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Foreword

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Foreword

The *Annals of Health Law* Editorial Staff is proud to present our Winter 2018 Issue. Each year, our Editorial Board seeks out articles written on important and contemporary topics within the health law community. This issue particularly furthers the *Annals* tradition of covering a broad range of current and intriguing issues within health law and policy. These selected pieces contribute to the continued recognition of *Annals of Health Law* as one of the country's preeminent health law and policy journals.

The first article, authored by Theresa C. Mahfood, takes an in-depth look at Sovaldi, the first curative Hepatitis C Virus drug. Reflecting on Sovaldi's high cost and the subsequent disparity in access between high- and low-income patients, Ms. Mahfood unpacks the ethical quandary inherent in the price-setting and distribution of such a revolutionary, effective, and expensive drug among millions of infected individuals. Mahfood argues that any ethical analysis of pharmaceutical price-setting must also consider the legal and regulatory mechanisms which impose substantial losses on pharmaceutical companies, especially during the research and development process. Ultimately, Ms. Mahfood's multi-factor analysis concludes that Gilead Sciences, Sovaldi's drug manufacturer, was ethically justified in its price-setting.

The second article, authored by Laura D. Hermer, offers an interesting and particularly timely discussion of imposing work, time, and "personal responsibility" requirements on Medicaid beneficiaries. Considering data from the imposition of similar requirements on Temporary Aid for Needy Families ("TANF") and cash welfare beneficiaries, Ms. Hermer contemplates the legality of pending waiver requests along with whether and how similar requirements on Medicaid might impact program take-up and continuation, as well as beneficiary health. Ms. Hermer also ponders the extent to which these data may be reasonably applied in anticipation of similar requirements for Medicaid. Finally, Ms. Hermer concludes that while time limits will likely have a negative effect on Medicaid uptake, retention, and beneficiary health, the negative effects of work requirements, to the extent that evidence exists for them, may be more limited.

The final article, authored by Sira Grosso, concerns the crux of medical malpractice litigation: the legal standard of medical care. Currently, the legal standard of care for medical malpractice is rooted in accepted and "customary" medical practice. Ms. Grosso deconstructs and, ultimately, rejects the theory that this tenuous standard contributes to physicians' modern tendency to practice defensive medicine. However, Ms. Grosso still argues that the "customary practice" criterion for establishing the legal standard of medical care is inappropriate. Rather, Ms. Grosso proposes that evidence-based medicine should be the basis for establishing a legal standard of physician diligence in medical malpractice claims, and further suggests that Clinical Practice Guidelines may be helpful, evidence-based tools in either proving or disproving the physician-defendant's breach of the standard of care.

On behalf of the entire *Annals of Health Law* Editorial Staff, I would like to thank Theresa C. Mahfood, Laura D. Hermer, and Sira Grosso for contributing their extraordinary talent and knowledge to this outstanding issue. This issue is the manifestation of the authors' scholarship and passion, as well as their exceptional collaboration and professionalism. The Editorial Board and I would like to thank every member of the *Annals* team for their enthusiasm, commitment, and

diligence throughout the editing process. I would also like to express my sincerest gratitude to my colleagues on the Executive Board: Lauren Batterham, Christine Bulgozdi, Jordan Donnelly, Sarah Gregory, and Collin Rosenbaum. Additionally, I would like to acknowledge the outstanding efforts of our Senior Editors: Tamara Koury, Lauren Park, Kevin Pasciak, and Alexander Thompson. Finally, we would like to thank the amazing faculty at the Beazley Institute for Health Law and Policy for their continued support of our endeavors. The success of this issue would not have been possible without the hard work and dedication of everyone involved.

It is with great pride that we present the Winter 2018 Issue of *Annals of Health Law*.

Sincerely,

Adrienne A. Testa
Editor-in-Chief
Annals of Health Law