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Introduction to Health Care Symposium

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Introduction

BY RICHARD H. UNDERWOOD*

Academic lawyers are reminded continuously, and properly, that the law school curriculum should be responsive to what lawyers are called upon to do for their clients. According to The Report of the Task Force on Health Care Law Curriculum of the American Society of Law and Medicine (1985), the United States spent over 300 billion dollars on health care in 1982 (over 10 percent of its Gross National Product). To the extent that health care is big business, a persuasive case can be made for courses in law and medicine in the law schools and for increased attention to medical-legal issues in the law journals.

Furthermore, the health care industry provides a fertile environment for a variety of academic interests and specialty practices. Since World War II dramatic technological progress in medicine has been paralleled by a dramatic increase in public support for biomedical research, hospital construction, and public payment for health care services. More recently, public policy has shifted toward encouragement of a more competitive market with a view toward cost containment. Accordingly, it should come as no surprise that the business lawyer, the tax lawyer, and the antitrust specialist are now part of the health law team. The articles contained in this issue of the *Kentucky Law Journal* reflect the role of such specialists.

As the delivery of health care comes to be viewed as a market issue to be resolved by competition, the content and *availability* of health care is becoming more and more a public issue.¹ Developments in the law of medical negligence and legislative efforts to curb Medicare and Medicaid fraud are all reflections of these trends and are addressed in this symposium.

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¹ BIOLAW, Chapter 2, The Health Care System: Overview by C. Bosk (1986).

Public attention has also been given to dramatic ethical dilemmas brought about by the new technology of "life support," transplants, and "artificial" health reproduction. The identification of these issues and debate about how such dilemmas should be resolved are front page news. Representative of such debates are the "Baby Doe" controversy, the details of which are tracked in a student comment, and the development of a new tort for "Wrongful Life," which is discussed by Professor Constance Fain.

Finally, this issue contains a comprehensive discussion of the Kentucky law of testimonial privileges for health care professionals authored by Professor Steven R. Smith of the University of Louisville. This article is, without doubt, the definitive piece on the subject, and provides valuable suggestions for legislative revisions in this area.

I, for one, am delighted with the efforts of the authors who have contributed to this issue of the Journal, and the hard work of the Journal Staff. I am confident that the audience will also be pleased with their work product.