

## **The Art of Dabbling: A Flaw in the Law**

Ask anyone what they think about lawyers, and besides the more obvious answers of mistrust and similar thoughts, is the belief that lawyers are very well educated. And they are; to a certain extent. Law school lasts three years. There are no requirements for apprenticeships or residency after this, except simply to pass your state's bar examination. While this may seem difficult to many, the overall barriers to entry for the legal profession are relatively low, especially compared to the other major professional degree, the Medical Doctorate (M.D.).

A doctor is required to go through a vigorous examination prior to entry into medical school, the MCAT, before a series of interviews and placements can take place, upon which there is a matching between student and school. At this point, the med student can expect a four-year training, followed by a minimum four-year residency in which the student must match with a residency program, before even thinking about more residency years to declare a possible specialty.<sup>1</sup> The process is highly selective and difficult, ensuring a very high barrier of entry to a very high liability profession, the health of our citizenry.

The point here is that, of the two major professional degrees, one is clearly more difficult to obtain than the other. But as I often ask my clients, if you break your arm, would you set it yourself? Then why would you attempt your legal needs by yourself? They can have just as many financial and health implications in the long term. Law school has become a de facto fall back to many students across the United States who are having trouble finding work post-bachelor education. No one says "Well, I guess I'll go to med school." But I bet more than a few have heard "maybe I'll just go to law school."

And herein lies the problem. Law is more and more seen as a fallback profession, rather than the statesman profession is was once claimed to be by our second president John Adams, a lawyer by trade himself. So how does this relate in particular to problems in family law? Let's look at some statistics. The Texas State Bar web site shows a total of almost 90,000 active state bar members, with another 14,000 inactive. That means there are a total of 104,000 lawyers admitted to the Texas State Bar. According to the Texas Medical Board, which tracks certain data, a total of 51,217 medical licenses were active in Texas, with only 39% actively treating patients. That means, not only are there only half of the number of medical licenses compared to law licenses, but less than half of those have direct patient contact.

Let's not be too harsh on the legal profession though. There are certain avenues, deemed very difficult by the Texas Board of Legal Specialization, to become "Board Certified" in a given type of law. In particular, 803 attorneys have gone through the rigorous requirements, including a day-long examination, to be board certified family lawyers. Since there are roughly 7-8,000 Texas attorneys that claim to be focused almost solely on

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<sup>1</sup> The length of time can depend upon the residency program given by a particular school, but can be up to another two to three years for specialty.

family law matters, only 10% are board certified. This of course does not mean that the other 90% are not fully competent lawyers. In fact, one could argue that Board Certified lawyers in many ways are no more well equipped to handle a certain type of case than one who practices solely in that type of law and simply never bothered to keep up with the numerous arbitrary requirements to claim the certification.

The real issue is that *far more* than those 7-8000 attorneys practice family law at any given time. I like to call this “the art of dabbling.” As Randy Kessler, past chair of the ABA Family Law Section and Family Law attorney himself points out in his recent article “State of Family Law”<sup>2</sup>, the economic downturn has forced many lawyers out of their particular specialty, and family law, one of the most consistently needed types of attorneys, is a quick way to make some money. However, do we really want lawyers “dabbling” in areas of the law they have no business practicing? How would you like it if your heart surgeon was actually a medically licensed psychiatrist, in need of some extra cash so he decided to “dabble” in heart surgery? The barriers to this occurring in the medical field are obvious and numerous, even with overwhelming tort reform. Yet they are virtually non-existent in the legal arena. In my short time as a lawyer (nearly two years active practice), I have met more than my fair share of dabblers. While more often than not I am opposite a very worthy and respected family law attorney, I have met some who typically represent police forces to one who specialized in mergers and acquisitions, in a child custody case!

At the very least, the legal field needs more barriers to entry: less law schools, apprenticeship requirements, and more solid and necessary paths to specialization, to name a few. While these are not easy fixes, or quick ones, especially considering the immediate loss of money in the short term, they are necessary for the long term health of our profession, and most importantly, for the long term satisfaction of any client who comes to an attorney with legal needs. The legal profession cannot continue to fail the general populace. In my case, family law cannot continue to allow the children and their parents to be failed by a system more concerned with money than legal health. Otherwise, websites such as [www.fclu.org](http://www.fclu.org) will continue to exist, and have a leg to stand on in their growing disdain for family lawyers in particular.

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<sup>2</sup> <http://www.linkedin.com/today/post/article/20140325111347-19030295-state-of-family-law-the-dangers-of-dabbling?trk=object-title>