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INTRODUCTION: EXPLORING THE INTERSECTION OF IMMIGRATION LAW AND HEALTH POLICY

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On October 26, 2018, Indiana University McKinney School of Law's Hall Center for Law and Health and Indiana Health Law Review cohosted its annual symposium entitled "The Intersection of Immigration Law and Health Policy."¹ An interdisciplinary event, the symposium brought together colleagues across campus; across disciplines; and across the country.

The topic of this symposium was selected during a Hall Center meeting in May 2018 following a review of recent news articles; journal publications; and conference presentations for emerging issues in health law. At that time, our newsfeed was flooded with reports regarding the Trump Administration's newly implemented policies separating accompanied children crossing the border from their families.² The U.S. Department of Health and Human Services was tasked with supervising these 3,000 children.³ Organizations across the country and the world denounced this policy as among other things, harmful to the health and welfare of these children and their families.⁴

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1. IU ROBERT H. MCKINNEY SCHOOL OF LAW, *Indiana Health Law Review Symposium: The Intersection of Immigration Law and Health Policy*, <https://mckinneylaw.iu.edu/events/past.html?eid=661>.

2. Donald J. Trump, *Affording Congress an Opportunity to Address Family Separation*, WHITE HOUSE (Jun. 20, 2018), <https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>; OFFICE OF THE ATTORNEY GEN., MEMORANDUM FOR FEDERAL PROSECUTORS ALONG THE SOUTHWEST BORDER (April 6, 2018) <https://www.justice.gov/opa/press-release/file/1049751/download>.

3. ADMIN. FOR CHILDREN AND FAMILIES, *Unaccompanied Alien Children Program*, <https://www.hhs.gov/sites/default/files/Allegations-of-Abuse-and-Neglect-Fact-Sheet.pdf>.

4. Colleen Kraft, *AAP Statement on Executive Order on Family Separation*, AMERICAN ACAD. OF PEDIATRICS (Jun. 20, 2018), <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/AAP-Statement-on-Executive-Order-on-Family-Separation.aspx>; AMERICAN CIVIL LIBERTIES UNION, *Trump's Family Separation Crisis*, <https://www.aclu.org/families-belong-together>; Fionnuala Ní Aoláin, *Global Responses to President Trump's Family Separation via "Zero-Tolerance" Detention Policy*, JUST SECURITY (Jun. 30, 2018), <https://www.justsecurity>.

Months earlier, an underage, unaccompanied, undocumented immigrant sought an abortion that was opposed by the Trump administration.⁵ This juvenile was only able to access pre-abortion medical care and an abortion following court orders.⁶ This issue continues to be litigated as other young immigrant women seek abortions and challenge the Trump Administration's policies opposing them.⁷

Immigration issues only continued to arise following the announcement of the symposium topic. For example, two weeks before the symposium, the Trump Administration published a notice of proposed rulemaking making aliens that access certain public benefits, including certain health and nutrition benefits, inadmissible for changes to their immigration status.⁸ Tragically, two months following our symposium, two migrant children in custody with the Department of State died under their care.⁹

What role does health law and do health attorneys have in these and other issues? The symposium sought to address this very question.

Our keynote speaker, Professor Wendy Parmet¹⁰ kicked off the symposium with historical account of how immigration issues have been pervasive throughout U.S. history and the use of health policy to advance an immigration agenda has always undermined public health. From a population health perspective, we learned about the health disparities and risk of immigrant populations and debunked the perceived threats to public health with the inclusion of immigrants into our society. Our healthcare provider colleagues described the challenges to caring for refugee and immigrant populations including language and transposition issues and, notably, lack of health insurance coverage.

We explored case studies on the intersection of immigration and health law in California and Canada. Despite these jurisdictions' reputation of being progressive in their health and immigration policies, numerous gaps in health care access among immigrant populations still exist. We also discovered the social justice and human rights perspectives on health care access for immigrants. Local

org/58783/global-responses-president-trumps-family-separation-zero-tolerance-detention-policy/.

5. SCOTUSblog, *Azar v. Garza*, <https://www.scotusblog.com/case-files/cases/azar-v-garza/>.

6. *Id.*

7. Matt Stevens, *Judge Temporarily Stops U.S. from Blocking Undocumented Teenagers' Abortions*, N.Y. TIMES (Mar. 31, 2018), <https://www.nytimes.com/2018/03/31/us/abortion-immigrant-teens.html>.

8. FED. REGISTER, *Inadmissibility on Public Charge Grounds* (Oct. 10, 2018), <https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds>.

9. Joshua Barajas, "A second migrant child died in U.S. custody this month. Here's what we know," PBS (Dec. 26, 2018) <https://www.pbs.org/newshour/nation/a-second-migrant-child-died-in-u-s-custody-this-month-heres-what-we-know>.

10. Matthews Distinguished University Professor of Law and Director, Center for Health Policy and Law; Professor of Public Policy and Urban Affairs, Northeastern University School of Public Policy and Urban Affairs.

advocates and community organizers discussed the challenges of coordinating campaigns supporting immigrant rights in the current political climate.

From a legal practice perspective, we learned that immigration issues are often leading issues facing healthcare systems physician shortages. Without immigrant physicians and other providers, many facilities would not be able to meet the demands of their patients and communities. In fact, the immigration practice group is the second largest at Hall Render, the nation's largest health law firm.

This symposium issue of the *Indiana Health Law Review* offers deeper analysis on the issues discussed during the symposium. In her article, Professor Parment argues that when immigration and health policy intersect, it highlights existing divisions in the United States regarding community and solidarity and challenges us to define the purpose and explore the ethics of health law.

Professor Medha Makhoul¹¹ further describes the implications of the proposed public charge rules in her article first outlining the history of the policy and explaining how the recent changes are a significant departure from existing policy. She argues that public health implications should be a factor when developing public charge policies.

Professor Polly Price¹² discusses the public health harms of argues that the proposed rules increase the risk of infectious disease threats in the United States because it disincentivizes immigrants to seek the very care that would treat and prevent the transmission of disease. She further describes how the rules create an extra burden on state and local health departments – responsible for frontline infectious disease prevention and response – that are already limited in resources.

The intersection of immigration and health is a topic that implicates every aspect of health law whether access, public health, or financing. Importantly, this symposium demonstrates the practical value of legal scholarship—particularly health law scholarship—on urgent policy issues.

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