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ARTICLES

**Medical Restrictive Covenants in Illinois:
At the Crossroads of *Carter-Shields*
and *Prairie Eye Center*** **STUART GIMBEL, J.D. 1**
..... & **MILES J. ZAREMSKI, J.D.**

This article examines the history, development and treatment by Illinois courts of medical restrictive covenants. The authors highlight two recent cases from Illinois, one from the Supreme Court and the other authored by an appellate court panel. The article concludes by providing not only a forecast of how such covenants should be treated by Illinois state courts in the future, but also a pathway for the expectations of health care practitioners who wish to use restrictive covenants in their employment relationships with their colleagues.

**Changing the Law, Changing the Culture:
Rethinking the “Sleepy Resident”
Problem** **JENNIFER F. WHETSELL, J.D. 23**

Ms. Whetsell examines the Bell Regulations, which limit New York’s hospital residents’ work hours and require increased supervision from senior doctors, in light of the currently pending federal bill that seeks to do the same. The article argues that the federal government should draw lessons from the New York experience before proceeding with similar guidelines. The article notes that many roadblocks have prevented successful implementation of the New York policy, including a long-standing tradition of “hazing” first-year residents with long, unsupervised hours; medical community resistance to the notion of residents’ sleep deprivation and dislike of government interference; and a general fear within the medical community of increased medical malpractice liability and other indicia of “blame culture.” The Article concludes that the most effective approach to patient safety related to residency sleep deprivation should work within hospital culture, not against it. The proposed alternative approach would encourage patient safety strategies that value teamwork and cross-discipline collaboration, and consequently result in greater satisfaction for residents, hospitals, and patients.

**Bioterrorism Meets Privacy: An Analysis
of the Model State Emergency Health
Powers Act and the HIPAA Privacy Rule** **JULIE BRUCE, J.D. 75**

Ms. Bruce’s paper analyzes the interplay between the Model State Emergency Health Powers Act and the HIPAA Privacy Rule. The article begins by examining specific relevant provisions of the Act and Rule. Next, it traces the history of public health law

through the court system and then uses this foundation to discuss how the Model State Emergency Health Powers Act and the HIPAA Privacy Rule could co-exist, protecting Americans in the case of a bioterror attack, while being appropriately sensitive to the confidentiality of private health information.

Access to Health Care:

What a Difference Shades of

Color Make GWENDOLYN ROBERTS MAJETTE, J.D. 121

Professor Majette's timely article examines an age-old problem: the effect of race and ethnicity on a patient's receipt of health care. Her article analyzes some of the major health care access issues, with a focus on barriers confronting African Americans, Asians, Hispanics, and Native Americans. Some of the barriers include inability to pay, cultural insensitivity, a shortage of health care providers, and discrimination. She also examines some of the unsuccessful legal solutions and remedies designed to eliminate these barriers. Given the complexity of the access barriers encountered by people of color, Professor Majette concludes that only an interdisciplinary approach can eliminate them. Her proposed approach requires business, legal, and medical professionals to collaborate in developing a health care system that meets the needs of aracially and ethnically diverse population.

Time Is Running Out—The Burdens and Challenges of HIPAA Compliance:

A Look at Preemption Analysis, the “Minimum Necessary” Standard, and

the Notice of Privacy Practices JENNIFER GUTHRIE, J.D. 143

Ms. Guthrie's paper involves the final Privacy Regulations promulgated by the Department of Health and Human Services pursuant to HIPAA. Her thesis highlights three burdensome requirements which remain significant obstacles to the compliance date of April 14, 2003: (1) the need to undertake thorough preemption analyses, (2) lack of clarity surrounding the “Minimum Necessary Standard,” and (3) confusion regarding the “Notice of Privacy Practices.” Ms. Guthrie provides a close analysis of these three areas and offers several viable and persuasive alternatives to the associated burdens. She concludes that HHS must make several integral modifications and provide substantial and continuing guidance to covered entities in order for the Regulations to effectively achieve their purpose.