



GEORGETOWN LAW

**THE O'NEILL INSTITUTE FOR
NATIONAL AND GLOBAL HEALTH LAW**

**MEDICAL MALPRACTICE
& HEALTH CARE COSTS:
CAN TORT REFORM BEND THE CURVE?**

TUESDAY, OCTOBER 6, 2009

O'Neill Institute

for National and Global Health Law

Program

PANELISTS

M. Gregg Bloche (*moderator*)

Amy Goldstein

David A. Hyman

Kathryn Zeiler

Discussing the Topic of

Medical Malpractice & Health Care Costs: Can Tort Reform Bend the Curve?

Is tort reform the key to a “grand bargain” on health reform? In his speech to a joint session of Congress, President Obama suggested that it might be. And many contend that medical malpractice reform is urgently needed to get health care costs under control. But what, if anything, do we actually know about the connection between the tort system and medical spending? And what do we know about the likely impact of proposed tort reforms on medical mistakes, malpractice system costs, and who is, and who isn't, being compensated for medical injuries? We know a great deal, it turns out, but what we know has been almost ignored in the public debate. Join several of the nation's leading health law scholars and one of the country's leading health care journalists for a vigorous discussion of what we do and don't know – and why politicians and the press don't always pay attention.

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About the Panelists

M. Gregg Bloche

M. Gregg Bloche, M.D., J.D., is Professor of Law at Georgetown University. He has also been a visiting professor in recent years at the University of Chicago and UCLA law schools, as well as a visiting fellow at the Brookings Institution and Harvard University's program in medical ethics. Dr. Bloche has written for a wide range of publications, including leading law reviews, the *New England Journal of Medicine* and *JAMA*, and the *New York Times*, *Los Angeles Times*, and *Washington Post*. His recent work has considered physicians' conflicts of loyalty, problems that arise from uncertainty over the value of medical treatment, the health policy implications of individuals' contradictory expectations of medicine, and the political and legal path-dependence of health care reform.

Dr. Bloche is the recipient of a Guggenheim Fellowship and a Robert Wood Johnson Investigator Award in Health Policy Research, and he serves on the editorial boards of several U.S. and international health law and policy journals, including *Health Affairs*. He has also been a consultant to multiple international bodies, including South Africa's Truth and Reconciliation Commission, and he has served as a board member or advisor to several international human rights groups. Bloche chaired several health policy subcommittees and working groups on behalf of Barack Obama's presidential campaign, and he served as an advisor to the presidential transition's agency review team for Health and Human Services. He is a graduate of the law and medical schools at Yale, and he completed a residency in psychiatry at Columbia-Presbyterian Medical Center in New York. Bloche's forthcoming book, *Do No Harm*, is scheduled for publication next year.

Amy Goldstein

For two decades, Amy Goldstein has been a staff writer for *The Washington Post*, where she writes nationally about social policy issues. Goldstein joined *The Post* in 1987 and worked as a local education writer and health care reporter before moving to the newspaper's national staff a dozen years ago to cover health care in Washington and around the country. In 2001, she became a White House reporter with an emphasis on domestic issues, focusing on the politics and policy questions surrounding Medicare, Medicaid, Social Security, welfare, housing, government regulation and the federal judiciary.

In her current beat, she divides her time between in-depth pieces on social policy and other high-profile national stories. She has been involved in *The Post's* coverage of many of the most notable news events of recent years, including the Monica Lewinsky scandal and impeachment of President Bill Clinton, the killings at Columbine High School, the aftermath of the September 11, 2001 terrorist attacks, and recent Supreme Court nominations.

Goldstein was part of a team of *Post* reporters that won the 2002 Pulitzer Prize for national reporting for the newspaper's coverage of 9-11 and the government's response to the attacks. She was a 2009 Pulitzer Prize finalist for national reporting for an investigative series of articles she co-wrote on the medical treatment of immigrants

detained by the federal government. Goldstein previously worked as a reporter at *The Baltimore Sun* and began her career at the *Ledger-Star* and *Virginian-Pilot* in Norfolk, VA. She is a graduate of Brown University and spent 2004-05 as a Nieman Fellow at Harvard University.

David A. Hyman

David A. Hyman is the Richard W. and Marie L. Corman Professor of Law and Professor of Medicine at the University of Illinois, where he directs the Epstein Program in Health Law and Policy. Professor Hyman focuses his research and writing on the regulation and financing of health care. He teaches or has taught health care regulation, civil procedure, insurance law, law & economics, professional responsibility, and tax policy.

While serving as Special Counsel to the Federal Trade Commission, Professor Hyman was principal author and project leader for the first joint report ever issued by the Federal Trade Commission and Department of Justice, "Improving Health Care: A Dose of Competition" (2004). He is also the author of "Medicare Meets Mephistopheles," which was selected by the U.S. Chamber of Commerce/National Chamber Foundation as one of the top ten books of 2007. He has published widely in student edited law reviews and peer reviewed medical, health policy, and law journals. He is the author or co-author of more than 75 articles and book chapters.

Kathryn Zeiler

Professor Zeiler teaches Torts and Economic Analysis of Health Care Law, and co-directs the Georgetown Law & Economics Workshop. Her research focuses on health care law and economics, medical malpractice liability and insurance, disclosure regulation, experimental economics and behavioral law and economics.

Before joining the faculty in 2003, she received a Ph.D. in Economics from the California Institute of Technology and a J.D. from the University of Southern California. She has been a visiting professor at NYU and Harvard Law Schools. Her recent publications include: The Willingness to Pay-Willingness to Accept Gap, the "Endowment Effect," Subject Misconceptions, and Experimental Procedures for Eliciting Valuations (with Charles R. Plott) (*American Economic Review*); Common Law Disclosure Duties and the Sin of Omission: Testing the Meta-theories (with Kimberly Krawiec) (*Virginia Law Review*); Do Defendants Pay What Juries Award?: Post-Verdict Haircuts in Texas Medical Malpractice Cases, 1988-2003 (with David A. Hyman, Bernard S. Black, Charles Silver and William M. Sage) (*Journal of Empirical Legal Studies*); Asymmetries in Exchange Behavior Incorrectly Interpreted as Evidence of Endowment Effect Theory and Prospect Theory? (with Charles R. Plott) (*American Economic Review*); Empirical Health Law Scholarship: The State of the Field (with Michelle M. Mello) (*Georgetown Law Journal*); and Physicians' Insurance Limits and Malpractice Payments: Evidence from Texas Closed Claims, 1990-2003 (with Charles Silver, Bernard S. Black, David A. Hyman and William M. Sage) (*Journal of Legal Studies*). She is a member of the American Law and Economics Association.