

# AMERICAN JOURNAL OF LAW & MEDICINE

VOLUME 9 NUMBER 2 SUMMER 1983

## ARTICLES

Private Credentialing  
of Health Care Personnel:  
An Antitrust Perspective—  
Part One

Clark C. Havighurst  
Nancy M. P. King

## NOTES & COMMENTS

*Presbyterian Hospital  
of Dallas v. Harris:*  
A Regrettable Consequence  
of Piecemeal Health Care  
Legislation

Statutory Classification  
of Cocaine as a Narcotic:  
An Illogical Anachronism

## MEDICOLEGAL REFERENCE LIBRARY

Selected Recent Court Decisions  
Selected Book Releases, Annotated

Published by the American Society of Law & Medicine and the  
Boston University School of Law



The AMERICAN JOURNAL OF LAW & MEDICINE is published in the Spring, Summer, Fall, and Winter by the American Society of Law & Medicine and the Boston University School of Law. All decisions concerning the content of the JOURNAL are made by the joint American Society of Law & Medicine/Boston University School of Law Editorial Policy Committee. Statements of fact and opinion are the responsibility of the authors alone, and are not necessarily endorsed by the editors, the Society, or the law school.

The Editors invite the submission of manuscripts on medicolegal topics. For details, see inside back cover. Editorial communications, including original manuscripts and requests for permission to reproduce JOURNAL material, should be addressed to Editor-in-Chief, AMERICAN JOURNAL OF LAW & MEDICINE, 765 Commonwealth Ave., Boston, Massachusetts 02215. Editorial phone: (617) 353-2912.

Business correspondence, including subscription and advertising correspondence, should be addressed to the Executive Director, American Society of Law & Medicine, 765 Commonwealth Avenue, 16th Floor, Boston, Massachusetts 02215. Business phone: (617) 262-4990.

Subscriptions: \$40.00 per year for institutions, and for individuals who are not members of the American Society of Law & Medicine. Foreign subscribers should remit, for a year's subscription, an additional \$15.00 for air mail postage or an additional \$5.00 for surface rate postage.

Missing copies of the JOURNAL will be sent free of charge to subscribers or members of the Society provided that notice of such claim is received at the Society's subscription office within one month of receipt of the next issue published. Requests made after this period will be billed at the regular issue price of \$10.

Members of the American Society of Law & Medicine receive a free subscription to the JOURNAL as part of their dues (\$75.00 for 1983). Information concerning membership is available from the Executive Director, American Society of Law & Medicine, 765 Commonwealth Avenue, 16th Floor, Boston, Massachusetts 02215. Society phone: (617) 262-4990.

Articles in the JOURNAL are indexed in *Index to Legal Periodicals*, *Legal Contents*, *Index Medicus*, *Social Sciences Citation Index*, *Current Contents: Social and Behavioral Sciences*, and *Biosciences Information Service of Biological Abstracts*.

Library of Congress Catalog Card Number: 75-645516 (Shelf No. K1.M445). ISSN 0098-8588.

U.S. postage paid at Worcester, Massachusetts, in accordance with Permit No. 5 (Nonprofit Org.).

#### **ADMINISTRATIVE OFFICERS OF BOSTON UNIVERSITY SCHOOL OF LAW**

JOHN R. SILBER, B.A., M.A., PH.D., LL.D., (hon.), LH.D., (hon.), *President, University Professor and Professor of Philosophy and Law*

WILLIAM SCHWARTZ, M.A., J.D., *Dean and Professor of Law*

BARBARA ROBINSON-COSTAS, B.A., J.D., *Assistant Dean for Student Affairs*

VIRGINIA J. WISE, B.G.S., A.M.L.S., J.D., *Director, Law Library; Associate Professor of Law*

MARGARET D. HAGOPIAN, A.C.S., *Executive Assistant to the Dean*

#### **OFFICERS OF THE AMERICAN SOCIETY OF LAW & MEDICINE**

SIDNEY SCHERLIS, M.D., *President*

THOMAS E. CARGILL, JR. J.D., *President-Elect*

AUBREY MILUNSKY, M.D., *Vice President*

LEE J. DUNN, JR., J.D., LL.M., *Secretary*

ANGELA R. HOLDER, LL.M., *Treasurer*

ELLIOT L. SAGALL, M.D., *Immediate Past President*

JOHN A. NORRIS, J.D., M.B.A., *Chairman, Board of Directors*

A. EDWARD DOUDERA, J.D., *Executive Director*

# AMERICAN JOURNAL OF LAW & MEDICINE

## BOARD OF EDITORS

### FACULTY EDITOR-IN-CHIEF

**Austin Stickells, J.D., LL.M., M.B.A.**

### EDITOR-IN-CHIEF EMERITUS AND FOUNDER

**John A. Norris, J.D., M.B.A.**

### EXECUTIVE EDITOR

**A. Edward Doudera, J.D.**

### EDITORS

**Michael Baram, J.D.**

Boston University Schools of Law  
and Public Health

**Charles H. Baron, LL.B., Ph.D.**

Boston College Law School

**Henry Beyer, J.D.**

Boston University School of Law

**Patrick R. Carroll, J.D.**

Senior Vice Pres. & Legal Counsel,  
Massachusetts Hospital Association

**William J. Curran, LL.M., S.M. Hyg.**

Harvard University School of  
Public Health

**Lee J. Dunn, Jr., J.D., LL.M.**

Shagory & Shagory  
Boston, Massachusetts

**Richard F. Gibbs, M.D., J.D.**

Harvard Medical School

**Jay Alexander Gold, J.D., M.P.H.**

Texas A&M University  
College Station, Texas

**Clark C. Havighurst, J.D.**

Duke University School of Law

**Nathan Hershey, J.D.**

University of Pittsburgh  
Graduate School of Public Health

**Bernard D. Hirsh, J.D.**

General Counsel  
American Medical Association

**Edward E. Hollowell, J.D.**

Hollowell & Silverstein  
Raleigh, North Carolina

**Richard G. Huber, J.D.**

Dean, Boston College Law School

**Jay Katz, M.D.**

Yale Law School

**Sylvia A. Law, J.D.**

New York University School of Law

**Peter Martin, J.D.**

Dean, Cornell Law School

**Frances H. Miller, J.D.**

Boston University School of Law

**Aubrey Milunsky, MB.B.Ch.,**

**F.R.C.P., D.C.H., D.Sc.**

Boston University School of Medicine

**Irwin N. Perr, M.D., J.D.**

University of Medicine and Dentistry  
of New Jersey

**Harvey E. Pies, J.D., M.P.H.**

Gardner, Carton & Douglas  
Washington, D.C.

**Honorable Max Rosenn**

United States Court of Appeals for the  
Third Circuit

**Elliot L. Sagall, M.D.**

Founder, American Society of  
Law & Medicine  
Harvard Medical School

**William Schwartz, J.D., M.A.**

Dean, Boston Univ. School of Law

**E. Donald Shapiro, J.D., LL.D.**

New York Law School

**Margery W. Shaw, M.D., J.D.**

Director, Medical Genetics Center  
University of Texas at Houston

**Robert B. Shira, D.D.S.**

Dean, Tufts University School of  
Dental Medicine

**Arthur F. Southwick, J.D., M.B.A.**

Grad. Sch. of Business Administration  
University of Michigan

**David G. Warren, J.D.**

Duke University

**Cyril H. Wecht, M.D., J.D.**

Director, Pittsburgh Institute of Legal  
Medicine

# AMERICAN JOURNAL OF LAW & MEDICINE

VOLUME 9 NUMBER 2 SUMMER 1983

BOSTON UNIVERSITY SCHOOL OF LAW  
STUDENT BOARD OF EDITORS

**EDITOR-IN-CHIEF**

Robert S Khuzami

**EXECUTIVE EDITOR**

Robert M. Hale

**MANAGING EDITOR**

Roger E. Theodoredis

**CASE & NOTE EDITORS**

Eric P. Finamore  
Laurie J. Gentile  
William J. Kopesky  
Jeffrey R. Leventhal  
James D. Ossyra  
Adam B. Rowland

**BUSINESS EDITOR**

Kenneth E. Rosen

**TOPICS EDITOR**

Judy B. Chase

**ARTICLES EDITORS**

Peter C. Dopsch  
Mary V. Perry  
Carl B. Schultz

James M. Avery  
Steven M. Bauer  
Marc J. Becker

**ASSOCIATE EDITORS**

Deborah K. Berk  
Marie E. Kutcher  
Kenneth P. Morrison  
Benjamin J. Naitove

Leonard A. Rodes  
Mark D. Rosen  
Ruth S. Sharfman

Sara Adler  
Jack Berman  
Jay Bernstein  
Doug K. Butler  
Edith F. Canter  
Lynnette Cobun  
William Contente  
Howard M. Cooper  
Martha A. Curran

**MEMBERS**

Eric R. Dannenmaier  
Kathryn K. Flood  
Lisa J. Freedman  
Barbara Gruenthal  
Jeffrey A. Knishkowsky  
Michael S. Kraft  
Eric M. Levine  
Jorge Martinez

Mark Mason  
Harry Packman, Jr.  
Bonnie G. Ross  
Kathryn E. Sandstrom  
Stephen L. Sepinuck  
Mark S. Smith  
Margaret Ann Stick  
A. Kaiper Wilson  
David Zimble

**PUBLICATIONS ASSISTANT**

Jennifer J. Sacks

**FACULTY ADVISOR**

Frances H. Miller

# AMERICAN JOURNAL OF LAW & MEDICINE

VOLUME 9 NUMBER 2 SUMMER 1983

## ARTICLES

- |   |   |     |
|---|---|-----|
| Private Credentialing<br>of Health Care Personnel:<br>An Antitrust Perspective—<br>Part One | Clark C. Havighurst<br>Nancy M. P. King | 131 |
|---|---|-----|

## NOTES AND COMMENTS

- |   |  |     |
|---|--|-----|
| <i>Presbyterian Hospital<br/>of Dallas v. Harris:</i><br>A Regrettable Consequence<br>of Piecemeal Health Care<br>Legislation |  | 205 |
| Statutory Classification<br>of Cocaine as a Narcotic:<br>An Illogical Anachronism   |  | 225 |

## MEDICOLEGAL REFERENCE LIBRARY

- |                                    |  |     |
|------------------------------------|--|-----|
| Selected Recent Court<br>Decisions |  | 247 |
| Selected Book Releases             |  | 257 |

Copyright 1983 by the American Society of Law & Medicine, Inc. and the Boston University School of Law. All or any part of materials appearing in the Journal may not be republished without the express written consent of the Editor-in-Chief.