AMERICAN JOURNAL OF LAW & MEDICINE

VOLUME 3 NUMBER 4 WINTER 1977-78

The Swine Flu Immunization
Program: Scientific Venture or
Political Folly?

Structural Codes and Patient Safety: Does Strict Compliance

Kinzer's Health Controls Out of Control

Selected Recent Court Decisions

Highlights of Federal Legislative

Selected Book Releases, Annotated

Selected Articles from Various Journals

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

Rich Feeley, J.D.

Diana Chapman Walsh, M.S.

Jonathan E. Fielding, M.D., M.P.H.

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

John A. Norris, J.D., M.B.A. Pamela J. Anderson, J.D. Jay Alexander Gold, J.D., M.P.H.

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

Elliot L. Sagall, M.D.

Jim McMahon, J.D.

Published by the MIT Press for the American Society of Law & Medicine

The AMERICAN JOURNAL OF LAW & MEDICINE was founded in response to the need for a scholarly yet pragmatic publication encompassing all aspects of medicolegal relations. The JOURNAL seeks to provide a broad perspective on our complex health care system, to encourage interdisciplinary communication, and to stimulate creative solutions to the pressing medicolegal problems of our time.

In addition to serving as a forum for analyses and proposals in such areas as health law and policy, legal and insurance medicine, and bioethics, the JOURNAL offers a wide variety of pertinent reference materials in these and related areas.

The JOURNAL serves persons from a variety of fields who seek to understand and influence medicolegal developments: physicians, other health care providers, and health administrators; lawyers; health analysts and planners; researchers and educators in health specialties; judges, legislators, and government administrators; insurance officials; consumer advocates; and concerned members of the general public.

The Journal is published in the Spring, Summer, Fall, and Winter for the American Society of Law & Medicine by the MIT Press, Cambridge, Massachusetts, and London, England. Editorial Support is provided by Boston College Law School and Boston University School of Law. All decisions concerning the content of the Journal are made by the Editor-in-Chief on behalf of the American Society of Law & Medicine. Statements of fact and opinion are the responsibility of the authors alone, and are not necessarily endorsed by the Editors, the publishers, or the Society.

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, 454 Brookline Avenue, Boston, Massachusetts 02215. Editorial phone: (617) 969-0100, ext. 4394.

Business correspondence, including subscription matters, should be addressed to American Journal of Law & Medicine, MIT Press, 28 Carleton Street, Cambridge, Massachusetts 02142. Claims for missing copies must be made immediately upon receipt of the next published issue.

Subscriptions: \$25.00 for individuals and \$35.00 for institutions (foreign subscribers add \$3.00 for postage). Back copies: \$9.00 apiece. For back issues from Volumes 1 and 2, write to 454 Brookline Avenue; for later issues, write to 28 Carleton Street.

Advertising: Price list available from Journals Department, MIT Press, 28 Carleton Street, Cambridge, Massachusetts 02142.

Copyright © 1978 by the American Society of Law & Medicine and the Massachusetts Institute of Technology. All or any part of materials appearing in the JOURNAL may not be republished without the express written consent of the Editor-in-Chief.

Articles indexed and abstracted in *Index to Legal Periodicals, 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 Number K1.M445). ISSN 0098-8588.

U.S. postage paid at Boston, Massachusetts in accordance with Permit No. 54518 (Nonprofit Org.).

AMERICAN JOURNAL OF LAW MEDICINE

VOLUME 3 NUMBER 4 WINTER 1977-78

BOARD of EDITORS

EDITOR-IN-CHIEF John A. Norris, J.D., M.B.A.

Attorney & Consultant in Health Law Tufts Univ. School of Dental Med. Boston College Law School

EXECUTIVE EDITOR Elliot L. Sagall, M.D. Harvard Medical School

Boston College Law School

MANAGING EDITOR Jim McMahon, J.D.

Mark D. Altschule, M.D. Harvard University

Donald B. Barkan, M.D., F.A.C.P.Health Director, Lynn Hospital School of Nursing

Patrick Carroll, J.D. Senior Vice Pres. & Legal Counsel, Massachusetts Hospital Ass'n

Roger C. Cramton, J.D. Dean, Cornell Law School

William J. Curran, LL.M., S.M. Hyg. Harvard University

Douglas Danner, J.D. Trial Attorney

Lee J. Dunn, Jr., J.D., LL.M. Legal Counsel, Northwestern University Medical Center

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

Attorney & Consultant in Health Law Harvard Medical School

Clark C. Havighurst, J.D. Duke Law School

Bernard D. Hirsh, J.D. General Counsel, Am. Med. Ass'n

Richard G. Huber, J.D. Dean, Boston College Law School Alan K. Kaplan, LL.B., M. Sci.

Attorney & Consultant in Health Law Georgetown Univ. Medical School

Jay Katz, M.D. Yale University

Sylvia A. Law, J.D.

New York University School of Law

Kevin M. McIntyre, M.D., J.D. Harvard Medical School

Aubrey Milunsky, M.B.B.Ch., M.R.C.P., D.C.H.

Harvard Medical School; Director, Genetics Division, Shriver Center

Irwin N. Perr, M.D., J.D. Rutgers Medical School, College of Medicine and Dentistry of New Jersey

Harvey E. Pies, J.D., M.P.H. Attorney & Consultant in Health Law

Honorable Max Rosenn United States Court of Appeals

E. Donald Shapiro, J.D., LL.D. Dean, 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 Univ. School of Dental Med.: Past Pres., Am. Dental Ass'n.

Cyril H. Wecht, M.D., J.D. Director, Pittsburgh Inst. of Legal Medicine Coroner, Allegheny County, Pa.

RESEARCH ASSOCIATES Monti Scribner Laughnan, J.D. Pamela J. Anderson, J.D. Winfield Swanson, B.A. Jay Alexander Gold, J.D., M.P.H.

ADMINISTRATIVE ASSISTANTS Candice M. MacBain Nancy Marks

OFFICERS OF THE AMERICAN SOCIETY OF LAW & MEDICINE

PRESIDENT

Elliot L. Sagall, M.D. Boston College Law School Harvard Medical School

FIRST VICE-PRESIDENT

Douglas Danner, J.D. Trial Attorney

VICE-PRESIDENT

Richard F. Gibbs, M.D., J.D. Harvard Medical School Chairman, Committee on Professional Liability, Massachusetts Medical Society Law & Medicine Committee, American Bar Association

SECRETARY

Michael D. Jusell Senior Claims Supervisor Employers Insurance of Wausau

TREASURER

Barry C. Reed, LL.B. Trial Attorney

AMERICAN JOURNAL OF LAW MEDICINE

VOLUME 3 NUMBER 4 WINTER 1977-78

ARTICLE

The Swine Flu Immunization Cyril H. Wecht, M.D., J.D. Program: Scientific Venture or Political Folly? 425

COMMENT

Structural Codes and Patient
Safety: Does Strict Compliance
Make Sense?

Rich Feeley, J.D.
Diana Chapman Walsh, M.S.
Jonathan E. Fielding, M.D., M.P.H.

BOOK REVIEW

Kinzer's *Health Controls Out of*Control

Jay Alexander Gold, J.D., M.P.H.
455

MEDICOLEGAL REFERENCE LIBRARY

Selected Recent Court John A. Norris, J.D., M.B.A. **Decisions** 465 Pamela J. Anderson, J.D. Jay Alexander Gold, J.D., M.P.H. Highlights of Federal Legislative Harvey E. Pies, J.D., M.P.H. and Executive Action 477 Selected Book Releases, Elliot L. Sagall, M.D. Annotated 483 Selected Articles from Various Jim McMahon, J.D. Journals 513