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Canadian health consumers have increasingly relied on the Charter of Rights and Freedoms to demand certain therapies and reasonably timely access to care. Organizing these cases into a 5-part typology, we examine how a rights-based discourse affects allocation of health care resources. First, successful Charter challenges can, in theory, lead to courts granting and enforcing positive rights to therapies or to timely care. Second, courts may grant a right to certain health services; however, subsequently government fails to deliver on this right. Third, successful litigation may create negative rights, i.e. rights to access care or private health insurance without government interference. Fourth, consumers can fail in their legal pursuit of a right but galvanize public support in the process, ultimately effecting the desired policy changes. Lastly, a failed lawsuit can stifle an entire advocacy campaign for the sought-after therapies. The typology illustrates the need to examine both legal and policy outcomes of health right
litigation. This broader analysis reveals that the pursuit of health rights seems to have caused largely a regressive rather than progressive impact on Canadian Medicare.

Retail Medical Clinics: Increasing Access to Low Cost Medical Care Amongst a Developing Legal Environment .......... KRISTIN E. SCHLEITER 527

Retail medical clinics are an innovation in health care with the potential to increase access to low-cost basic health care services while changing the delivery model for routine, non-urgent medical care. However, the few states that attempted to directly regulate retail medical clinics have been met with criticism by the FTC due to the proposed legislations' anticompetitive undertones. The relationship between retail medical clinics and the host stores or pharmacies that house them has the potential to spark fraud and abuse concerns. Retail medical clinics must abide by state-specific regulation on scope of practice of the various mid-level practitioners who work for the clinics, particularly to minimize exposure to litigation and keep within the clinics' intended purpose of a supplement to primary care physician offices. The author concludes that the consumer benefits of cost and convenience, combined with the potential for growth and expanded consumer base from a retailers' perspective, make the legal challenge inherent in running a retail medical clinic well worth the effort.

Mental Health Courts: Serving Justice and Promoting Recovery ... HON. GINGER LERNER-WREN 577

This article begins and ends with a call for more empirical research to understand the connection between societal views of mental illness and the legal system. The author asserts that changing social perceptions of mental illness certainly affect legal outcomes and commitment levels, but the degree remains unknown. This article explores the above two topics through the framework of the Circuit Court 'split' regarding the Constitutional rights of persons committed to state mental health institutions. A main facet of the 'split' is centered on the Circuits' disagreement about whether or not all mentally ill patients committed to institutions deserve the same Constitutional protections.