

FROM RISK TO RUIN: SHIFTING THE COST OF HEALTH CARE TO CONSUMERS

FOREWORD

SIDNEY D. WATSON*

Over the last few years, private health insurers and Medicaid have sought to control rising health insurance costs by shifting more of the cost of medical care to consumers. In the same vein, many of today's prominent health care reform proposals—health savings accounts, consumer-driven health care, and multi-state purchasing alliances—call for higher deductibles, larger co-payments, and fewer covered services. As a result, patients are being required to absorb more of their health care costs.

This Symposium examines the impact of this cost-shift to patients on individuals, their families, medical care providers, and society. The scholars, researchers, and policy experts who write for this Symposium discuss empirical studies examining the impact of medical debt on families and providers, evaluate some of the most prominent health insurance reform initiatives, and analyze the issue of cost-shifting to patients from a broad range of legal perspectives including tax, bankruptcy, debtor-creditor, and corporate law.

Our keynote speaker is Dr. James R. Kimmey, who offers a policy agenda and a parable warning about the dangers of too much reliance on “rugged individualism.” Dr. Kimmey is President and CEO of the Missouri Foundation for Health (MFH). MFH was created in January 2000 as part of a negotiated agreement between Blue Cross/Blue Shield of Missouri, the Missouri Department of Insurance, and the Missouri Attorney General. Today, MFH is the largest health care foundation in the state and is among the largest of its kind in the country with a mission to empower the people of the Missouri communities it services “to achieve equal access to quality health services that promote prevention and encourage healthy behaviors.”¹

Our next two authors offer empirical research on cost-shifting to patients. Melissa B. Jacoby examines the data describing patients' medical expenses and medical debt, and the variety of problems they create for patients and their

* Professor of Law, Saint Louis University School of Law Center for Health Law Studies.

1. Missouri Foundation for Health, About Us, http://www.mffh.org/about_us.html (last visited Mar. 4, 2007).

families. Robert W. Seifert reports on survey research about the effect of medical debt on one important aspect of people's lives—their housing situation.

The Symposium then turns to an examination of some prominent health insurance reform initiatives. Timothy Stolstzfus Jost evaluates both tax policy and health savings accounts. John V. Jacobi analyzes proposals to use government-provided reinsurance. I write about Medicaid reform initiatives that shift costs to Medicaid recipients.

The next pair of articles examines how cost-shifting to patients has resulted in increased attention to hospital billing and collection practices, and has prompted state and federal law makers to scrutinize the tax-exempt status of not-for-profit hospitals. John D. Colombo explores state tax law, while Nancy M. Kane's article focuses on federal tax policy.

The Symposium concludes with an article by Deborah Stone that examines how the rhetorical emphasis on “consumer choice,” “consumer control,” and “consumer direction” disguises the real impact of recent health financing initiatives—cost-shifting to patients. Dr. Stone concludes this Symposium with a call for an alternative vision of health financing and health reform in which communities as well as individuals accept responsibility for health and well-being.

This Symposium is the outgrowth of a conference, and the articles that appear here benefit from the wisdom and words of others who spoke at that event: Mark Rukavina, Executive Director, The Access Project, Boston, Massachusetts; Christine Duden Street of Washington University and former Assistant Director of the Health Law Center of Saint Louis University School of Law; Dr. Timothy McBride, Professor of Health Management and Policy, Saint Louis University School of Public Health; Jill R. Horwitz, Assistant Professor of Law, University of Michigan Law School; and Thomas L. Greaney, Professor of Law, Saint Louis University School of Law Center for Health Law Studies.

On behalf of the Center for Health Law Studies at the Saint Louis University School of Law, I want to thank all the authors who wrote for this issue and those who spoke at the Symposium. Their thoughtful examination of the issues of costs to patients and access to care make an important contribution to an ongoing discussion about health care reform.

Thanks, as always, to Mary Ann Jauer, the Program Coordinator of the Center for Health Law Studies, who made this year's conference run smoothly. A special thanks to David J. Pfeffer, Editor-in-Chief, and David J. Henry, the Managing Editor of this issue, who worked long and hard to bring the issue to press. A note of gratitude to the *Saint Louis University Law Journal* staff who energetically tackled empirical as well as legal sources to bring this interdisciplinary symposium to you. Thanks also, to Susie Lee, the *Journal's* Editorial Assistant, who holds everything together.