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Works of Eleanor D. Kinney

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WORKS OF ELEANOR D. KINNEY

SUSAN DAVID DEMAINE*

Eleanor D. Kinney was a prolific scholar throughout her thirty-five years as a professor at Indiana University Robert H. McKinney School of Law. She authored or co-authored more than seventy-five journal articles, publishing in numerous peer-reviewed medical and health journals, as well as law reviews. She wrote three books, edited a fourth, and published nine book chapters.

Professor Kinney's work has been cited in at least ten court opinions. Her work has garnered more than 700 citations in law review articles, and nearly 200 in medical and health policy journals. The influence of her work places her within the top 1,000 most cited legal scholars.¹ Although a scholar of many aspects of health care law, Professor Kinney's work on Medicare and Medicaid was particularly influential. Her 1990 report to the Administrative Conference of the United States, reprinted in the *Ohio State Law Journal* under the title *Rule and Policy Making for the Medicaid Program: A Challenge to Federalism*, helped establish her national reputation as an expert in the field. Just over a decade later, her *Guide to Medicare Coverage Decision-Making and Appeals*, became an essential tool for those practicing in administrative health law. After her retirement, she continued to publish in this area, with additional books appearing in 2015 and 2017.

Professor Kinney also developed an interest in health law at the international level when the idea of an "international human right to health" attracted notice. Several of her most cited articles address this right, and she went on to write about related subjects such as global responses to health crises, comparisons between various national constitutions' provisions regarding health and health care, and the differences in laws regarding information for consumers. She also wrote about the development of international administrative law more generally.

Medical malpractice and its reform were other areas of interest and influence for Professor Kinney. Over the course of her career, she published more than a dozen articles and book chapters in this area, and her 2002 book *Protecting American Health Care Consumers* added a discussion of medical malpractice concerns to the conversation, ongoing at the time, about patient protection and reforms in policymaking.

In *Protecting American Health Care Consumers*, she also looked closely at procedural reform and uninsured health care consumers, describing the impending crisis as a "thunderhead on the horizon." Prior to Professor Kinney's work, patient protection discussions largely ignored the uninsured. Not

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1. According to HeinOnline's author report, Prof. Kinney ranks 964 for "Cited by articles," 729 for "Cited by articles (past 10 years)," 248 for "Cited by articles (previous year +YTD)," and 254 for "Cited by cases." All of these numbers reflect only those citations appearing in HeinOnline's databases, which include most law reviews but not many journals in other fields such as health policy or medical ethics. As a result, her rankings may be artificially somewhat low.

surprisingly, when the Affordable Care Act (ACA) was passed in 2010 to address the crisis and make insurance available to everyone, Professor Kinney's scholarship kept up with the changes; although retired as a faculty member, she published *The Affordable Care Act and Medicare in Comparative Context* with Cambridge University Press as well as multiple law review articles on the ACA. Her last article, published in 2018, was written in response to the 21st Century Cures Act of 2016. Her interest in health law and her productivity simply never flagged.

The following bibliography is a nearly exhaustive list of Professor Kinney's publications, excluding only the many short updates (a few paragraphs each) she wrote for the American Hospital Association's *Health Law Vigil* newsletter when she worked in the AHA's Office of Legal and Regulatory Affairs in the early 1980s.

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