

Contents

	ACKNOWLEDGMENTS	xi
--	-----------------	----

1	PUBLIC CHOICES, PRIVATE CHOICES, AND AMERICAN HEALTH POLICY	1
---	---	---

	PART ONE	
	SAVING A PLACE FOR CONTRACTS IN AMERICAN HEALTH CARE	

2	REDISCOVERING CONTRACT	11
	How Health Care Contracts Have Failed	
	Consumers 13	
	Accounting for Contract Failure 19	
	Activating Contracts as Instruments of Consumer Choice 23	

3	CONTRACTS AND THE MOVEMENT FOR HEALTH REFORM	29
	Contracts in Jeopardy 30	
	The Synergism of Contracts and Managed Competition 35	
	Health Care Contracts under the Clinton Proposal 43	
	The Clinton Version of Managed Competition 62	
	Egalitarianism and the Clinton Plan 75	
	Appendix 3A: Proposed Statutory Language Relating to Malpractice Reform 81	

PART TWO
CONTRACT FAILURE IN THE MARKET FOR HEALTH SERVICES

4	THE RISING COST OF HEALTH CARE: GROWING PAINS OR SOMETHING WORSE?	89
	High and Rising Costs in Perspective	90
	Too Much of a Good Thing?	92
	The Problem of Tax Subsidies	100
	Is Health Care Spending Out of (Purchasers') Control?	103
5	CONTRACTS AS INSTRUMENTS DEFINING OBLIGATIONS IN THE HEALTH CARE SECTOR	110
	Deferring to the Professional Paradigm	111
	Shortcomings of Professional Standards as Legal Standards	115
	Contracts in Use Today	117
	The Need for Better Contracts	137

PART THREE
PUTTING CONTRACTS TO WORK FOR CONSUMERS

6	RECONCEIVING THE HEALTH PLAN CONTRACT	157
	Health Care Contracts Refute the Supermarket Paradigm of Consumer Choice	159
	Integrating the Parties in a Single Transaction	166
	Redefining Health Plan Coverage	178
	The Effect of Innovative Health Care Contracts on the Practice of Medicine	215
7	PRACTICE GUIDELINES AS TOOLS FOR HEALTH CARE CONTRACTING	222
	The Guidelines Movement	223
	The Long-Range Potential of Guidelines in Health Care Contracts	227
	Putting Today's Guidelines to Contractual Use	242
	Appendix 7A: Excerpt from ACC/AHA Guidelines for Coronary Angiography	262

8	ENHANCING CONSUMER WELFARE THROUGH PRIVATE TORT REFORM	265
	The Benefits to Consumers	266
	Modifying Remedies for Negligence and Medical Malpractice	271
	Modifying Liability Rules for Patient Injuries	284
9	CALLING OFF OLD LEGAL BETS	303
	The Enforceability of Innovative Health Care Contracts	304
	The Problem of Interpretation	314
	Freedom of Contract versus Professional Elites in Health Care Law and Policy	328
	INDEX	331
	AUTHOR'S EARLIER WORKS ON THEMES APPEARING IN THIS BOOK	339
	ABOUT THE AUTHOR	341
	FIGURES	
	4-1 Targets in the War on Health Care Costs	94
	7-1 Indications for Electrocardiogram in Patients Presenting with Shortness of Breath	260