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## Foreword

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## FOREWORD

In this issue the *North Carolina Central Law Journal* presents papers from the Hospital Law Symposium that was held in April 1983 at the North Carolina Central University School of Law. The Symposium was co-sponsored by the *Law Journal* and the Duke University Program on Legal Issues in Health Care (under Grant No. HS 04089 from the United States Department of Health and Human Services). The participants and the audience all appeared to believe, as I did, that their time and energies were well spent and that understanding of important problems was significantly advanced.

In his paper, Charles Weller writes tellingly about the movement to introduce price competition into the hospital and medical fields. As an attorney with the Ohio Attorney General's Office, Mr. Weller was responsible for initiating a number of significant antitrust cases in the health care field. Now in private practice, he continues to stress the role of antitrust law in breaking down historic trade restraints in the health care sector, but he is also concerned that antitrust law might be used to block pro-competitive collaboration by competitors. Mr. Weller's concept that "small is beautiful"—which is not simply a corollary of the discredited antitrust idea that "bigness is bad"—promises to assist greatly in identifying those purchaser coalitions and provider joint ventures that enhance competition.

Douglas Colton, another practitioner who previously engaged in antitrust enforcement (with the United States Department of Justice), also addresses the antitrust problems that may be encountered in the organization of local coalitions to contain health care costs. His well-placed emphasis on the risks attending collective bargaining by purchasers on one side of the market and by hospitals on the other side should induce coalitions to shift their attention away from mobilizing collective purchasing power and to concentrate instead on assisting employers and employees to act more intelligently as independent purchasers of both health insurance and health care services. The pairing of Mr. Colton's paper with Mr. Weller's in this Symposium provides some contrasts that should deepen the reader's perspective on a vital set of issues.

My paper on the *Rex Hospital* case and Raleigh attorney Edward Hollowell's paper on the controversial *Hyde* decision examine the antitrust implications of hospitals' involvement in health planning and of hospital-physician contractual relations. While focusing on the princi-

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pal cases, these papers explore broader issues of great concern: the still complicated interface of antitrust with a changing regulatory agenda in health care and hospitals' freedom to make efficient business arrangements for delivering services even if competition among physicians is adversely affected.

Following these substantive papers on vexing antitrust issues, Eric Springer, in a paper derived from his after-luncheon remarks at the Symposium, shares his vision of health law as a locus of balancing competing values and accommodating changing needs. Mr. Springer's background as a distinguished counsellor of hospitals and other providers made his sense of the challenges facing the law today particularly meaningful to his audience, and his remarks were warmly received.

The *Law Journal* is to be congratulated for its timely contribution to the field of health care law.

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