



The Privatization of Health Care Reform: Legal and Regulatory Perspectives

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Markets, not politics, are driving health care reform in America today. Inventive entrepreneurs have transformed medicine over the past ten years, and no end to this period of rapid change is in sight. Consumer anxieties over managed care are mounting, and medical costs are again soaring. Meanwhile, the federal government remains mostly on the health policy sidelines, as it has since the collapse of the Clinton administration's campaign for health care reform.

This book addresses the changes that the market has wrought- and the challenges this transformation poses for courts and regulators. The law that governs the medical marketplace is an incomplete, overlapping patchwork, conceived mainly without medical care specifically in mind. The ensuing confusion and incoherence are a central theme of this book. Fragmentation of health care lawmaking has foreclosed coordinated, system-wide policy responses, and lack of national consensus on many of the central questions in health care policy has translated into legal contradiction and bitter controversy.

Written by leading commentators on American health law and policy, this book examines the widely-perceived failings of managed care and the law's relationship to them. Some of the contributors treat law as a cause of trouble; others emphasize the law's potential and limits as a corrective tool when the market disappoints. The first two chapters present contrasting overviews of how the doctrines and decision-makers that constitute health law work together, for better or worse, to constrain the medical marketplace. The next six chapters address particular market developments and regulatory dilemmas. These include the power of state versus federal government in the health sphere, conflict between insurers and patients and providers over medical need, financial rewards to physicians for frugal practice, the role of antitrust law in the organization of health care provision and financing, the future of public hospitals, and the place of investor-owned versus non-profit institutions.

Acknowledging the health sphere's complexities, the authors seek remedies that fit this country's legal, political, and cultural constraints and can contribute to reasoned regulatory governance. Within limits they believe a measure of rationality is possible.

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