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Foreword

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Foreword

The *Annals of Health Law and Life Sciences* Editorial Board is proud to present the Summer 2024 Issue, the second edition in our thirty-third volume to date. Each year, our Editorial Board seeks out articles that continue the *Annals* tradition of critically examining meaningful, pertinent, and predominant topics in health law and life sciences. I am honored to introduce the following works of health and life sciences law and policy scholarship.

Professor Julie Agris' article, *Healthcare Fraud and Abuse: Continued Lessons Learned from High Performing Healthcare Organizations*, examines the troubling increase in healthcare fraud and abuse in the United States healthcare system. Not only does healthcare fraud and abuse impact the monetary cost of patient care, but it threatens the quality of care. Deterioration in the quality of care can erode patients' trust in the United States healthcare system. Professor Agris advocates for learning from high-performing healthcare organizations whose work bolsters trust in the healthcare system. Using high-performing healthcare organizations as models, Professor Agris emphasizes how trust-building organizational behaviors can combat the deteriorating trust in the United States healthcare system.

Professor Chinelo Diké-Minor's article, *Be Careful What You Wish For: An Overreliance on Telemedicine Could Harm Health Equity*, analyzes the health equity implications of an increase in telemedicine. Although telemedicine increases healthcare access which promotes health equity, the increased use of telemedicine may lead to increased healthcare fraud and abuse which harms the broader health equity goal. Professor Diké-Minor advocates for telemedicine as a critical tool to combat the health equity issues in the United States, but also notes the fraud and abuse-related risks that must be examined as telemedicine becomes more prominent in the United States healthcare system.

Professor Joan Krause's article, *Fraud and Abuse Law: Missed Opportunities to Enhance Health Equity*, examines the pervasiveness of healthcare fraud and abuse in the United States healthcare system. However, healthcare fraud and abuse enforcement can exacerbate injuries to vulnerable patients and perpetuate health inequities. Healthcare fraud and abuse laws target fiscal harm to the government but do not do enough to protect patients, especially vulnerable patients, against the physical, financial, and indirect harm associated with healthcare fraud and abuse. Professor Krause advocates for healthcare fraud and abuse prioritizing remedying harm to patients. Professor Krause also emphasizes the need to share some of the monetary recoveries with wronged patients to remedy the harm they suffered. The article provides solutions modeled after states' use of their broader legal flexibility to aid in recovery for injured patient populations.

Professor Shawn Mathis' article, *Protecting Medicaid Providers and Enrollees from Payment Suspensions Based on "Credible Allegations of Fraud:" A Lesson from New Mexico*, examines

how the credible allegation of fraud (CAF) Medicaid initiative enacted as part of the Patient Protection and Affordable Care Act (ACA) led to the dismantling of the greater part of New Mexico's behavioral health system in 2013 —with no subsequent findings of fraud. This CAF initiative requires states to immediately halt payments to Medicaid providers suspected of fraud and to refer them to law enforcement for investigation. Using these events as a case study, Professor Mathis explains the continued threat posed to Medicaid providers by this ill-conceived provision of the ACA. Under federal law, Medicaid providers whose payments are suspended based upon CAF have limited protections and opportunities for expedited review; many accused providers go out of business pending lengthy investigations that may eventually exonerate them. Meanwhile, services to Medicaid beneficiaries are disrupted. In 2019, New Mexico made significant changes to its Medicaid Provider and Managed Care Act that afford greater due process and expedited review to Medicaid providers accused of fraud, and include provisions intended to keep a provider's doors open while protecting Medicaid funds. Professor Mathis urges states to enact similar protections to backfill federal CAF laws and regulations. She concludes by cautioning state regulators to judiciously weigh the demonstrated potential for innocent providers to be swept up under this ACA antifraud initiative and to carefully consider the impact that payment suspension has on the ability of an accused provider to continue serving Medicaid enrollees.

On behalf of all staff members of the *Annals of Health Law and Life Sciences*, I would like to thank Professor Julie Agris, Professor Chinelo Diké-Minor, Professor Joan Krause, and Professor Shawn Mathis for their invaluable contributions to *Annals*. The Summer 2024 Issue demonstrates their scholarship, diligence, and excellence. The success of the Summer 2024 Issue would not have been possible without the hard work and perseverance of everyone involved. The Editorial Board and I want to thank every Associate Editor for their dedication, professionalism, and enthusiasm throughout the editing process. It is a great pleasure to work with such an earnest Editorial Board. I want to express my gratitude to my Editorial Board colleagues: Grace Connelly, Jenna Miller, Natasha Ganesh, Bennett Murphy, Ariana Devereaux, Farisa Khan, Divya Das, and Manuel (Manny) Franco. I also want to thank our outstanding Senior Editors for their commitment to excellence. Paul Achkar, Juhi Desai, Olivia Goldner, Amal Mir, and Jay-Donavin Ved, it is a privilege working with you. Finally, the entire *Annals* Editorial Staff would like to thank our advisors at the Beazley Institute for Health Law and Policy, including Professors Nadia Sawicki and Kristin Finn, for their continued guidance, support, and encouragement.

We are honored to present the Summer 2024 Issue of *Annals of Health Law and Life Sciences*.

Sincerely,

Kathryn Van Sistine

Editor-in-Chief

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