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The Hamline University Health Law Institute is pleased to present its National Speaker Series featuring:

Medical Practice Guidelines and the Legal Standard of Care

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Questions? Please contact
Kari Winter at 651-523-2130
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Presented by **Maxwell Mehlman**

Arthur E. Petersilge Professor of Law and Director of the Law-Medicine Center, Case School of Law, and Professor of Biomedical Ethics, Case School of Medicine

Thursday, March 7, 2013

5:00 – 6:00 p.m. Presentation and Q&A,

Anderson Center, Room 111/112

6:00 – 7:00 p.m. Reception, Anderson Center, Room 111/112

American medicine has long fought to control the standard of care that physicians are expected to provide to their patients. It has waged battles on two fronts: against internal disagreements within the profession over what constitutes proper care, and against attempts to delineate the standard of care by forces outside the profession, such as private health insurers, the government, and the judicial system.

In the early 1990s, forces within American medicine mounted an unprecedented attack on both fronts, pushing for laws permitting designated professional medical associations to articulate “medical practice guidelines” that would define the standard of care, and more importantly, that would serve as “safe harbors” so that physicians who demonstrated that they had complied with the guidelines would be protected from malpractice liability. The 1990s initiative was a failure, but the safe harbors notion has once again resurfaced, buoyed by expectations that new “evidence-based” medical practice guidelines will be able to overcome the obstacles that prevented earlier success.

This presentation begins by describing the historical power struggle waged by medicine over control of the standard of care. It then describes the safe harbors concept and its historical background. Next, the presentation critically analyzes the safe harbors approach and explains its scientific weaknesses. The presentation then places the safe harbors concept in the context of medicine’s historic power struggles. The presentation concludes by defining the appropriate role for practice guidelines in malpractice disputes.

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