

Message from the Section Chair

The 2017-2018 year for the Health Law Section (Section) is shaping up to be one of a great deal of activity, including organizational work and committee projects, as well policy input on the national and state level. Much of this activity will be driven by efforts to “repeal and replace” the Affordable Care Act and the responses of New York State to those “re-



forms.” The Section will also be addressing its committee structure and continue to strengthen its outreach to young lawyers and law students interested in health law. Since its founding in 1996, under the leadership of Barry Gold, the Section has had a significant impact on my legal career and professional growth. During the course of my involvement the information and knowledge received from its educational programs, dialogue with colleagues and exposure to the various approaches taken to health law issues, has been invaluable. I hope that my contributions as Section Chair will add to the strength of the Section and its programs in the tradition of the 20 past chairs.

The success of the Section’s activities rests on the strength of its committees. A list of those committees appears elsewhere in this publication. Whether your interest and professional commitment is in the area of mental health or developmental disabilities law, continuing legal education, medical research and biotechnology, the ethics of health care, health care professionals, technology and e-health, enhancing the number and diversity of Section membership, professional discipline, public health law, reimbursement, working with other young attorneys in the field or other areas related to health law, you will find that your thoughts, ideas, expertise and participation will be a welcome addition on a committee. During this past year we have sponsored a variety of CLE programs, including the Section’s fall meeting and program at the NYSBA Annual Meeting, senior housing, health care program integrity and enforcement, organ and tissue donation, disciplinary proceedings, and the False Claims Act. The Section has launched an outreach program to law schools and attorneys throughout the state and reviewed, researched and taken positions on legislative issues. Just recently, the Health Law Section Committee on Ethical Issues in the Provision of Health Care worked with the Disability Rights Committee, an independent committee of the Bar Association, in organizing and hosting a day-long session on proposed reforms to guardianship under Article 17-A of the Surrogate’s Court Procedure Act. The morning part of that meeting reviewed proposed changes to guardianship

proceedings in response to the perceived absence of due process, equal protection and ADA rights under statutory procedures that have existed since the late 1960s and are currently the subject of federal litigation. In the afternoon the discussion centered on the proposed changes offered by the Governor’s Task Force on Life and the Law to healthcare decision making under the guardianship statute. Representatives from the Health Law Section, Disability Rights Committee, Civil Rights Committee, Elder Law and Special Needs Section, and the Trusts and Estates Section were present for the meeting. A short time after that meeting, prior to the issuance of the notes from the meeting and follow-up, two pieces legislation were introduced in the New York State Assembly and Senate to reform the Surrogate’s Court Procedures Act Article 17-A Guardianship. Within a short time thereafter the Health Law Section issued a statement in support of those reforms, as did the Elder Law and Special Needs Section. The Section Committee on Medical Research and Biotechnology drafted positions on legislation and federal policy that were adopted by Section as a whole and distributed.

In addition, the Section initiated a series of evening receptions, with short CLEs attached, scattered throughout the state in an effort to reach out geographically to attorneys. Several of these, as well as additional programs, were held at law schools. They were held in New York City, Albany, Rochester and Buffalo.

The challenges facing this Section in the coming year will include efforts to significantly increase our reach out to law students and young attorneys (it should be noted that the Young Lawyers Committee of the Section is the sponsor of this edition of the *Health Law Journal*), strengthening the committee structure of the Section, and responding to changes both in the delivery of health care and the legislation affecting that delivery. In particular, the Section will need to be on top of proposed changes to the Affordable Care Act and, in particular, New York State’s reaction thereto. The governor has already called for a series of forums around the state, which will have been completed before this edition appears, to open discussion of proposed state responses to federal law. The Section will need to respond quickly to any changes both from an advocacy perspective and to assist our members in understanding and meeting the challenges faced by our clients.

The Section will also be increasing its membership activities in an effort to attract and retain additional members. This will be done through receptions and outreach as well as designing programs to attract law students

LAWRENCE FAULKNER is General Counsel and Director of Corporate Compliance at Arc of Westchester. Prior to that position he served as Deputy General Counsel at OPWDD.

and attorneys. CLE programs already being planned for the coming year include one on the basics of health law, the October Annual Meeting in Albany and the January health law update at the NYSBA Annual Meeting. Additional items being discussed include a CLE on proposed reforms in health care delivery, possibly including a “respectful” debate on the issue of “is health care a right” in an effort to see if there are areas we can identify of mutual agreement. Finally, but certainly not least, the continued publication of this *Journal*, under the able and long term editorship of Robert Swidler, serves both the Section membership and potential Section membership

as an invaluable source of information and education. Regular features such as the health care legislative review, the review of actions by New York State agencies, recent New York State fraud abuse and compliance developments, and a review of articles in law journals relative to health law should not be overlooked.

I welcome the opportunity to work with others during this next year toward the growth and development of this Section and urge and encourage you to work with us on these endeavors.

Lawrence Faulkner

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