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The International Price Index's Impact on Revenue in the Pharmaceutical Industry

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To date, pharmaceutical spending in the United States is significantly higher than in other countries, a fact which is especially true of spending under Medicare Part B. To address the high cost of pharmaceuticals under Medicare Part B, the United States' Department of Health and Human Services has proposed a policy, the International Price Index. This policy would change the regulations on Medicare reimbursement of physicians and other consumers drugs covered under Part B. Currently, Medicare's reimbursement for Part B drugs is not limited to any specific price point, the International Price Index would establish an upper limit on the amount that Medicare is allowed to pay. This limit would be based upon the average price that other countries pay, thus bringing the price in the United States closer to international prices.

Critics speculate the International Price Index will drive the price of drugs covered by Medicare Part B so low that the pharmaceutical industry will lose revenue, which will have the unintended consequence of slowing down the pace of pharmaceutical development as companies will no longer invest in research and development at the same rate. This paper responds to these criticisms in two ways. First, it analyzes the relationship between revenue and research and development in the pharmaceutical industry. Second, it predicts the International Price Index's effect on the prices of pharmaceuticals in the countries that are referenced within the policy. This prediction is based on an analysis of the economics in the pharmaceutical industry and a comparison to the Robinson Patman Act. The result shows that investments into research and development will likely be unchanged because the International Price Index need only have a moderate degree of success in spreading out the costs of pharmaceuticals in order to avoid any substantial change in revenue within the pharmaceutical industry.

No Ordinary Process: The Flaws in Illinois Courts’ Use of Remote Video Technology in Mental Health Trials

Matthew R. Davison 137

This article discusses and criticizes Illinois courts’ use of remote video conference technology in mental-health trials during the COVID-19 pandemic. It contends that, while the Illinois Supreme Court issued rules and guidance that directed how local courts should implement video conference technology with purpose and accommodations, the local courts (including the largest circuit court in Illinois) instead mandated remote video technology for mental health trials as a panacea without regard to participants’ preferences, objections, or disabilities. As detailed further, the issues only compound because of a separate shortcoming where, unlike other remote hearings and trials which are widely available to view by the public, no such public access links accompany any of these remote video mental health trials. Meaning, for the majority of 2020 and continuing to date (as of Feb. 20, 2021), trials involving fundamental liberty interests (i.e., involuntary commitments and forced administration of medications or electroconvulsive therapy) occurred out of public view, in a manner inconsistent with law and policy.

Catching Up with Convergence: Strategies for Bringing Together the Fragmented Regulatory Governance of Brain-Machine Interfaces in the United States

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After a decade of stalled innovation, the past five years have seen brain-machine interfaces (“BMIs”) make rapid advances through the convergence of ideas from and progress in other emerging technologies. However, the sheer complexity of these neurotechnologies will produce a complicated and incomplete regulatory environment. Regulating these neurotechnologies will demand managing risks at the intersection of safety, effectiveness, cyber-security, consumer protection, equity, data privacy, personal autonomy, and dual use. These convergent risks compound the thorny “pacing problem,” in which accelerating technological innovation can overtake public regulators and their efforts to understand and manage risks. In the United States, the Food and Drug Administration (“FDA”) and Federal Trade Commission (“FTC”) already have authority to regulate some neurotechnologies. However, these agencies’ jurisdictions are over different subject matters which overlap when applied to BMIs due to technological convergence. This convergence will ultimately create significant regulatory problems for BMIs and neurotechnologies generally. Managing the complexities of convergence in BMIs will require a policy response defined by early action, regulatory coordination, and political support from lawmakers.

Global Health Law & Governance Amidst the Pandemic

Julien Chaisse and Nilanjan Banik 207

The phrase “desperate times require desperate measures” holds true in the context of the mitigation efforts initiated at both the domestic and international levels by governments, corporations, multilateral institutions, and individuals to combat the COVID-19 pandemic. The pandemic has crippled the global economy and has showcased the urgent need for

better health infrastructure and efficient accessibility to healthcare services. COVID-19 has presented numerous challenges because of dispute resolution including general international and investment claims and trade law violations. Against this backdrop, this paper proposes the formation of a health index– the Health Infrastructure Index (HII) – as an alternative to the existing Human Development Index (HDI) and Healthcare Access and Quality (HAQ). In order to understand and tackle domestic health vulnerability, the HII includes the availability of skilled medical professionals, government expenditure on healthcare and the likelihood of international funding. International cooperation as a response is emerging as a key factor to fight against COVID-19. The HII index highlights critical areas where domestic or multilateral interventions are required. With the inherent limitations of conventional health indices, the HII offers both the possibility of evidence- and research-based international coordination of health-related policies and encourages participatory development.