

Foreword

The *Annals of Health Law and Life Sciences* Editorial Board is proud to present the Winter 2022 Issue, the first edition of our thirty-first volume to date. Each year, our Editorial Board seeks out articles covering important and contemporary topics within the health law and life sciences community. Due to the global COVID-19 pandemic, the years 2020 and 2021 were unprecedented in many respects, and doubly so in the health and life sciences spaces. Although the pandemic significantly impacted many aspects of our lives, scholarship persevered and has become more important than ever to continue to be offered.

The health care and life sciences matters addressed in the Winter 2022 Issue particularly further the *Annals* tradition of covering a broad range of current and intriguing topics. These selected pieces contribute to the continued recognition of *Annals of Health Law and Life Sciences* as one of the country's prominent health and life sciences law and policy journal. I am honored to introduce the following works of scholarship, which take a critical look at very pertinent and captivating issues in health law and life sciences.

Michael Cederblom's article, *Welcome to the Digital Age: Reinventing Contact Tracing and the Public Health Service Act for a Modern Pandemic Response*, starts with a discussion about current United States law regarding contact tracing during an infectious disease outbreak. He then explains how the government's inefficient response should have had a greater focus on contact tracing and spread reduction. Cederblom transitions from a discussion about the United States to China and South Korea to exemplify how a focus on contact tracing can help control the spread of COVID-19. Specifically, he uses these examples to show that contact tracing is critical in eliminating an infectious outbreak in the United States. Cederblom then mentions that decentralized contact tracing is ineffective. As a solution, he argues that centralized contact tracing is efficient, but understands that there is a Fourth Amendment hurdle. Cederblom goes on to propose an amendment to current United States legislation for greater transparency while maintaining privacy protections. Cederblom

concludes that a focus on contact tracing and “creating a highly controlled, centralized system designed to supplement state contact tracing efforts” will play a crucial role in future public health responses.

The second article, *Healthcare Fraud Investigations: Overview of Overbroad Investigative Regime and Recommendations for a More Targeted Approach*, shifts from a focus on the pandemic to a longer-lasting topic, healthcare fraud and abuse. Salvatore Filippello focuses on the currently flawed healthcare fraud and abuse investigation system and how improvements can be made to help make this system more efficient. He begins with a discussion about the Affordable Care Act’s anti-fraud tools and its effects on providers. Filippello also provides a brief summary on the Anti-Kickback statute, Stark law, False Claims Act, and other fraud and abuse statutes. He then focuses on the incentives for relators to bring a fraud and abuse claim and the effects on providers. Specifically, Filippello provides examples of how current enforcement has placed a burden on both providers and the healthcare system. He then transitions to focus on examples of fraud and abuse that the Department of Justice should be targeting, like pass-through labs, insurance companies, and unnecessary procedures. In conclusion, Filippello recommends that the Department of Justice should focus on target areas that need to be further investigated by considering a patient-centered approach, physician intent, False Claims Act reform, and implementing a monetary threshold.

Finally, Laura Montesantos closes with *Physician Liability in the Age of Data Reliance and Errors*. In her article, Montesantos focuses on the legal complications that accompany health care innovation and specifically the lack of clear standards to establish liability for errors. She begins with a discussion regarding existing legislation and the focus on technical standards. Montesantos then provides an in-depth description of how health care data becomes a part of patient records, exploring the probability of technological errors. She then discusses the existing legal theories surrounding product liability and medical malpractice, and reviews if it would be beneficial to use the current law or provide modifications. Lastly, Montesantos proposes new federal legislation that focuses on closing the gap on liability, specifically developing a standard of care for claims of liability and a three-prong test to determine software and physician responsibility.

The new standard of care would be for all software manufacturers regarding product liability. Additionally, under the three-prong test, physicians would still be held liable for their negligence, but not for the software defects. Overall, Montesantos concludes that a new federal standard should balance the growth of healthcare technological innovation and technology liability in order to promote safe and effective innovation.

On behalf of all staff members of *Annals of Health Law and Life Sciences*, I would like to thank Michael Cederblom, Salvatore Filippello, and Laura Montesantos for honoring *Annals* with their incredible works of scholarship. This issue exemplifies the passion, dedication, and professionalism of everyone involved. The Editorial Board and I would like to thank each Associate Editor for their attentiveness, patience, and enthusiasm during the editing process. Additionally, I would like to recognize the exceptional work of Edwin Caro, *Annals* Publications Editor, for his unwavering commitment to this journal and its authors. Additionally, I must recognize the outstanding work of our Symposium Editor and Technical Production Editor, Abigail Higgins, as well as our Marketing & Coordinating Editor and Technical Production Editor, Joshua Wiedner, who continue to go beyond the call of their roles to ensure this journal's excellence. I would also like to thank our Advance Directive Editors, Mambwe Mutanuka and Sarah Ryan, whose untiring efforts have brought this issue to life. Furthermore, I would like to recognize and thank our remarkable Senior Editors: Cristal Nova, Luke Cummings, Eileen Gabriel, and Michael Kemel for their excellent work through the editing process. And finally, I would like to thank our supportive advisors at the Beazley Institute for Health Law and Policy, including Professors Nadia Sawicki and Kristin Finn, for their continued guidance and support for this issue and its purpose.

Meera V. Patel, Editor-in-Chief