



NEWS FROM THE SOCIETY

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Spring 1978

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The American Society of Law & Medicine has weathered a most difficult winter well. Our membership roster continues to expand with new regular and student members from all over the country, as well as from foreign shores, and from all of the many disciplines concerned with medicolegal interrelationships. Special thanks go to those members who have provided the names and addresses of colleagues and associates who might be interested in Society membership.

Although hampered by this winter's horrendous weather, our 1978 conference programs have been well attended and enthusiastically received by both faculty and participants. On January 26-28, the **National Conference on Stress, Strain, Heart Disease and the Law**, which was co-sponsored by the American Heart Association, the Massachusetts Affiliate of the Heart Association, and the President's Committee on Employment of the Handicapped, was attended by over one hundred physicians, attorneys, and other persons involved in workers' compensation adjudications. The three-day program, which was held at the Copley Plaza Hotel in Boston, explored the vexing and ever mounting problems involving the role of stress, both physical and psychological, in medical and legal determinations concerning the causation of heart disease and disorders, particularly in the area of workers' compensation.

From this Conference has come the recommendation that similar programs be sponsored elsewhere in the country and that a program be developed in conjunction with the American Heart Association to explore the many legal implications arising from the various medical programs intended to rehabilitate the cardiac patient and return him to the productive work force.

The Stress, Strain, Heart Disease and the Law Conference proceedings were recorded courtesy of the Liberty Mutual Insurance Company and are presently being transcribed. After being edited, the proceedings will be published by the President's Committee on Employment of the Handicapped and distributed to the medical and legal communities. All conference participants and Society members will receive copies as soon as they become available.

The Society's Second Annual Conference on the **Legal Controversies in Nursing** attracted an overflow audience of nursing directors, in-service training personnel, administrators and attorneys. Presented in conjunction with Law-Medicine, Inc., the program was held in the Sherman Auditorium at Beth Israel Hospital in Boston on February 18, 1978. Program chairpersons, Mary M. Cushing, R.N., J.D., and George J. Annas, J.D., M.P.H., explored many of the legal problems that the practicing nurse must be aware of in order to protect their own rights as well as those of the patient. Highlights of the nursing law program are included in the *Conference Report* section of this issue of *MEDICOLEGAL NEWS*. Due to the success of the Boston conference and to a desire on the part of the Society to become more committed to exploring the nursing professions' unique medicolegal problems, the Society will be offering the Legal Controversies in Nursing program in other areas of the country. The first such program will be at the Hotel Sonesta in Hartford, Connecticut on Saturday, June 3, 1978. This issue's *Medicolegal Meeting Calendar*, page 16, contains further information and a registration coupon.

The Society is also pleased to announce that it is cooperating with the Medical Rehabilitation Research and Training Center of Tufts-New England Medical Center in sponsoring a series of four programs in various parts of the country on the **Medicolegal Rights of the Physically Disabled Persons**. The one-day program is intended to delineate the medical and legal rights of the physically disabled individual and to discuss the laws and regulations that have a major impact upon handicapped persons. The program will be presented in Houston, Denver, Washington, D.C., and Chicago. Again, see this issue's *Medicolegal Meeting Calendar*, page 16, for further information and registration coupon.

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Health Care Delivery (Continued)

Stromberg RE, *The Trustee's Role in Quality Assurance*, TRUSTEE 30(11): 25-27.

Terris M, et al, *The Case for a National Health Service*, AMERICAN JOURNAL OF PUBLIC HEALTH 67(12): 1183-85 (December 1977).

Weinstein MC, Stason WB, *Allocating Resources: The Case of Hypertension*, THE HASTINGS CENTER REPORT 7(5): 24-27 (October 1977).

● **AMBULATORY CARE.** By Seth B. Goldsmith, Sc.D. (Aspen Systems Corporation, 20010 Century Blvd, Germantown, MD 20767) (1977) 135 pp., \$15.00.*

● **HEALTH AND HEALTH CARE. POLICIES IN PERSPECTIVE.** By Anne R. Somers, Ph.D. and Herman M. Somers, Ph.D. (Aspen Systems Corp., 20010 Century Blvd., Germantown, MD 20767) (1977) 528 pp., \$22.00.*

● **THE VALUE OF MEDICINE.** By Philip Rhodes. (Allen & Unwin Inc., 198 Ash St., Reading, MA 01867) (1978) 158 pp., \$10.95.

● **IMPROVING MEDICAL PRACTICE AND HEALTH CARE. A Bibliographic Guide to Information Management in Quality Assurance and Continuing Education.** By John W. Williamson, M.D. (Ballinger Publishing Co., 17 Dunster St., Cambridge, MA 02138) (1977) 1066 pp., \$25.00.**

● **INTERDISCIPLINARY APPROACHES TO HUMAN SERVICES.** By Peter J. Valietutti, Ed. D. and Florence Christoplos, Ph.D. (University Park Press, Chamber of Commerce Bldg., Baltimore, MD 21202) (1977) 442 pp., \$16.50.**

● **MEDICINE AND HEALTH CARE.** Edited by Gene Brown with Saul Jarcho, M.D., Advisory Editor. (Arno Press, Inc., A New York Times Company, Three Park Avenue, New York, NY 10016) (1977) 398 pp., \$35.00.**

● **QUALITY CONTROL OF AMBULATORY CARE — A Task for Health Departments.** By Steven Jonas, M.D., M.P.H. (Springer Publishing Co., 200 Park Ave. South, New York, NY 10003) (1977) 178 pp., \$12.50.**

● **"PUBLIC GENERAL HOSPITALS IN CRISIS."** This report on national trends with a specific look at Baltimore, Philadelphia, St. Louis, and New York City is authored by staff members of Columbia University School of Public Health. Copies are available from: Coalition of American Public Employees, 1126 16th St., N.W., Washington, DC 20036 (\$1.50).

● **THE HEALTH MAINTENANCE ORGANIZATION AND ITS EFFECTS ON COMPETITION.** This 138-page report by the Federal Trade Commission details the degree of competitive impact an HMO can have on the traditional fee-for-service sector of physicians in a geographic area. The impact of HMOs on the health insurance industry is also discussed. Order from: Public Documents Distribution Center, Pueblo, CO 81009. S/N 018-000-00206-0 (\$3.00).

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NEWS FROM THE SOCIETY (Continued from page 2)

Relative to our publishing efforts, **MEDICOLEGAL NEWS** continues to flourish and expand with a new appearance and the addition of more articles and information within each issue. Readers of **MEDICOLEGAL NEWS** are invited to submit articles, letters-to-the-editor, and other material for publication.

The Society is also proud to report that since it founded the **AMERICAN JOURNAL OF LAW & MEDICINE** in the Fall of 1974, with the initial issue appearing in March of 1975, the **JOURNAL** has experienced rapid growth and continues to gain wide acceptance from a national readership.

Under the leadership of John A. Norris, J.D., M.B.A., a Boston attorney specializing in hospital and health-care law, the **JOURNAL's** Board of Editors is composed of nationally recognized leaders and authorities in the fields of law, medicine, government, education, and public health. Currently published for the Society by the Massachusetts Institute of Technology Press of Cambridge, Massachusetts, the **JOURNAL** has stimulated national interest in issues interrelating law, medicine, health care and insurance with provocative, in-depth and informative articles on hospital law, health care cost containment, malpractice, patients' rights, health insurance alternatives, occupational medicine, and government regulation of genetic research. The **AMERICAN JOURNAL OF LAW & MEDICINE** has been accepted for indexing in: *Index to Legal Periodicals*; *Index Medicus*; *Social Sciences Citation Index*; *Current Contents: Social and Behavioral Sciences*; and *Biosciences Information Service of Biological Abstracts*.

Each edition of the **JOURNAL** now features articles written by leading medicolegal specialists, both academics and practitioners, together with a medicolegal reference guide that alerts the reader to recent relevant judicial decisions, federal government actions, and publications. Expansion plans call for the creation of an "Organizations" section, in which the directors of key medical, legal and health care organizations will express their views and report on recent developments of particular concern to their organization. Also planned is a "Correspondence" section similar to that appearing in the **NEW ENGLAND JOURNAL OF MEDICINE**, in which specialists can respond in a substantive way to various articles published in previous editions.

Initially published semiannually, the **AMERICAN JOURNAL OF LAW & MEDICINE** expanded to quarterly publication in 1977. Editor-in-Chief John A. Norris explains why:

The **JOURNAL** began as an experiment. But we soon discovered that we were filling a need for scholarly, yet practice-oriented, papers and reference materials encompassing the field of "medicolegal relations." We decided that quarterly publication was necessary to keep our readers up-to-date both on the best thinking and on recent legislative and judicial action in the field.

Recently, the American Society of Law & Medicine's President, Elliot L. Sagall, M.D., announced that the Society, and the **AMERICAN JOURNAL OF LAW & MEDICINE** had formed an unique editorial consortium with the law schools of Boston College and Boston University. These schools now will provide the **JOURNAL** with substantial editorial support. Included in the consortium agreement is an arrangement by which the **JOURNAL** will supplement its feature articles with a special section of medicolegal research notes prepared by a board of student editors comprised of second and third year students attending the two law schools.

In commenting upon the new student section, Editor-in-Chief Norris noted that many law students are developing a special interest in health topics and that writing for the **JOURNAL** will give them an outlet for their medicolegal interests. Norris added that it is unique, both for students from separate law schools to work jointly as staff members of a single law review-styled publication and for such a publication to utilize two editorial boards, one composed of professors and practitioners, the other composed of law students.

Recent editions of the **JOURNAL** have included a critique of the federal government's Swine Flu Immunization Program; a proposal that human transplant organs should be bought and sold as a commodity; a critique of current governmental regulation of health care delivery; an analysis of Medicare and Medicaid reimbursement policies; an overview of recent court cases in which parents of defective newborns have sued their physicians; an update on federal legislation designed to curb fraud and abuse in government-supported health programs; a proposal for a more effective and human response by public authorities to cases of Sudden Infant Death; and an exploration of recent developments in health-care labor law.

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Health Facility Management

● **MEDICAL GROUP PRACTICE MANAGEMENT.** By Francis Foote Manning. (Ballinger Publishing Co., 17 Dunster St., Cambridge, MA 02138) (1977) 371 pp.

Health Financing

Review of State Hospital Cost Control Legislation. The November 1977 issue of State Health Legislation Report (vol. 5, no. 4) contains a special update and review of hospital cost control legislation in Arizona, California, Colorado, Connecticut, Maryland, Massachusetts, Minnesota, Washington and Wisconsin. For a copy write: Legislative Dept., American Medical Association, 535 N. Dearborn St., Chicago IL 60610.

Bayles MD, *National Health Insurance and Non-Covered Services*, JOURNAL OF HEALTH POLITICS, POLICY AND LAW 2(3): 335-48 (Fall 1977).

Brown BM, *Malpractice Risk Financing: New Options Complicate A Once-Easy Decision*, TRUSTEE 30(12): 37-40 (December 1977).

Havighurst CC, Blumstein JF, Bovbjerg R, *Strategies in Underwriting the Costs of Catastrophic Disease*, LAW AND TEMPORARY PROBLEMS 40(4): 122-95 (December 1977).

Mechanic D, *Approaches to Controlling the Costs of Medical Care: Short-Range and Long-Range Alternatives*, NEW ENGLAND JOURNAL OF MEDICINE 298(5): 249-54 (February 1978).

Schonbrun M, *The Future of Blue Cross*, JOURNAL OF HEALTH POLITICS, POLICY AND LAW 2(3): 319-34 (Fall 1977).

Somers AR, *The Case for Negotiated Rates*, HOSPITALS, J.A.H.A. 52(3): 49-52 (February 1976).

NATIONAL HEALTH INSURANCE RESOURCE BOOK. This updated edition presents an overview of the major characteristics of the health industry; information on the health financing and delivery systems of selected foreign nations; and descriptions of major national health insurance bills introduced through August 1976. S/N 052-070-03637-1, 505 pp. (\$5.55). Order from Public Documents Distribution Center, Pueblo, CO 81009.

HOSPITAL REGULATION — Report of the Special Committee on the Regulatory Process (American Hospital Association, Chicago, Illinois 1977). Chapter topics in this 188-page report include the Hospital Industry's View of Regulation, Criteria for Effective Regulation, Regulation of Health Planning, Utilization and Facilities and Hospital Payment Regulation. Copies are available for \$5 each for AHA, 840 North Lake Shore Drive, Chicago, IL 60611 (catalog number 1835).

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GUEST EDITORIAL (Continued from page 3)

The plaintiffs had argued that no true state regulation existed since past and present insurance rates had been inflated by false and fraudulent statements to the public and to the state insurance commissioner. Unfortunate as this may seem, the dissent looked upon the majority decision as a misapplication of federal law "in an attempt to deal with the crushing malpractice burden being imposed as the result not only, perhaps, of predatory insurance practices but of inflated claims and verdicts."

St. Paul has appealed to the United States Supreme Court and certiorari has been granted. However, the case may not be heard as an early priority, perhaps, to see if the statistics on this current insurance money crisis abates via reforms in the tort system or goes on to become a crisis in health care delivery. Certainly, there is a lull in the recent imbroglios between health care providers, insurance, and state legislators regarding their respective claims of high cost insurance, underpricing premiums, and continuity of health care in the public interest.

One thing is certain and that is that an extensive microdissection of the insurance rating equation with a view toward revolutionary change need be done. It is probably true that it is impossible to accurately predict a fair and equitable insurance rate in any given year. This is because variables are seldom fixed and actuaries, depending on who hires them, are all too ready to lay on the rate regulators with egalitarian certainty while the jaundiced-eyed physicians have come to look upon the rates as crooked lines drawn between assumptions and foregone conclusions. The simplest solution, of course, would be to do a very careful and thorough cost accounting analysis of where the premium dollar goes, and, having assured oneself of good business practices mixed with fiscal austerity, to fix and establish rates for the coming year based solely upon the previous year's actual costs. This is obviously too simple. The industry does not function that way, and nothing can be left to the chance of having underpriced the product or the ability of the industry to recover the loss whatever else occurs. The only way insurance companies can remove the element of risk is to set aside large cash reserves coupled with paper losses, producing, in effect, the inflated premiums alluded to in the Rhode Island case. Whose method is actually most fair and reasonable remains to be established. The ultimate outcome is still in doubt as one ponders the question like a babe in the woods, questionably looking out over the Boston skyline at those monolithic monuments to one of western society's most successful business endeavors.

References

1. See Martino A.F., *David v. Goliath*, JOURNAL OF LEGAL MEDICINE 5(9): 5-8 (September 1977). The case involved is *Barry v. St. Paul Fire & Marine Insurance Company*, No. 76-1226 (United States Court of Appeals for the First Circuit, May 16, 1977).
2. See Letter-to-the-Editor, Tom H. Swain, Vice President and Assistant to the President, The St. Paul Fire & Marine Ins. Co., JOURNAL OF LEGAL MEDICINE 5(10): 11-12 (October 1977).

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A key to the JOURNAL's rapid growth is its neutral professional and ideological stance. Although medicolegal publications abound — such as newsletters, journals and magazines — most of them are so-called "trade" publications connected with organizations or institutions representing a particular profession or a particular point of view on current medicolegal policy issues. The AMERICAN JOURNAL OF LAW & MEDICINE, in contrast, seeks to provide in-depth articles by persons representing a wide range of professions and perspectives. Furthermore, in selecting articles for publication the JOURNAL's editors make a special effort to strike a balance between health-care providers' perspectives and health care consumers' perspectives.

Persons interested in submitting articles or correspondence to the JOURNAL should contact the Editor-in-Chief, AMERICAN JOURNAL OF LAW & MEDICINE, 454 Brookline Avenue, Boston, Massachusetts 02215. Guidelines for submission of articles and a sample issue for those who have not seen the JOURNAL are available.

Subscriptions to the JOURNAL are available in two ways: First, all members of the American Society of Law & Medicine receive annual subscriptions as part of their membership benefits. Information on the Society and membership is available from Elliot L. Sagall, M.D., President, American Society of Law & Medicine, 454 Brookline Avenue, Boston, Massachusetts 02215. Additionally, for institutional subscribers and for individuals not desirous of Society membership, subscriptions are available from the Journals Department, MIT Press, 28 Carleton Street, Cambridge, Massachusetts 02139.