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ARTICLES

**Defending Hospital Mergers After the FTC's
Unorthodox Challenge to the Evanston Northwestern —
Highland Park Transaction** TOM CAMPBELL, J.D. 213

Examining the Federal Trade Commission's retrospective challenge of a hospital merger in Illinois, the author provides an insightful analysis of one of the agency's major antitrust enforcement initiatives in health care in the last several years. Because the case produced several departures from antitrust orthodoxy, these departures may affect the trials of future hospital mergers that are challenged. The author reviews the methodology and evidence of the case, and he identifies theories and best practices that are important for administrators and legal practitioners to implement in future mergers.

**HPSA and the Anti-Kickback Safe Harbor:
Are We Sending Doctors to the
Right Neighborhoods?** KERI L. TONN, J.D., M.S. 241

This article explores the problems within a niche area of health law, the Health Professional Shortage Area (HPSA) safe harbor of the Anti-Kickback Statute. The author advocates for its removal by discussing how the HPSA designation is being used incorrectly to curb fraudulent behavior and how the current provision serves few hospitals. The author concludes by suggesting innovative solutions to remedy the problems with the current HPSA designation system.

**Gavels in the Nursery: An Appellate Court
Shuts Out Parents and Physicians
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STEVEN LEUTHNER, M.D., M.A., &
ARTHUR R. DERSE, M.D., J.D.

This article explores a recent Wisconsin Court of Appeals decision in a medical malpractice case and its ramifications regarding Wisconsin's informed consent statute. The authors compare and contrast this decision with previous Wisconsin Supreme Court cases and consider the relevance of applicable federal law. The article presents a thoughtful analysis of how the Wisconsin Court of Appeals should have approached the issue, as well as how it created potential conflicts regarding the ethical duties of healthcare providers treating children.

**Electronic Healthcare Data Collection and
Pay-For-Performance: Translating Theory Into
Practice** RAMESH C. SACHDEVA, M.D., PH.D., D.B.A., 291
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With insight grounded in his work for a national data collection consortium and as Vice President of Quality and Outcomes at the Children's Hospital of Wisconsin, the author connects the theory of pay-for-performance to the realities of its implementation. The author expands the Diagnosing the Data conversation by describing the challenges of collecting meaningful data and by addressing the potential legal issues that data use raises. Drawing on his national and local experience, the author concludes with suggestions for adopting data collection programs that are both clinically relevant and scientifically reliable.

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