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Foreword

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Foreword

When the 2005-2006 Executive Board first approached the formidable task of selecting articles for publication in the Winter edition of Volume 15 of the *Annals of Health Law*, we planned to select articles related to a single theme in health law. However, we soon realized that to focus on one narrow subject would ignore the opportunity to explore the numerous developing areas in health law. Thus, we settled on five very different topics, represented by five scholarly and timely articles. Each piece not only discusses an ongoing debate in health law, but also reflects the twists these debates are beginning to take.

Similar to the abortion debate that started decades ago, stem cell research has sparked a religious, legal, and moral controversy. Rooted in such difficult-to-answer questions as whether life begins at conception and whether moral beliefs should curtail research advancement, stem cell research has generated a social and political outcry. In her article, "The States 'Race' with the Federal Government for Stem Cell Research," Joanna Sax explores the political reaction to this debate. Specifically, Dr. Sax proposes how, despite a federal ban on creating new stem cell lines, individual states and private institutes may push stem cell research forward. She describes states as "laboratories" for federal policy that experiment with different approaches to stem cell research and analyzes the potential impact of such state legislation.

Like stem cell research, contraceptive use also raises moral, ethical and religious concerns. In fact, some of the same questions debated in relation to stem cell research, such as when life begins, arise with contraceptive use. Mary Collins looks at the conflict between access to useful medication and moral beliefs in her article, "Conscience Clauses and Oral Contraceptives: Conscientious Objection or Calculated Obstruction?" Ms. Collins explores recent state legislation, called conscience clauses, allowing health care providers to refuse to dispense certain contraceptives because of personal beliefs.

The next article, "Is Obesity *Really* the Next Tobacco? Lessons Learned from Tobacco for Obesity Litigation," is authored by Brooke Courtney. We selected Ms. Courtney's article from the top twenty percent of articles submitted to the Seventh Annual Epstein Becker & Green Health Law Writing Competition.

Ms. Courtney combines two areas of the law that have independently received much attention: obesity litigation and tobacco litigation. In a unique approach to these issues, Ms. Courtney explores obesity litigation as the “next tobacco” and discusses what lessons from tobacco litigation can be used for obesity litigation.

Much like their counterparts in the tobacco and fast-food industries, pharmaceutical companies have also been the focus of recently increased scrutiny, in particular because of the high cost of prescription drugs. Faced with criticism from the federal government, state governments, and the plaintiff’s bar, the pharmaceutical industry finds itself in an environment of confusion and uncertainty. Authors Jonathan K. Henderson and Quintin Casady provide clarity by explaining recent governmental enforcement actions and the implementation of successful compliance programs in their article, “Drug Deals in 2006: Cutting Edge Legal and Regulatory Issues in the Pharmaceutical Industry.”

Finally, William Gunnar, a cardiac surgeon, draws from personal experience in his article, “The Fundamental Law that Shapes the United States Health Care System: Is Universal Health Care Realistic Within the Established Paradigm?” Dr. Gunnar describes the uninsured patient population and examines the current social contract between health care providers and uninsured patients. Dr. Gunnar also analyzes federal statutes that define who may receive federal and state health care funding and concludes that these statutes, in conjunction with constitutional jurisprudence, prevent universal health care from ever being achieved in the U.S.

In conclusion, we hope you enjoy the unique perspectives on several recurring debates in health law that these articles provide. The staff certainly enjoyed working with these authors in publishing their contributions to this issue of the *Annals of Health Law* and would like to thank them for their assistance along the way. We look forward to your input and wish you the best in the New Year!

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