



# INDIANA HEALTH LAW REVIEW

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VOLUME 1

ISSUE 1

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## DEDICATION

Eleanor D. Kinney and David Orentlicher, Co-Directors,  
William S. and Christine S. Hall Center for Law and Health

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## MCDONALD-MERRILL-KETCHAM MEMORIAL AWARD FOR EXCELLENCE IN LAW AND MEDICINE

*Legal and Ethical Considerations in Government Compensation Plans: A Case Study of Smallpox Immunization* Naomi Seiler, Holly Taylor  
and Ruth Faden

*Giving, Selling, and Having Taken: Conflicting Views of Organ Transfer* H. Tristram Engelhardt, Jr.

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## ARTICLES

*Recent Modifications to the Preemption Doctrine & Their Impact on State HMO Liability Laws* Karen A. Jordan

*The Vagaries of Informed Consent* George P. Smith, II

*Prolific Plaintiffs or Rabid Relators? Recent Developments in False Claims Act Litigation* Keith D. Barber, David B. Honig  
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*Governance Issues for Nonprofit Healthcare Organizations and the Implications of the Sarbanes-Oxley Act* Glenn T. Troyer, David E. Jose  
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*Legitimate Expectations, Unreasonable Beliefs, and Legally Mandated Coverage of Experimental Therapy* Leslie Pickering Francis

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## NOTE

*Hospital Liability: Drawing a Fine Line with Informed Consent in Today's Evolving Health Care Arena* Shelley S. Fraser

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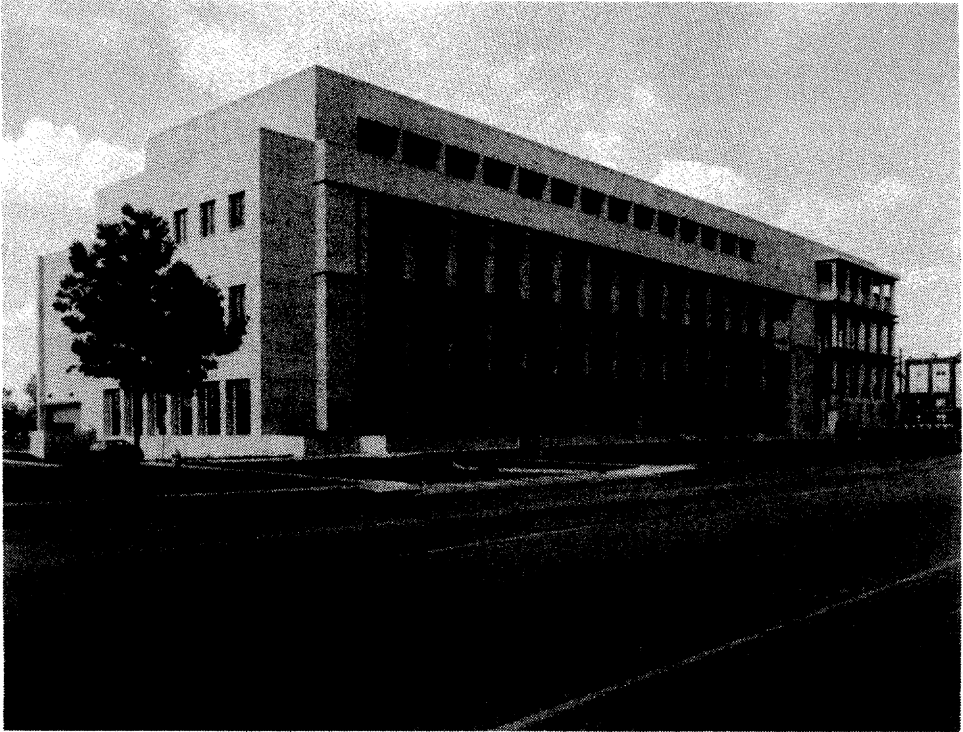
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### **Eleanor DeArman Kinney**

Eleanor D. Kinney, J.D., M.P.H., is the Hall Render Professor of Law and Co-Director of The William S. and Christine S. Hall Center for Law and Health at Indiana University School of Law – Indianapolis. She is also Adjunct Professor of Public Health and Adjunct Professor of Public and Environmental Affairs at Indiana University. In 1999-2000, as a Fulbright Fellow, she was a visiting professor at the Institute of Latin American Integration, Faculty of Juridical and Social Sciences, National University of La Plata in La Plata, Argentina.

Formerly, Professor Kinney was Assistant General Counsel of the American Hospital Association (1982-84) and a program analyst in the Office of the Secretary of the U.S. Department of Health and Human Services (1979-82). Professor Kinney received her law degree from Duke University School of Law (1973) and her Masters of Public Health from the University of North Carolina School of Public Health (1979).

Professor Kinney is an expert on health care financing and regulation, medical malpractice, and long term care. Much of her research has been funded by foundations and government agencies, including The Robert Wood Johnson Foundation and the Administrative Conference of the United States. She has had several gubernatorial appointments in Indiana, including service on the Executive Board of the Indiana State Department of Health. She recently edited the book *GUIDE TO MEDICARE COVERAGE DECISION-MAKING AND APPEALS* (ABA Publishing 2002). She is also the author of many articles and the book *PROTECTING AMERICAN HEALTH CARE CONSUMERS* (Duke Univ. Press 2002).

Additional information about Professor Kinney and The William S. and Christine S. Hall Center for Law and Health at Indiana University School of Law – Indianapolis is available at <http://www.indylaw.indiana.edu/centers/clh/>.



**David Orentlicher**

Dr. David Orentlicher, M.D., J.D., is Samuel R. Rosen Professor of Law and Co-Director of The William S. and Christine S. Hall Center for Law and Health at the Indiana University School of Law – Indianapolis. He is also an Adjunct Professor of Medicine at Indiana University School of Medicine and a member of the Core Faculty of the Indiana University Center for Bioethics.

Previously, Dr. Orentlicher served as the Director of the Division of Medical Ethics at the American Medical Association, drafting guidelines on a wide range of issues, including end-of-life decision-making, health care access and rationing, reproductive decisions, organ transplantation, genetic testing, and physicians' conflicts of interest. At that time, Dr. Orentlicher also taught at the University of Chicago Law School and Northwestern University Medical School.

A graduate of Harvard Medical School and Harvard Law School, Dr. Orentlicher practiced both medicine and law, each for about two years. He served on the founding board of the American Association of Bioethics and has been a George E. Allen Visiting Professor of Law at T. C. Williams School of Law, University of Richmond, and a Visiting DeCamp Professor in Bioethics at Princeton University.

His most recent book is *MATTERS OF LIFE AND DEATH* (Princeton Univ. Press 2001); he is also a co-author of the casebook *HEALTH CARE LAW AND ETHICS*. His more than 80 articles in leading legal and medical journals address critical issues in medical ethics, including end-of-life decisions, new reproductive technologies, and managed care.

In November 2002, Dr. Orentlicher was elected to the Indiana House of Representatives, where he is Vice-Chair of the Public Health Committee and a member of three other committees—Ways and Means, Education, and Technology, Research, and Development.

## DEDICATION

The launch of the *Indiana Health Law Review* is a seminal event in the growth of the health law program at Indiana University School of Law – Indianapolis. It represents continuing commitment to the main mission of the law school’s health law program—helping students learn law and policy and producing scholarship of the highest quality. Certainly this first issue exemplifies these paramount goals of the law school’s health law program and its William S. and Christine S. Hall Center for Law and Health.

Perhaps the most wonderful fact about this new review is that, from start to finish, the review’s genesis, organization, and implementation was the work of students. This year’s Executive Board of Editors developed and presented the original proposal to the faculty and have brought forth this first issue. It is rare that students who are with us for only a few years make such an important contribution to the institution of the law school. This new law review is a tremendous contribution to the law school and its health law program.

This first issue, which includes superb scholarship, is especially symbolic. It opens with an excellent article by an alumna who has had a distinguished career as a professor of law at the Louis D. Brandeis School of Law at the University of Louisville. Following is an article by another professor who has been a long time friend and supporter of this law school. The issue contains two articles based on lectures of recipients of the McDonald-Merrill-Ketcham Award. This award reflects a strong effort of the law school’s health law program to reward excellence in the fields of law and medicine—an effort possible because of the generosity of good friends of the school. The issue also includes contributions from members of the bar whose firms have been long time friends and supporters of the law school’s health law program, as well as national experts in health law. Concluding with a strong student note bearing witness to the great capabilities of our health law students, this first issue sets a high standard for the issues to come and the *Indiana Health Law Review*.

We close with hearty congratulations to the student staff, Executive Board of Editors, and Editor-in-Chief of Volume 1 of the *Indiana Health Law Review*. And thank you.

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