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## Foreword

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## Foreword

The *Annals of Health Law* editorial staff is proud to present our Symposium Issue of 2009-2010. Rationing health care has been and will likely continue to be an issue in this country. In the first article, Dr. David Orentlicher raises the critical questions of how health care resources should be allocated, who should make these decisions, and what methods should be employed to effectively monitor spending. The author argues that a centralized model has many advantages such as broad transparency and its ability to maintain patients' trust by maximizing the likelihood that physicians will act on their patients best interest rather than be influenced by other personal incentives. This article then discusses the decentralized model which is a case-by-case decision making approach and then identifies arguments that have been made in favor of this model. The author concludes with recommendations that cleverly utilize aspects of both models with the ultimate goal of providing cost effective quality care.

The next article tackles the issue of reinsurance programs. Professor Mark Hall provides an eloquent explanation of reinsurance and ways it can minimize the "risk load" that can occur due to inaccurate actuarial predictions. The author notes that many commentators and experts identify problems with private reinsurance and offer reasons in favor of government intervention. Some offered reasons explain that government sponsored reinsurance has the ability to lower premiums and reduce risk. However, some insuring agencies do not always feel a long term need for these reinsurance programs. The author warns that misapplication of reinsurance could result in more costly spending without a significant reduction in premiums. Additional dilemmas created by reinsurance are also discussed. Professor Hall concludes that although reinsurance programs have many benefits, other factors dictate which approach is best to efficiently subsidize health insurance.

This Issue also provides an interesting perspective on the Canadian health care system. Specifically, Colleen M. Flood and Y.Y. Brandon Chen devise a sophisticated typology of health rights litigation in Canada. The authors discuss their typology within the context of the *Canadian Charter of Rights and Freedoms*. This article targets disputes over health rights which specific sections of the *Charter* grants to Canadians. The authors argue that claimants typically need to exert political pressure via post-litigation advocacy to obtain their rights and suitable health care treatment. However, some groups, for example

women seeking infertility treatment, have not had much success in championing public funding for these therapies. There is also a discussion about the heated debate in Canada over private insurance as a suitable option to improve health care access. The authors conclude by proposing that their typology can be used to gauge the progressiveness of health care funding allocation in other countries.

This Issue also addresses the use of retail medical clinics (RMCs) as a means to increase access to health care for underserved populations. Author Kristin E. Schleiter notes that RMCs have also been called a consumer-driven alternative for patients who are frustrated with traditional health care delivery systems. This article also discusses the application of health information technology (HIT) to provide innovative and efficient care. The author highlights the debate between physicians and organized medical groups who oppose and are slow to welcome RMCs and their counterparts who instead support and promote alliances with RMCs. There is also a discussion on the state and federal legislative policies that regulate these clinics.

Our Issue concludes with an article about the lack of services, despite the various treatment needs, for people who suffer from mental illness and are involved in the criminal justice system. The Honorable Lerner-Wren begins with a discussion on the epidemic of mental illness and policies that have been developed to identify treatment options and rights to protect this population. The author then takes a thoughtful look at some possible explanations for the alarmingly high prevalence rates of mental illness among individuals in jails and prisons. The article skillfully notes that systemic barriers to care and the traditional legal framework for dealing with criminal offenders exacerbate the problem. The Honorable Lerner-Wren lays out a model of therapeutic jurisprudence that is ideal to address the needs of this population. This model may help the population with reintegration into society and make sure they receive proper health care services thereby reducing their recidivism rates. A balancing act between the needs of these offenders and public safety are also highlighted. The author also includes a discussion regarding how this model can reduce the long term financial costs of incarceration by providing effective treatment.

The *Annals* staff would like to thank the distinguished group of authors who contributed to this outstanding Issue of the *Annals of Health Law*. This was the product of exceptional collaboration and professionalism on their behalf. We would also like to extend our appreciation to the Beazley Institute for Health Law and Policy for their

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