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January 17, 2003

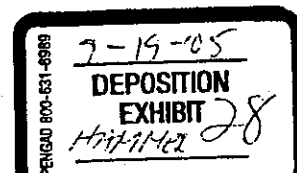
Dear Colleague,

As most of you know, after eight years, this is my final semester at the Law School. Last year I was considered for tenure. On a 4-1 vote, the Standing Tenure Committee recommended the granting of tenure. Thirty-two of the forty-two members of the tenured faculty met last February to decide the question. After ten hours of deliberation over two evenings, the faculty voted 18-to-14 in favor of granting tenure, short of the required two-thirds majority.

A University is a community of scholars as well as educators. In the co-enterprise of teaching, advising and counseling our students, many of you are aware of my work in the classroom and as the founder and Director of the Program for Cambodian Law & Development. Scholarship is a more solitary endeavor. Before leaving, I would like to take the opportunity to share with you some of my scholarly efforts over the past two years.

Most of my recent work relates in various ways to the grant I received from the Robert Wood Johnson Foundation (RWJF) with my co-principle investigator Bill Sage at Columbia Law School, as part of the RWJF Health Policy Investigator Award Program. *Antitrust, Health Care Quality, and the Courts*, 102 COLUM. L. REV. 545 (2002) (with William M. Sage), reports the results of our survey of medical antitrust litigation between 1985-99, with a focus on judicial treatment of quality and non-price competition. *A Copernican View of Health Care Antitrust*, 65 LAW & CONTEMP. PROBS. 241 (Special Issue: Is the Health Care Revolution Over?, Clark C. Havighurst, ed.) (2002) (with William M. Sage), builds on the empirical findings and examines a range of policy and conceptual questions raised in constructing a "competition policy" in health care markets. *How Doctors Became Distributors: A Fabled Story of Vertical Relations*, (AALS Antitrust Law Section, *Guilds at the Millennium: Antitrust and the Professions*) 14 LOY. CONSUMER L. REP. 411 (2002), is a paper I presented at last year's AALS Antitrust Law Section, examining antitrust treatment of physician-hospital relations. *Health Care Quality and Antitrust Law: Lessons from the Cases*, 2002 HEALTH LAW HANDBOOK (Alice G. Gosfield, ed) (West Group) (2002) (with William Sage), conveys the basic lessons of the RWJF study in the form of case narratives targeted at a wider audience of health law practitioners. Finally, *Medical Antitrust Reform: Arrow, Coase and the Changing Structure of the Firm*, in THE PRIVATIZATION OF HEALTH CARE REFORM, (Gregg Bloche, ed.) (Oxford University Press) (2003), outlines an intellectual framework for examining proposed medical antitrust reforms.

The RWJF work has been well received. The FTC has stood up and taken notice of the project. Last September, I was invited by the Commission to present the findings of the Columbia Law Review article as part of a two-day series of hearings the FTC was holding on "Health Care and Competition Law and Policy" (Peter J. Hammer, *An Empirical Perspective on*



Health Care Competition Policy, <http://www.ftc.gov/ogc/healthcare/hammer.pdf>). This February, the FTC is holding an additional three days of hearings on the formation of a Health Care Competition Policy. I have been invited back to present the ideas contained in the Law & Contemporary Problems article. In addition, I have been commissioned by Health Affairs, the leading peer-reviewed health policy journal to write an article examining the implications of our RWJF work as part of a special issue Health Affairs is planning to examine the "Future of the Hospital." I have also been invited by the editor of the Antitrust Law Journal to write an article examining the antitrust treatment of principal-agency failures in health care, as part of a Special Issue devoted to contemporary medical antitrust problems to be published this summer.

The RWJF Health Policy Investigator Award Program is an innovative initiative designed to help build the still fledgling field of health policy studies. The Foundation makes extensive efforts to facilitate interdisciplinary collaboration between award recipients. I was asked to Co-Chair a "cluster group" examining the changing role of competition in health care markets. As an outgrowth of the meetings, discussions and workshops of the cluster group, I was invited to be the Guest Editor of a special volume of the Journal of Health Politics, Policy & Law, entitled *Kenneth Arrow and the Changing Economics of Health Care*. The RWJF promotional flyer and the reprint of my introduction to the volume, "Why Arrow? Why Now?" 26(5) J. HEALTH POLITICS, POLICY & LAW 835 (with Deborah Haas-Wilson, and William M. Sage) (2001), describes the project. *Arrow's Analysis of Social Institutions: Entering the Marketplace with Giving Hands?* 26(5) J. HEALTH POLITICS, POLICY & LAW 1011(2001), is my contribution to the collection, examining Arrow's provocative conjecture that social institutions can act as optimality-gap-filling mechanisms in response to economic market failures.

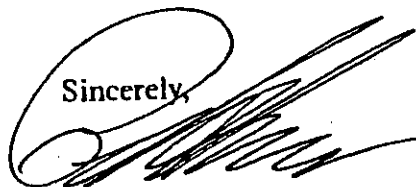
The Arrow volume was enthusiastically received in academic circles. We are now under contract with Duke University Press to turn the special issue into a book for publication, where I am listed as the lead editor. This holiday break was devoted to the editorial work required to make this transition a reality on a time frame that will permit publication and promotion this Fall to coincide with the 40th anniversary of the publication of Arrow's 1963 article. Victor Fuchs, who as a young economist working for the Ford Foundation commissioned Arrow to write the original article, has written a new preface for the book. Mark Pauly, who as a young assistant professor wrote the first scholarly response to the article in the American Economic Review wrote the foreword to the book. Ken Arrow is given the last word, writing the volume's concluding essay.

While not part of the RWJF work, I have also included *Pegram v. Herdrich: On Peritonitis, Preemption and the Elusive Goal of Managed Care Accountability*, 26(4) J. HEALTH POLITICS, POLICY & LAW 767 (2001), examining the Supreme Court's rejection of a fiduciary duty for HMO treatment/eligibility decisions under ERISA. Not included, but also looking at the intersection between ERISA and health policy, is a short essay *Rush Prudential HMO v. Moran: The Need for a Consistent Theory of ERISA Health Care Regulation*, in Health Law News (Fall 2002), and an op-ed article that will come out next week in California's legal newspaper the Daily Journal on the latest ERISA case to be argued in front of the Supreme Court – *The Supreme Court Should Strike Down Kentucky's Any Willing Provider Law*.

My future scholarship will take an increasingly international focus. *Differential Pricing of Essential Aids Drugs: Markets, Politics and Public Health*, 5 (4) J. INT'L ECON. LAW (Special Issue: International Trade Law and Public Health, John Jackson and Gregg Bloche, eds.) (2002), is the first step in this direction. I am also excited to be working with Daniel Herwitz, the new Director of the Institute for the Humanities at the University of Michigan, Rick Lempert, in his capacity as Director of the Life Science, Values and Society Program, and Sioban Harlow of the International Institute, among others, to help organize a conference at Michigan to be held in the Fall of 2004 examining the social and cultural dimensions of infectious disease, with a focus on international dimensions of the AIDS crisis.

It has been a pleasure to have you as colleagues. I wish you the best in your future endeavors.

Sincerely,

A handwritten signature in black ink, appearing to be 'S. Harlow', written over the word 'Sincerely,'.