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Foreword

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Foreword

L. Edward Bryant, Jr.*

To students of the law, the health care field of today is like discovering buried treasure. Exciting legal concepts and challenges shine like gold coins and large pearls as the encrusted chest is opened.

“Health law” is the collective name of this treasure. After a little-noticed gestation, it was born of the 1965 marriage of *Darling v. Charleston Community Hospital*¹ and the Medicare Act.² The significance of these two court-made and legislature-enacted changes in the law lies in their primary socioeconomic by-products, namely: (1) quality controlled accountability for health care institutions through new common-law remedies for injured patients, and (2) financial accountability for health care institutions to their dominant customer. In both cases, the law was the mechanism chosen for seeking the desired accountability.

Today, in 1986, accountability under the law stalks all those who call the health industry and the health profession their home. Complex, technical, and not always consistent, the laws affecting health providers have mushroomed in recent years as the result of legislative, regulatory and decisional changes in the law. Further, the basic legal standards are not always the same. The tenth amendment to the United States Constitution, which reserves powers to the states and to the people,³ assures that pluralism will remain the rule in health care and in health law.

Health care issues affect all 238 million of our citizens, both quantitatively and qualitatively. Health services comprise almost 11% of our gross national product, totalling nearly \$1600 per year for every man, woman and child in this country. Health law impacts on our rights to live, to die, and to enjoy a particular quality of life. Health lawyers everywhere will have the opportunity in the years ahead to help shape this still-new field of jurisprudence as it matures. Few callings will have more importance.

This symposium issue of the *Loyola Law Journal* reflects admi-

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1. 33 Ill. 2d 326, 211 N.E.2d 253 (1965).
2. 42 U.S.C. § 1395 (1982).
3. U.S. CONST. amend. X.

rably the rapid expansion of private and public rights and obligations of all those who deal with the health industry. The articles included present a timely sampling of issues facing health care practitioners in a changing legal environment. The issue also reflects the special commitment that Loyola University of Chicago School of Law has made to the field of health law through the development of its Health Care Law Center.

Physicians, employees, patients and others acting on behalf of patients all seek to expand their own rights vis-a-vis health care institutions and each other, as these symposium selections illustrate. As long as fundamental accountability remains the watch word in health law, those served by the health care system will be its true beneficiaries. And the health lawyers will continue to unearth treasures not yet imagined.