP. 201, 201–03 (2019).

[103] Rudin & Hutchings, *supra* note 100.

[104] *Id.*

[105] 2 QUEEN CAROLINE (CONSORT OF GEORGE IV, KING OF GREAT BRITAIN), TRIAL OF QUEEN CAROLINE 1–3 (Jersey City: F.D. Linn & Co., 1879).

Lord Brougham was making clear that he would not hesitate to reveal King George's own *affaires de coeur* to the Lords and the English public. Courageous yes, but in Britain's constitutional monarchy with its landed gentry, wealthy industrialists, and independent judiciary, Brougham's speech was also good for business.[106] An advocate who valued the client above all others—even the king—was worth seeking out, and worth paying well. The speech turned public sentiment in the queen's favor (though the king still succeeded in divorcing her), and greatly enhanced the reputation of the English bar.[107]

Promoters of accurate health information would be well-advised to take note of this historical example's human-centered framing and approach to understanding and leveraging the public's motivations. Healthcare systems and professionals must consistently deliver both high-quality care and accurate information to demonstrate their trustworthiness and combat misinformation effectively, and they must do so through the lens of loyalty to the people they serve.[108] As the familiar saying holds, the proof of the pudding is in the eating.

One key skill for healthcare practitioners and administrators is appreciation for the attitudes and beliefs that drive health behaviors.[109] Interprofessional collaboration within MLP can increase the likelihood that health truth will reach an audience open to receiving it, amplifying accurate health messaging from other parties while reducing vulnerability to provocative misinformation.[110]

MLP lawyers leverage their expertise as students of legislative and regulatory structures to advance individual and population health.[111] In an MLP setting, a patient's interaction with an attorney to address a health-harming legal need often begins with a referral from a clinician

---

[106] Michael S. Ariens, *Brougham's Ghost*, 35 N. ILL. U. L. REV. 263, 275 (2015).

[107] Geoffrey C. Hazard, Jr., *The Future of Legal Ethics*, 100 YALE L.J. 1239, 1244 (1991).

[108] MURTHY, *supra* note 42, at 10.

[109] Erin Fogarty, *A Strategy to Tackle Public Health Misinformation*, AM. HOSP. ASS'N. (May 30, 2023, 9:02 AM), https://www.aha.org/news/healthcareinnovation-blog/2023-05-30-strategy-tackle-public-health-misinformation; *see* Julian H. Neylan et al., *Strategies to Counter Disinformation for Healthcare Practitioners and Policymakers*, 14 WORLD MED. HEALTH POL'Y 428, 430 (2021), https://pmc.ncbi.nlm.nih.gov/articles/PMC9216217/.

[110] William M. Sage & Keegan D. Warren, *Why MLP Legal Care Should be Financed as Health Care*, 26 AMA J. ETHICS 640, 640 (2024).

[111] Vicki W. Girard et al., *Leveraging Academic-Medical Legal Partnerships to Advance Health Justice*, 51 J. L., MED. & ETHICS 798, 799 (2023).

following a medical visit.[112] The most effective MLP legal teams necessarily develop a robust ability to relay health information across audiences.[113]

Consider claims for federal social security disability benefits, an administrative process subject to judicial review in which the entire evidentiary record is likely clinicians' notes.[114] Attorney representation increases the probability of success by some thirty percent, in large part because lawyers present medical evidence more effectively to an official audience.[115] By not only identifying which medical information is relevant, but also framing it as a meaningful health narrative, the attorney becomes a translator of truth for both the patient-client and the referring clinician. This improved information management resulting from legal representation leads directly to financial benefits for both the individual claimant and the care team that provides necessary medical services.

In addition to helping the client, interprofessional health information translation builds community knowledge in a way that conveys trustworthiness and enhances trust.[116] In particular, MLP routinely enlists healthcare providers in increasing health literacy among both existing patients and community members.[117] This approach elevates personal agency, which people typically prefer to proxy representation.[118] Promotion of self-efficacy begets trust in part because it grounds the attorney-client relationship in shared decision-making, a strategy the medical profession has only relatively recently adopted.[119]

---

[112] *Id*.

[113] *Id*. at 798.

[114] 42 U.S.C. §§ 902(a)(5), 1383, 1383b; *Disability Evaluation Under Social Security*, SOC. SEC. ADMIN., https://www.ssa.gov/disability/professionals/bluebook/evidentiary.htm (last visited Apr. 1, 2025).

[115] U.S. GOV'T ACCOUNTABILITY OFF., GAO-04-14, SSA DISABILITY DECISION MAKING 46, 48 (2003).

[116] *Investigating the Return on Investment for Medical-Legal Partnerships*, PHILA. LEGAL ASSISTANCE, https://philalegal.org/ROmlcp (last visited May 17, 2025).

[117] AM. HOSP. ASSOC., IMPROVING HEALTH EQUITY THROUGH MEDICAL-LEGAL PARTNERSHIPS (Nov. 2020), https://www.aha.org/system/files/media/file/2020/11/aha-medical-legal-partnerships-1120-final.pdf.

[118] ASHLEY AMES ET AL., MINISTRY OF JUST. LEGAL PROBLEM AND RESOLUTION SURVEY 2023: SUMMARY REPORT (2024).

[119] E.g., the first mandated use of shared decision-making by the Centers for Medicare &

Additionally, lower educational attainment and lower health literacy are both correlated with susceptibility to misinformation.[120] The five core areas of health-harming legal need addressed by MLP expressly include education,[121] and school-based MLP has arisen as its own specialized collaborative.[122] By addressing the social determinants of education within the delivery of health care, MLPs promote access to education and improve academic outcomes, both of which are crucial to address the educational gap that feeds susceptibility to misinformation.

Moreover, if relationships move at the speed of trust, the legal continuum of care beyond individual representation represents an important impact that MLP can have on the informational environment for populations of patients, other healthcare practitioners, and entire communities. Particularly at fully integrated MLPs, lawyers form a part of the healthcare workforce like any other specialist, participating in several activities that help overcome health misinformation.[123] For example, MLPs improve information-based processes within healthcare delivery, creating screening tools and drafting template letters that are available in patients' electronic health records.[124] MLP legal teams lead trainings for patients, communities, and providers that build health literacy.[125] MLP sites have also been

---

Medicaid Services was in 2015. Decision Memo, CMS, Feb. 5, 2015, *available at* https://www.cms.gov/medicare-coverage-database/view/ncacal-decision-memo.aspx?proposed=N&NCAId=274.

[120] Laura D. Scherer et al., *Who Is Susceptible to Online Health Misinformation? A Test of Four Psychosocial Hypotheses*, 40 HEALTH PSYCH. 1, 7 (2020), https://www.apa.org/pubs/journals/releases/hea-hea0000978.pdf.

[121] The IHELP mnemonic includes income and insurance, housing and utilities, education and employment, legal status, and personal and familial stability. KATE MARPLE, NAT'L CTR. MEDICAL-LEGAL P'SHIP AT GEO. WASH. UNIV., FRAMING LEGAL CARE AS HEALTH CARE 3 (2015).

[122] *See* NAT'L CTR. MEDICAL-LEGAL P'SHIP AT GEO. WASH. UNIV., SCHOOL-BASED HEALTH & MEDICAL-LEGAL PARTNERSHIPS 4 (2018).

[123] *Range of MLP Activities*, NAT'L CTR. MEDICAL-LEG. P'SHIP AT GEO. WASH. UNIV., https://medical-legalpartnership.org/response.

[124] *See* Taylor et al., *Keeping the Heat on for Children's Health: A Successful Medical–Legal Partnership Initiative to Prevent Utility Shutoffs in Vulnerable Children*, 26 J. HEALTH CARE POOR & UNDERSERVED 676, 682 (Aug. 2015).

[125] Edward Paul et al., *Medical-Legal Partnerships: Addressing Competency Needs Through Lawyers*, 1 J. GRADUATE MED. EDUC. 304, 305–07 (2009); KATE MARPLE ET. AL, NAT'L CTR. MED.-LEGAL P'SHIP AT GEO. WASH. UNIV., TYPES OF TRAININGS THAT HELP MEET PATIENTS' NEEDS AND STRENGTHEN THE HEALTH CARE AND LEGAL WORKFORCES 5 (Oct. 2020).

shown to enhance institutional health information by integrating attorneys as part of interdisciplinary care teams in complex case management conferences[126] and group medical visits,[127] including group prenatal care.[128]

Misinformation also undercuts patients' willingness to follow clinical recommendations,[129] which can be directly countered by the way in which MLP lawyers' expertise enhances information exchange and demonstrates trustworthiness. In one study, patients were twice as likely to discuss social history potentially relevant to treatment when it was presented using a justice framework.[130] Attorney-facilitated health information is also critical to measuring MLP quality as a complement to other social care. This is itself critical to demonstrating trustworthiness, in part because attorneys must meet an ethical standard of care that is subject to enforcement by legal professional disciplinary entities.[131] This assurance offers an opportunity for MLP to discover and remediate community-level health needs, further offsetting misinformation-fed mistrust of "the establishment."[132]

---

[126] Megha Garg et al., *Hospital-Based Medical-Legal Partnerships for Complex Care Patients: Intersectionality and Ethics Considerations*, 51 J. LAW MED. ETHICS 764, 769 (2023); Diana Hernández, *"Extra Oomph:" Addressing Housing Disparities Through Medical Legal Partnership Interventions*, 31 HOUS. STUD. 871, 874 (2016).

[127] KATIE HUBER ET AL., MARGOLIS CTR. FOR HEALTH POL'Y, EXEMPLARY INTEGRATED PAIN MANAGEMENT PROGRAMS: PEOPLE'S COMMUNITY CLINIC INTEGRATIVE PAIN MANAGEMENT PROGRAM 10 (Nov. 9, 2021)

[128] KEEGAN WARREN & DAPHINE MCGEE, "Re-Imagining Prenatal Care: Designing a Justice-Conscious Approach to Reproductive Health, Pregnancy, and Early Parenthood" at 264-65, in *The Practical Playbook III: Working Together to Improve Maternal Health* (Lloyd Michener et al. eds., 2024).

[129] Nashwa Ismail et al., *The Experience of Health Professionals with Misinformation and Its Impact on Their Job Practice: Qualitative Interview Study*, 6 JMIR FORMATIVE RSCH. 12 (2022).

[130] Elizabeth Tobin Tyler, *Medical-Legal Partnership in Primary Care: Moving Upstream in the Clinic*, 13 AM. J. LIFESTYLE MED. 282, 287 (2019).

[131] MODEL RULES OF PRO. CONDUCT r. 8.4 cmt. (AM. BAR ASS'N 1969).

[132] *See* Maria Mercedes Ferreira Caceres et al., *The Impact of Misinformation on the COVID-19 Pandemic*, 9 AIMS PUB. HEALTH 262, 272 (2022).

CONCLUSION

Whether healthcare- or health-related, professionals and organizations must make trust their north star to combat misinformation. That means not only asking to be trusted, but actively demonstrating trustworthiness.[133] Focusing less on insurance reimbursement and returning to a more people-centric approach will be crucial to building trust.[134] This shift requires renewed attention to ideals and causes that resonate with communities as well as with individual patients and their families, fostering a sense of shared purpose and responsibility. Finding the right "unit of organization" for community trust is essential. This may involve geographical boundaries, shared identities, longstanding partners, common needs, or technological platforms, including AI, that can unite people and facilitate the spread of accurate health information.[135]

The medical and legal professions have long collaborated to boost the health and well-being of the public through joint informational campaigns on topics as disparate as war crimes, civil rights, and healthcare quality.[136] MLP embodies that time-honored relationship, and being explicit about its potential role in speaking health truth to power is an important next step in stemming the flow of misinformation today. Sharing perspectives, tools, and authority, clinicians and attorneys can work together to promote trust and trustworthiness in conveying health truth.[137]

---

[133] AM. ASSOC. MED. COLLS., *The Principles of Trustworthiness*, https://www.aamchealthjustice.org/our-work/trustworthiness/trustworthiness-toolkit (last visited May 18, 2025).

[134] DAN W. BROCK & ALLEN BUCHANAN, *Ethical Issues in For-Profit Health Care*, *in* FOR-PROFIT ENTERPRISE IN HEALTH CARE (Bradford H. Gray ed., Nat'l Acad. Press 1986).

[135] Patrick J. Fitzpatrick, *Improving Health Literacy Using the Power of Digital Communications to Achieve Better Health Outcomes for Patients and Practitioners*, 5 FRONTIERS IN DIGIT. HEALTH (Nov. 17, 2023).

[136] *See generally* Joel Teitelbaum & Ellen Lawton, *The Roots and Branches of the Medical-Legal Partnership Approach to Health: From Collegiality to Civil Rights to Health Equity*, 17 YALE J. HEALTH POL'Y, LAW & ETHICS 343, 350 (2017).

[137] *See* Sage & Warren, *supra* note 110, at 643.