

Medical-Legal Literature 2010- 2011: Top Ten Hits*

[*OK, so I lied.]

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Selection Criteria/Caveats

- Arbitrary, but not capricious
- 2010
- Law journals
- Interesting
- Variety

Health Law Specialty Journals Omitted

- JLM
- <http://lawlib.wlu.edu/lj/index.aspx>
- American Journal of Law and Medicine
- Journal of Law, Medicine & Ethics
- Minnesota Journal of Law, Science & Technology
- Psychology, Public Policy, and Law
- Yale Journal of Health Policy, Law, and Ethics
- Annals of Health Law
- Health Matrix
- Houston Journal of Health Law and Policy

- Food and Drug Law Journal
- Journal of Contemporary Health Law & Policy
- Law and Human Behavior
- Indiana Health Law Review
- Law and Psychology Review
- Elder Law Journal
- Journal of Health Care Law & Policy
- DePaul Journal of Health Care Law
- Journal of Health Politics, Policy & Law

- Quinnipiac Health Law Journal
- Journal of Health and Biomedical Law
- Issues in Law and Medicine
- Behavioral Sciences and the Law
- Medical Law Review (UK)
- Pittsburgh Journal of Environmental and Public Health Law
- St. Louis Univ. Journal of Health Law & Policy
- Journal American Academy of Psychiatry & Law
- Marquette Elder's Advisor

Other Sources

- www.ssrn.com (Social Science Research Network)
 - *Medical-Legal Studies* (FSU)
 - *Health Care Law & Policy* (Washington & Lee)
 - *Public Health Law & Policy* (Temple University)

Symposium Law Review Issues

- *Symposium on Health Care Reform*, 29
MISS. C.L. REV. 313-426 (2010)

- *Symposium, Public Health and Biosecurity*, 4 HARV. L. & POL'Y REV. 263-360 (Summer 2010)

- *Symposium on The Future of Elder Law Practice*, 37(1) WM. MITCHELL L. REV. 1 (Winter 2010)

Individual Articles

- Kathryn Zeiler, *Medical Malpractice Liability Crisis or Patient Compensation Crisis?*, 59 DEPAUL L. REV. 675 (Winter 2010)
 - Argues that current tort system compensates plaintiffs *inadequately*

- Robert Winning, *Direct Regulation of Medical Malpractice Premiums: The Least Dangerous Reform*, 2010 COLUM. BUS. L. REV. 281-317(2010)
 - Reviews and endorses direct insurance regulation as an alternative to damage caps and assesses its feasibility and legality

- Patricia A. Sullivan & Jon M. Anderson, *The Health Care Debate: If Lack of Tort Reform is Part of the Problem, Federalized Protection for Peer Review Needs to be Part of the Solution*, 15 ROGER WILLIAMS U. L. REV. 41-92 (2010)

- Proposes that the relationship between peer review and medical malpractice should be reset to give preeminence to the former, at least with respect to immunity, confidentiality, and privilege. Would use the Patient Safety Quality Improvement Act as the vehicle to do that.

- Jennifer Arlen, *Contracting Over Liability: Medical Malpractice and the Cost of Choice*, 158 U. PA. L. REV. 957- 1023 (2010)
 - Argues that informed patients who value state-imposed malpractice liability can be hurt by the introduction of contractual liability, because contractual liability produces lower deterrence benefits at higher prices,

- Katherine L. Record, *Wielding the Wand Without Facing the Music: Allowing Utilization Review Physicians to Trump Doctors' Orders, But Protection Them From the Legal Risk Ordinarily Attached to the Medical Degree*, 59 DUKE L.J. 955-1000 (2010)
 - Title describes what happens now, but shouldn't

- Stephan Landsman, *The Risk of Risk Management*, 78 FORDHAM L. REV. 2315-2327 (APRIL 2010)
 - Explores the implications of the rise of risk management in law practice by viewing it through the lens of risk management's impact on the practice of medicine, where RM has been in use for a considerable period

- Nicholas P. Terry, *Physicians and Patients Who “Friend” or “Tweet”*: Constructing a Legal Framework for Social Networking in a Highly Regulated Domain, 43 IND. L. REV. 285-341 (2010)
 - Inquires how our legal, ethical, and regulatory models will react as the social network phenomenon overlaps with traditional healthcare relationships and businesses

- Jenna Caldarella, *Privacy and Security of Personal Health Records Maintained by Online Health Services*, 20 ALB. L.J. SCI. & TECH. 203-230 (2010)
 - Examines legal aspects of online personal health records (PHRs)

- Colin P. McCarthy, *Paging Dr. Google: Personal Health Records and Patient Privacy*, 51 WM. & MARY L. REV. 2243-2268 (2010)
 - Focuses on how the adoption of PHRs will affect the privacy of patients' health information

- Mark A. Hall, *Property, Privacy, and the Pursuit of Interconnected Electronic Medical Records*, 95 IOWA L. REV. 631-663 (2010)
 - Analyzes property rights in medical information from the perspective of network economics, proposing that patients be allowed to monetize their access and control rights by assigning them to a trusted and regulated intermediary who may place those rights in a stream of commerce that determines their value and best use

- Bria N. DeSalvo, Katherine M. Keith & Annette Soberats, *Health Care Fraud*, 47 AM. CRIM. L. REV. 681-740 (2010)
 - Comprehensively examines federal and state efforts to address fraud that threatens the public treasury

- Ashley Bassel, *Order at the End of Life: Establishing a Clear and Fair Mechanism for the Resolution of Futility Disputes*, 63 VAND. L. REV. 491-540 (2010)
 - To ensure that incapacitated patients are adequately protected as they near the end of life, this Note argues that states should establish state and local medical decisionmaking boards to resolve futility disputes