YOUR PUBLIC INTEREST DONATIONS AT WORK

PUBLIC INTEREST:

“. . . to serve as a public resource on selected healthcare legal issues”—From the Mission Statement of the American Health Lawyers Association

Dear Public Interest Contributors:

Welcome to the second issue of Your Public Interest Donations at Work, a semiannual report on activities supported by contributions to the American Health Lawyers Association’s public interest fund. AHLA fulfills its public interest commitment by providing nonpartisan information and analysis on health policy issues that have important legal implications. This issue includes:

• 2005 Colloquium Will Focus on Medical Necessity;
• Advisory Group Provides Input on Serving the Academic Health Law Community;
• FY 05 Activities Will Include Pro Bono-related Training;
• Additional Public Interest Activities
• Funding AHLA’s FY 05 Public Interest Activities

Thank you for your continued support of AHLA’s Public Interest commitment.

Elisabeth Belmont
Chair
2003-2004 Public Interest Committee
2005 Colloquium Will Focus on Medical Necessity

Planning is underway for AHLA’s eighth Public Interest Colloquium, Medical Necessity: Current Concerns and Future Challenges, following the Board of Directors’ approval, on February 26, 2004, of a recommendation from the Public Interest Committee. The colloquium, a facilitated discussion among a roundtable of experts, will be held in Washington, DC, in spring of 2005. A colloquium report summarizing the panel’s findings will be distributed on a complimentary basis to AHLA members and the healthcare community—legislators and agency officials, healthcare organizations, policy analysts, the academic community, consumer groups, and the press.

In selecting a colloquium topic for the Board’s consideration, the Public Interest Committee screens suggested issues against formal criteria that identify an appropriate colloquium topic as one that:

- Is in the public interest or has a charitable component;
- Has a clear legal nexus;
- Is timely;
- Draws diverse constituency participation; and
- Is practical.

In the committee’s judgment, medical necessity was an extremely attractive topic for examination at a colloquium. Timothy P. Blanchard, Esq. (McDermott, Will & Emery) was the principal author of a “justification document” that accompanied the Committee’s recommendation to the Board. The justification document includes this explanation of the Committee’s rationale for selecting medical necessity:

Clearly, exploration of medical necessity is in the public interest. Moreover, the topic should be of interest to a very broad range of colloquium participants. Issues involving medical necessity policy affect everyone: patients depend upon prompt and fair determinations to obtain care; providers rely on prompt and fair determinations for reimbursement for services rendered; government programs and other payors require payment integrity to remain solvent; and all citizens need to be able to trust that the system is operating fairly and effectively.

Other topics considered by the Committee included EMTALA, universal health coverage, human subject research, and striking a balance between “public domain” access to information on the Internet vs. intellectual property protections.

Advisory Group Provides Input on Serving the Academic Health Law Community

A Links with Academia Advisory Group, chaired by former Board member Thomas Wm. Mayo (Southern Methodist University, Dedman School of Law) provided important guidance to the Public Interest Committee this year on ways in which AHLA can work more closely with the academic community and ways in which the Association can serve as a resource for this important segment of our membership.

Other members of the advisory group included Gail Agrawal, JD (University of North Carolina Law School and former Board member), Thomas (Tim) Greaney, JD (St. Louis University School of Law), Michelle Mello, JD, Ph.D. (Harvard School of Public Health), Mark A. Rothstein, JD (Institute for Bioethics, Health Policy and Law, University of Louisville) and Adele A. Waller, Esq. (Barnes & Thornburg).

Drawing on Tom Mayo’s considerable Internet expertise, the advisory group currently is developing a Web page for members of the academic health law and policy research community. The first phase focuses on the needs of adjunct law faculty. As Tom describes the project:

Many AHLA members and other health lawyers around the country have the opportunity from time to time to teach a health law course (or something related) as an adjunct professor for a local law school. A handful of full-time academic health lawyers have put together a series of web pages designed to provide first-time teachers and other useful guidance on important topics such as choosing a casebook, writing and grading exams, and finding a legal parking place on campus. The advisory group members and staff all contributed ideas to the design and content of pages for adjunct faculty and to the design and content of the overall academic Web site, which AHLA plans to release over the summer.

Other topics on which the advisory group has provided guidance to AHLA include:

- Understanding the culture of the health law academic community in order to identify opportunities and impediments to collaborative efforts;
- Identifying the universe of potential members within the term “health law professor”;
- Suggesting topics of interest to the academic community and effective structures for providing information such as conference sessions, teleconferences, or technical articles;
• Identifying topics for AHLA’s Public Interest teleconferences that would be of strong interest to academics, both as registrants and as potential speakers;

• Suggesting ways in which academics’ expertise and scholarly perspective can contribute to AHLA public interest activities such as colloquia, teleconferences, and issue briefings; and

• Providing valuable feedback on the focus, structure, timing, and award package for AHLA’s student writing competition.

Recognizing the valuable contributions of this year’s Links with Academia Advisory Group, the Public Interest Committee will recommend that a similar, more broadly structured panel be appointed in FY 05.

**FY 05 Activities Will Include Pro Bono-related Training**

Several discussions at the Board’s mid-year retreat in December 2003 focused on ways to enhance AHLA’s role as a “public resource” on health law. Consensus emerged that, in addition to AHLA’s commitment to serve as a public resource in the policy arena, serving as a public resource to legal services agencies and other non-profit organizations is an important part of our mission and would clearly communicate to members and others the “public” aspect of AHLA’s public interest activities. Many members contribute pro bono services in their communities, and broadening AHLA’s public resource outreach initiatives would be consistent with AHLA’s desire to “give back” to society from our members’ legal expertise.

In FY 05 the Public Interest Committee will explore (i) optional pro bono training sessions during one or more of the Association’s educational conferences by faculty from legal services organizations. The presenters will discuss their organizations, pro bono service opportunities and the law related to their clients; (ii) teleconferences on health law-related pro bono matters; (iii) training regarding the pro bono areas of law locally by coordinating an AHLA member/volunteer training day at applicable legal services organizations followed by a clinic day in these areas staffed by volunteer AHLA members; and (iv) publication of resource guides on health law topics related to pro bono matters such as advance directives and making those guides and selected AHLA publications available to certain legal services organizations.

These opportunities will allow AHLA both to secure pro bono expertise efficiently and to involve individuals from legal services organizations in the Association. In addition to the benefits derived from pro bono education and training, the Public Interest Committee believes that AHLA’s extensive member network provides an additional opportunity for the Association to facilitate volunteerism in the public interest by members in their local communities.

**Additional Public Interest Activities**

Other activities since publication of the Fall 2003 issue of Your Public Interest Donations at Work include:

• Sponsoring a CMS outreach meeting on quality disclosure initiatives at AHLA’s 2004 Institute on Medicare and Medicaid Payment Issues in Baltimore, MD. Donna Z. Eden, Esq., Public Interest Committee member, and Joseph A. Kuchler, Director of Public Interest and Public Affairs, hosted the session and introduced the speaker, Trent T. Haywood, MD. Dr. Haywood leads CMS’ quality performance measurement activities in both the fee-for-service and managed care areas. More than eighty registrants attended the breakfast session;

• Conducting “A Conversation with the CMS Administrator and Deputy Administrator,” the first teleconference in AHLA’s Spring 2004 Conversations with Policymakers series. Dennis Barry of Vinson & Elkins moderated a discussion with Mark McClellan, MD, and Leslie Norwalk, the CMS administrator and acting deputy administrator, respectively. More than 230 sites registered for the teleconference.

• Working with a task force of practice group members to develop an AHLA letter to three federal agencies requesting joint clarification on various types of assistance for physician malpractice insurance coverage. The letter was sent to officials at the Internal Revenue Service’s Tax Exempt and Government Entities Division; DHHS’ Office of the Inspector General; and DHHS’ Centers for Medicare and Medicaid Services. The letter included a visible disclaimer with respect to the non-advocacy nature of such requests by AHLA for clarification from regulatory agencies.

**Funding Health Lawyers’ FY 05 Public Interest Activities**

As you can see from the news reported in this Spring/Summer 2004 issue, donations to AHLA’s FY 04 public interest fund have been used to expand both the scope and number of initiatives this year in ways that contribute both to our members’ knowledge of public policy and to the public’s understanding of significant health law issues. We have a number of important activities planned for FY 05, including Conversations with Policymakers teleconferences, outreach to the academic health law community, pro bono training, and, our most significant project, the 2004 colloquium and colloquium report on Medical Necessity: Current Concerns and Future Challenges. Your continued financial support is both welcomed and needed to continue these important projects.
The $20 check-off on AHLA's membership renewal form is convenient way for many members to make an affordable donation on an annual basis. Other members prefer to send in a separate donation. If you have not already made a donation for the 2004 tax year, please take a moment to complete the contribution form below and mail it back to AHLA. Alternatively, you may contribute online at https://www.healthlawyers.org/securedforms/pi_contribform.cfm, or call (202) 833-0787 to make a donation. The names of individual contributors or their firms or organizations will be acknowledged and prominently listed in AHLA's publications and on the Public Interest section of the Association's Web site.

Thank you for your generous support of AHLA's public interest activities!

If you have suggestions for future Public Interest initiatives, please contact me at belmoe@mail.mmc.org, or contact Joe Kuchler, Director of Public Interest and Public Affairs, at (202) 833-0787 or at jkuchler@healthlawyers.com.

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**Pledge Your Support for AHLA's Public Interest Activities**

Note—AHLA depends on contributions to support colloquiums and other Public Interest activities. Please use the form below to make your contribution, or contribute online at www.healthlawyers.org/publicinterest.

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Thank you for supporting AHLA's Public Interest activities!