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## FOREWORD

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The theme for the 2005 Houston Journal of Health Law and Policy symposium issue is “The Mass Media’s Influence on Health Law and Policy.” As I write this introduction, the nation is consumed by the final days of a media-fed maelstrom swirling around one of seventy-two beds in a Pinellas Park, Florida hospice.

The debate over the life and death of Theresa Marie Schiavo explored, among other topics, how the legal system and health policy address issues of disability, end-of-life care, personal autonomy, and the type of evidence needed to determine an incapacitated patient’s wishes. Medical, legal, and ethical scholars, who had recently described certain advance directives as a noble but underutilized,<sup>1</sup> or even ineffective,<sup>2</sup> means of extending patient autonomy beyond the point of competence, found themselves faced with a surge of public interest in learning how advance directives might help their treatment wishes to be carried out (although I witnessed far too many newscasts where the members of the media continued to use incorrect terminology, frequently focusing on the need for people to get a living will).<sup>3</sup>

The U.S. Congress engaged in a number of actions raising a number of ethical and legal concerns. The U.S. House of Representatives Committee on Government Reform, the day after holding hearings on steroid use in baseball, issued subpoenas ordering Ms. Schiavo and her husband, as well as the nutrition and hydration-

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<sup>1</sup> Forrest Lang & Timothy Quill, *Making Decisions with Families at the End of Life*, 70 AM. FAM. PHYSICIAN 719 (2004).

<sup>2</sup> Angela Fagerlin & Carl E. Schneider, *Enough: The Failure of the Living Will*, 34 HASTINGS CTR. R. 30 (2004); Peter H. Ditto et al., *Advance Directives as Acts of Communication: A Randomized Controlled Trial*, 161 ARCHIVES INTERNAL MED. 421 (2001) (finding advance directives as currently structured to be an ineffective means of accurately conveying a patient’s wishes).

<sup>3</sup> See, e.g., Timothy E. Quill, *Terri Schiavo—A Tragedy Compounded*, 352 NEW ENG. J. MED. 1630 (2005); Janet Kornblum, *Living Wills Not Always Followed to the Letter*, USA TODAY, Mar. 15, 2005, at 6D.

related equipment and several physicians, to appear at a hearing before the committee.<sup>4</sup> This same committee also submitted petitions to the Florida Supreme Court and the U.S. Supreme Court seeking relief on Ms. Schiavo's behalf.<sup>5</sup> Over Palm Sunday weekend, Congress passed and the President signed Public Law No: 109-003, "A bill to provide for the relief of the parents of Theresa Marie Schiavo," which raised numerous Constitutional and policy questions, including the state of the separation of Federal legislative and judiciary powers,<sup>6</sup> and what future role many in Congress might seek to take as part of their effort to support a "culture of life."<sup>7</sup> A Congressional battle over judicial nominees, which already featured a "nuclear option" before the intervention into the Schiavo case,<sup>8</sup> has been raised to an even higher level because the Federal judiciary did not provide the kind of relief sought after by the law's advocates.

The way in which the events in Florida and Congress were reported highlighted a mass media in transition. As described in one recent report on the press, the news media is moving rapidly toward a "faster, looser, and cheaper" model of reporting, embodied in the "new journalism of assertion" seen on cable news and the internet: extemporaneous, one-sided, thinly sourced, repetitive, rarely-updated news mixed together with heavy doses of opinion and advocacy.<sup>9</sup> The reports were a far cry from the fair, balanced, and up-to-the-minute sources of information the channels claim to be, or the skeptical, transparent, information-gathering operations they ought to be. This resulted, for example, in the media airing with little to no comment or analysis the brief film clips of Ms. Schiavo culled from hours of videotape which purportedly showed that she responded to external stimuli, encouraging the viewing public

<sup>4</sup> Manuel Roig-Franzia, *Schiavo's Feeding Tube is Removed*, WASH. POST, Mar. 18, 2005, at A1.

<sup>5</sup> For an outstanding timeline of the Terri Schiavo case, see Kathy Cerminara & Kenneth Goodman, *Key Events in the Case of Theresa Marie Schiavo*, <http://www.miami.edu/ethics/schiavo/timeline.htm> (last visited Sept. 14, 2005).

<sup>6</sup> See *Schiavo v. Schiavo*, No. 05-00530-CV-T-27-TBM, 2005 WL 713153, at \*1 (11th Cir. Mar. 30, 2005) (en banc) (Birch, J., specially concurring) ("In resolving the Schiavo controversy it is my judgment that, despite sincere and altruistic motivation, the legislative and executive branches of our government have acted in a manner demonstrably at odds with our Founding Fathers' blueprint for the governance of a free people—our Constitution . . . [V]arious provisions of Pub. L. 109-3 are an unconstitutional infringement on the core principles of separation of powers.").

<sup>7</sup> See generally George J. Annas, "Culture of Life" Politics at the Bedside—The Case of Terri Schiavo, 352 NEW ENG J. MED. 1710 (2005).

<sup>8</sup> Jeffrey Toobin, *Blowing Up The Senate*, NEW YORKER, Mar. 7, 2005, at 42.

<sup>9</sup> Project for Excellence in Journalism, THE STATE OF THE NEWS MEDIA 2005, <http://www.stateofthenewsmedia.org/2005/index.asp> (last visited Sept. 14, 2005).

to come to conclusions not supported by what was found to be the scientific evidence. It also resulted in physician-members of Congress taking an opportunity to assert, largely without rejoinder, that, after examining the abridged videotape “evidence,” their training led them to conclude the physicians who had actually examined Ms. Schiavo and her medical record made the incorrect diagnosis.<sup>10</sup> Highly charged, often misleading statements made by guests on discussion shows went unchallenged by the hosts, including the promotion of many destructive myths about hospice care.

The impact this storm will have on health law and policy is as yet unknown, but a preliminary assessment indicates that it may have caused some cracks in a few of those fields’ long-standing pillars.

### THE MASS MEDIA’S INFLUENCE ON HEALTH LAW AND POLICY

Fortunately, in this symposium issue, we can draw upon the expertise of a number of outstanding health law and policy scholars to provide us with insight into the relationship between the media and health law and policy. Collectively, the five thoughtful articles which follow look at a wide range of actors in the mass media, and shed light on the numerous ways these actors affect health law and policy. The first three articles explore specific health policy issues and the role the media has had in shaping public perceptions and policies. The final two essays examine how film images of health care systems and symptoms can be used in the classroom as means through which to help law students better understand the challenges and complexities of law, policy and the populations they affect.

In the first three articles, the authors examine how newspapers and magazines, television news, and movies and television shows have informed and shaped public opinion of health law and health policy issues, as well as the underlying law and policies themselves. While focusing on different health law and policy problems, these pieces echo one another in several ways. It has been suggested that journalists would be well-served to conduct their business using the following formula:

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<sup>10</sup> Sheryl Gay Stolberg, *The Schiavo Case: Doctor-Politicians; Drawing Some Criticism, Legislators with Medical Degrees Offer Opinions on Schiavo Case*, N.Y. TIMES, Mar. 23, 2005, at A14; Charles Babington, *Viewing Videotape, Frist Disputes Florida Doctors’ Diagnosis of Schiavo*, WASH. POST, Mar. 19, 2005, at A15.

$$A + B + C + D + E = F$$

(Accuracy plus Balance plus Completeness plus Detachment plus Ethics equal Fairness.)<sup>11</sup>

If the authors of the symposium's first three articles could grade journalists' use of this formula while covering health-related issues, it is likely many "F"s would be handed out, and "F" would not stand for "Fairness." The authors raise concerns about a mass media which tends to oversimplify complex scientific or policy content. They also call into question the media's predilection toward hope, hype and hagiography, as those reporting on health issues tend to trade thorough, balanced research and analysis in for good stories and personal angles. All of the pieces note that while the opinions of the public and policymakers are not exclusively shaped by media coverage, the nature of media coverage tends to frame the debate for society, and once an issue has been framed, with certain aspects emphasized and others downplayed, it becomes more difficult for valuable alternative perspectives and solutions to gain standing in the debate.

David Mechanic's sweeping essay *The Media, Public Perceptions and Health, and Health Policy* begins with a description of the ways in which the media frames both the public's view of health care issues as well as the public policy debate on such issues.<sup>12</sup> Through an exposition on the managed care backlash, he describes some of the weaknesses in how the media delivers health-related news.<sup>13</sup>

But as Mechanic also describes, almost all participants in the health policy debate have become savvy media managers, relegating the media to the role of the rope in a tug of war between myriad

<sup>11</sup> Robert J. Haiman, *Best Practices for Newspaper Journalists*, at 6, <http://www.freedomforum.org> (last visited Sept. 14, 2005).

<sup>12</sup> David Mechanic, *The Media, Public Perceptions and Health, and Health Policy*, 5 HOUS. J. HEALTH L. & POL'Y 187 (2005).

<sup>13</sup> This is a theme which runs through a number of the papers in this symposium. See also Lisa M. Schwartz & Steven Woloshin, *On the Prevention and Treatment of Exaggeration*, 18 J. GEN. INTERNAL MED. 153 (2003) (describing misreading of health benefits by media). This also applies on issues such as emerging infectious diseases and bioterrorism. See C. David Naylor et al., *Learning from SARS in Hong Kong and Toronto*, 291 JAMA 2483, 2487 (2004) ("Communication . . . with the media and public . . . is a cornerstone of crisis management."); David Baltimore, *The SARS Epidemic: SAMS (Severe Acute Media Syndrome)*, WALL ST. J., Apr. 28, 2003, at A12 ("[A] media-transmitted epidemic of concern for personal safety outpaces the risk to public health from the actual virus."); George M. Gray & David P. Ropeik, *Dealing with the Dangers of Fear: The Role of Risk Communication*, HEALTH AFF., Nov./Dec. 2002, at 106; Sherry Ricchiardi, *The Anthrax Enigma*, AM. JOURNALISM REV., Dec. 2001, at 18.

interests.<sup>14</sup> There has been widespread coverage of the pharmaceutical<sup>15</sup> and tobacco industry's manipulation of studies,<sup>16</sup> leading to altered public perceptions about the safety of their respective products, increased profits, and ultimately highly public recalls and lawsuits. These entities also direct catch phrase-laden campaigns toward the government agencies which regulate their products.<sup>17</sup> The regulators themselves have begun to regularly release their own "infoganda"<sup>18</sup>—slickly-produced video news releases delivered by "faux journalists," often with no attribution to the agency and sometimes in violation of Federal law<sup>19</sup>—to improve the image of new Medicare policies (as well as other government initiatives).<sup>20</sup> Organized medicine has more than a half-century's worth of experience in shaping its image and political agenda through the media, from *Ben Casey* and *Dr. Kildare*<sup>21</sup> to today's multi-million dollar campaign to influence the debate over medical malpractice liability insurance reform.<sup>22</sup> Health advocates have also been successful in using the media to engage in social marketing of health. Mechanic does not delve into the ascension of talk radio<sup>23</sup> and other alterna-

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<sup>14</sup> Mechanic, *supra* note 12.

<sup>15</sup> See, e.g., MARCIA ANGELL, *THE TRUTH ABOUT THE DRUG COMPANIES* (2004).

<sup>16</sup> Elisa K. Tong et al., *Changing Conclusions on Secondhand Smoke in a Sudden Infant Death Syndrome Review Funded by the Tobacco Industry*, 115 *PEDIATRICS* e356 (2005), available at <http://pediatrics.aappublications.org/cgi/content/full/115/3/e356> (last visited Sept. 14, 2005).

<sup>17</sup> Elisa K. Ong & Stanton A. Glantz, *Constructing "Sound Science" and "Good Epidemiology": Tobacco, Lawyers and Public Relations Firms*, 91 *AM. J. PUB. HEALTH* 1749 (2001), available at <http://www.smokefreeforhealth.org/studies/OngGlantz.htm> (last visited Sept. 14, 2005).

<sup>18</sup> Frank Rich, *White House's New Ally: Faux Journalism*, *N.Y. TIMES*, Mar. 27, 2004 (citing Rob Corddrey, *THE DAILY SHOW*).

<sup>19</sup> General Accountability Office, Department of Health and Human Services, Centers for Medicare & Medicaid Services—Video News Releases, B-302710, May 19, 2004.

<sup>20</sup> *Turn Off Fake News*, *USA TODAY*, Mar. 18, 2005, at 11A.

<sup>21</sup> The American Medical Association's involvement in the production of these shows led to accusations they were using the dramas as a means through which to subtly campaign against the passage of Medicare. JOSEPH TUROW, *PLAYING DOCTOR* 71–72 (1989).

<sup>22</sup> As part of its campaign, organized medicine has generated publicity through "white coat" demonstrations at state capitols, colored wristband campaigns, widespread billboard and television advertising, and through articles in their profession's periodicals instructing members on how to attract and manage the press and "keep the issue alive." See, e.g., Madhu Krishnamurthy, *Coming to Doctors' Offices: Wristband Campaign Takes Aim at Rising Malpractice*, *CHI. DAILY HERALD*, Jan. 25, 2005, at 4 (wristbands); Tanya Albert, *Keeping the Issue Alive*, *AM. MED. NEWS*, Jan. 31, 2005, at 13 (media management).

<sup>23</sup> David Foster Wallace, *Host*, *ATL. MONTHLY*, Apr. 2005, at 51.

tive media<sup>24</sup> and their influence on health policy and law, but this is a recent phenomenon.<sup>25</sup> However, there is reason to believe that the agendas they promote eventually will have an impact on the health policy debate which rivals that of the so-called “main stream media.”<sup>26</sup> The article also explores the ongoing debate over the benefits and risks of direct to consumer advertising.<sup>27</sup>

In *Popular Media, Biotechnology, and the “Cycle of Hype”*, Timothy Caulfield examines the factors affecting how advances in biotechnology are portrayed in the popular press, and the impact of coverage of issues such as genetics and stem cell research on public perceptions and policies.<sup>28</sup> The popular press is the primary conduit through which the general public is educated about scientific advances, and there is a growing concern that this coverage tends toward the sensational and simplistic. But as Caulfield’s thorough examination of the “genohype” phenomenon demonstrates, this is not entirely the fault of a mass media intent on entertaining while informing. In fact, on the whole, the media does a fair job of accurately reporting scientific advances and scientists’ impressions, although coverage does tend to emphasize biotechnology’s potential benefits and near-term applications. This accent on the positive is not entirely the fault of the media, but rather is the product of a “cycle of hype” which is also fueled by researchers chasing funding, public funding agencies and politicians who are asked to make significant long-term commitments of tax dollars to research agendas, and, most importantly, the increasing influence of private sector sponsors seeking to generate enthusiasm and high expectations, as well as significant near-term returns on their investments.

<sup>24</sup> RICHARD A. VIGUERIE, *AMERICA’S RIGHT TURN: HOW CONSERVATIVES USED NEW AND ALTERNATIVE MEDIA TO TAKE POWER* (2004); David D. Kirkpatrick & John Schwartz, *List of Schiavo Donors Will Be Sold by Direct-Marketing Firm*, N.Y. TIMES, Mar. 29, 2005, at A1.

<sup>25</sup> Cf. Paul Krugman, *What’s Going On?*, N.Y. TIMES, Mar. 29, 2005, at A17; Rob Stein, *Pharmacists’ Rights at Front of New Debate*, WASH. POST, Mar. 28, 2005, at A1; Sheryl Gay Stolberg, *Lawmakers Ready to Again Debate End-Of-Life Issues*, N.Y. TIMES, Mar. 28, 2005, at A1.

<sup>26</sup> Those seeking to become spinmeisters can take private courses to shape themselves into the talking point-shouters populating today’s cable news programming. Joshua Green, *J-School for Jerks*, ATL. MONTHLY, Mar. 2005, at 42; Trudy Lieberman, *Answer the &#36; Question!*, COLUM. JOURNALISM REV., Jan./Feb. 2004, at 40 (“[J]ournalism appears to be little more than disguised public relations.”).

<sup>27</sup> This most commonly is associated with pharmaceutical advertising but is found in many areas of health care. See Robin J. Larson et al., *Advertising by Academic Medical Centers*, 165 ARCHIVES INTERNAL MED. 645 (2005).

<sup>28</sup> Timothy Caulfield, *Popular Media, Biotechnology, and the “Cycle of Hype,”* 5 HOUS. J. HEALTH L. & POL’Y 213 (2005).

The media, as the principal messenger of this largely positive spin, frames the discussion about technology for the public and policymakers, and this, in turn, fosters favorable and optimistic impressions of biotechnology in the public and policymakers. Caulfield argues this belief in the “genohype” may lead to several policy challenges. It may be difficult for biotechnological research to deliver rapid results which live up to the hype, which may lead to the public’s faith in biotechnology giving way to the persistent moral concerns surrounding the somewhat controversial technology. In addition, should these high expectations not be met, and the biotechnology hype bubble bursts, investor interest and public support could decline. This, in turn, may tempt those invested in biotechnology to warp their research and funding priorities to focus even more on near-term returns, rather than long-term and ultimately more valuable applications. The nature of media coverage of genetic research also raises concern about how information concerning genetic differences between populations will be handled. Finally, Caulfield leaves the reader with two critical, but as yet unanswered questions: Will a simplified delivery of scientific news of genetic differences lead existing prejudices to be reinforced? And will a public who buys into the message that their genetic information is special become more reluctant to share that information, paradoxically making it more difficult to conduct research which might deliver results that live up to the hype?

As Peter Jacobson and Shannon Brownlee detail in the third article in this issue, *The Health Insurance Industry and the Media: Why the Insurers Aren’t Always Wrong*, stories of hope and hype also have been a crucial component of the legal and political debate over managed care.<sup>29</sup> Since the late 1980s, managed care perpetually has struggled against a largely negative public image. Under managed care, patients, physicians, and hospitals were being told “no” for the first time, and in spite of these groups acknowledging the need to restrict the range of services in order to contain costs, that did not mean they had to like it, especially when it affected them personally. The media, with its penchant for character-driven, “one against the system” stories, found a bumper crop available for issues such as “drive-through” deliveries and mastectomies,<sup>30</sup> refusal to cover visits to emergency departments for what appeared to be

<sup>29</sup> Peter Jacobson & Shannon Brownlee, *The Health Insurance Industry and the Media: Why the Insurers Aren’t Always Wrong*, 5 Hous. J. Health L. & Pol’y 235 (2005).

<sup>30</sup> The nicknames for these incidents which dramatically framed the debate themselves were products of media-savvy advocacy groups.

emergencies, gag rules, and other “horror stories,” and politicians were only too willing to come to their aid.<sup>31</sup> Compliments about managed care in the press have tended to be of the backhanded variety.<sup>32</sup> When members of the media were pressed as to why they spent so little time discussing the things managed care did well, the stock reply would be “We don’t report on every airplane which lands safely either.”

While the health insurance industry may “deserve almost all of the scorn and derision it has received,”<sup>33</sup> there are instances when managed care may have been unfairly maligned for reasonable, but unpopular, conduct. Jacobson and Brownlee describe in depth the specific example of how hope, hype and a hungry media helped drive managed care companies to cover the costly and unproven treatment of high-dose chemotherapy with autologous bone marrow transplant for breast cancer patients. The public policy debate was particularly one-sided in Minnesota. An already strong anti-managed care sentiment was stoked further by widespread reporting of several multi-million dollar judgments against managed care companies for denials of care for the treatment, including a successful lawsuit by the wife of the Minnesota Speaker of the House. As in Caulfield’s piece, Jacobson and Brownlee critique the fawning coverage often found in medical reporting. To correct this, they suggest that media take the advice Deep Throat gave to Woodward and Bernstein: “follow the money” and examine more critically the self-interests of the story’s characters. The authors also examine the challenges of finding science-driven processes to aid legislatures in making determinations as to whether to intervene in a particular coverage case.

Feature films, television shows and documentaries can have a significant impact on health law and public policy. The pharmaceutical and health insurance industries are bracing for the fallout sure to come from the release of *Sicko*, Michael Moore’s next documentary, and are warning their employees not to speak with the filmmaker.<sup>34</sup> Last year, Morgan Spurlock’s documentary on the fast-

<sup>31</sup> David A. Hyman, *Do Good Stories Make for Good Policy?* 25 J. HEALTH POL., POL'Y & L. 1150 (2000).

<sup>32</sup> See, e.g., Larry Katzenstein, *Beyond the Horror Stories, Good News About Managed Care*, N.Y. TIMES, June 13, 1999, § 15, at 6; Michael M. Weinstein, *Managed Care’s Other Problem: It’s Not What You Think*, N.Y. TIMES, Feb. 28, 1999, § 4, at 1.

<sup>33</sup> Jacobson & Brownlee, *supra* note 29.

<sup>34</sup> Elaine Dutka, *Giving Them a Sick Feeling: Drug Firms Are on the Defense as Filmmaker Michael Moore Plans to Dissect Their Industry*, L.A. TIMES, Dec. 22, 2004, at E1.



food industry and obesity in America, *Super Size Me*, fueled the national debate over the content of fast food, Americans' eating and exercise habits, and nutrition of food available in schools.<sup>35</sup> The negative publicity may have led to fast food companies changing the content of their menus, although they generally deny any correlation.<sup>36</sup> Heightened sensitivity of the media to the issue of obesity, as well as the national debate over frivolous lawsuits, has resulted in broad coverage of health policy initiatives eliminating soft drinks and candies from schools and "Cheeseburger" bills protecting fast food companies from obesity-related lawsuits.<sup>37</sup> Media-savvy advocates have also proven use of the courts, coupled with the negative publicity generated by the cause of action's resultant media attention, can be helpful to manipulate the conduct of "junk" food purveyors. In May, 2003, a California attorney filed a lawsuit to try to stop Kraft Inc. from selling Oreo cookies to children in the state, arguing that the snack's high trans fat content made them hazardous to children's health.<sup>38</sup> News about the unorthodox lawsuit spread worldwide, sparking a debate about both trans fats and the use of the legal system to address rising concern about obesity and its impact on children. While Kraft officials complained the suit was groundless, they also responded with news that the company was in the process of eliminating trans fat from its cookies. Two weeks later, the attorney dropped the suit, stating that he had "hit a home run."<sup>39</sup> In the wake of the lawsuit and the ensuing negative publicity, Kraft has reduced its marketing of Oreos to children, and many similarly-maligned junk food purveyors have followed a comparable course.<sup>40</sup>

As Elizabeth Pendo describes in her article, *Telling Stories About Health Insurance: Using New Films In The Classroom*, popular movies also can serve as effective didactic tools.<sup>41</sup> Pendo's paper is a

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<sup>35</sup> See, e.g., Wayne Au, *Supersize Me Takes a Jab at McDonald's*, RETHINKING SCHOOLS, Fall 2004, [http://www.rethinkingschools.org/archive/19\\_01/revi191.shtml](http://www.rethinkingschools.org/archive/19_01/revi191.shtml) (last visited Sept. 14, 2005).

<sup>36</sup> Alice Park, *Would You Like to Un-Super Size That?*, TIME, Mar. 15, 2004, at 93.

<sup>37</sup> "Cheeseburger" bills have been passed in at least 14 states. *Don't Blame the Burgers*, USA TODAY, Jan. 31, 2005, at 10A.

<sup>38</sup> Kim Severson, *S.F. Lawyer Plans to Drop Oreo Suit: All the National Publicity About Trans Fat Made His Point, He Says*, S.F. CHRON., May 15, 2003, at A3.

<sup>39</sup> *Id.*

<sup>40</sup> Daniel Dunaief, *McDonald's Uses Major Athletes to Promote Healthy Living Campaign*, N.Y. DAILY NEWS, Mar. 9, 2005, at 51.

<sup>41</sup> Elizabeth Pendo, *Telling Stories About Health Insurance: Using New Films in the Classroom*, 5 HOUS. J. HEALTH L. & POL'Y 269 (2005).

teacher's guide to using the films *John Q*, *The Rainmaker* and *Critical Care* to invigorate dialogue about health insurance and access to care in a law school curriculum.<sup>42</sup> The article walks the reader through specific scenes in the films (helpfully including the exact times and/or chapters of the scenes and also some snippets of dialogue), offers sample discussion questions and additional readings, and analysis of the specific take-away messages she hopes students will receive from viewing the clips, including issues the clips either miss or misrepresent. She begins with a scene from *John Q* which describes the erosion of employer-sponsored health insurance. *John Q* is also useful for analyzing the continuity of health insurance available through federal laws such as COBRA and HIPAA, and for discussing public health insurance options for poor and near-poor children and families. The impact of health insurance on physician behavior is examined through scenes from *John Q* and the dark comedy *Critical Care*. The access to care challenges of the uninsured are examined in portions of *John Q*, *Critical Care* and *The Rainmaker*. She concludes the article by examining how *John Q* and *The Rainmaker* can be used to explore remedies patients denied access to coverage and access to care may have in the legal system.

In the symposium's final piece, *Using Film as a Teaching Tool in a Mental Health Law Seminar*, Timothy S. Hall continues the discussion of the mass media as instructional aid by examining the strengths and limitations of film as a means through which to offer law students insight into the complex world of the mentally ill and the legal issues faced by such populations.<sup>43</sup> Hall begins by describing how he divides his course into three general themes: the physician/patient relationship, the law of civil commitment, and the treatment of mental status in the criminal law. He uses his section on the physician/patient relationship to enhance student understanding of the myriad challenges of living life with mental illness and discuss the stigma attached to mental illness by society. Toward this end, he uses the films *A Beautiful Mind* and *Shine*, discussing not only how mental illness is portrayed in the films, but also how movies tend to gloss over the more unpleasant aspects of their illnesses to focus on characters' heroism or eccentricities. Hall also uses the HBO series *The Sopranos* to discuss both the perception of mental illness in society and the legal and ethical obligations of the

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<sup>42</sup> *Id.*

<sup>43</sup> Timothy S. Hall, *Using Film as a Teaching Tool in a Mental Health Law Seminar*, 5 HOUS. J. HEALTH L. & POL'Y 287 (2005).

therapist. The issue of civil commitment, both voluntary and involuntary, is examined through exploration of *One Flew Over The Cuckoo's Nest* and *Girl, Interrupted*. Hall turns to the fantastic (*The Green Mile*) and the futuristic (*Minority Report*) to explore, respectively, the issues of mental illness and capital punishment, and criminal law, civil commitment and the use (or misuse) of science to prevent future wrongdoing. He concludes with a discussion of the benefits of using film as a teaching tool, options for assigning materials, and a valuable appendix of additional resources on film and mental health issues.

In conclusion, this symposium can help all of us become better consumers of mass media coverage of health law and policy issues. The authors have generously shared their insights into how those engaged in certain health care law and policy pursuits may manipulate the press, and how a sometimes complicit, sometimes complacent mass media fails in its responsibility truly to provide fair, balanced and accurate information to the public. But these articles, and the recent news from Florida and elsewhere, also show us how the relationship between the media, health policy and the law can be improved. One positive event I noted in the recent coverage of the Terri Schiavo case was many of our health law and bioethics colleagues were willing to step out into the howling wind to discuss objectively important issues which otherwise were not being adequately or accurately covered. It is my hope that, through heeding the lessons of these authors, and by continuing to offer our time and expertise to inform the public debate, we may be able to light a beacon to help guide the public, the politicians and the press toward a greater understanding of the critical health law and policy issues we face today and in the future.

