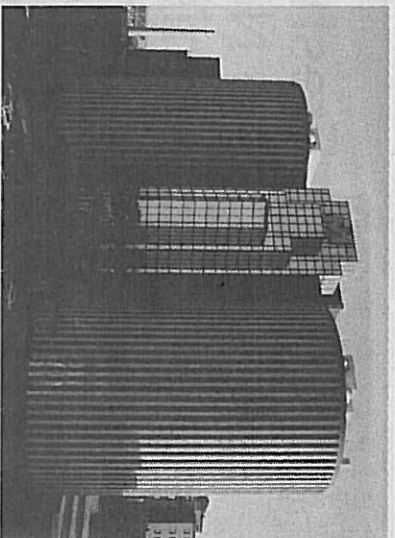


## Law school increases ties with the healthcare community

By Marilyn Robertson  
CONTRIBUTOR



MetroHealth Medical Center (above) is home to the MetroHealth System, partner in C-M's newest law clinic.

A 2008 Cleveland State University study reported that the metropolitan areas of Cleveland, Akron, and Canton all ranked in the lower half of metro areas nationwide on measures of growth in employment, per capita income, productivity, and gross metropolitan product. During a walk down Euclid Avenue, it becomes evident that Cleveland is home to some of the poorest of the poor: working class residents waiting on the next paycheck, the homeless with only the clothes on their backs, immigrants with limited or no steady source of income, elderly people stretching their last dollar, recently-released men and women looking for a second chance, and disabled people with special needs. All share one critical need: access to health care and the legal issues associated with their current status in life.

Cleveland-Marshall faculty and students now provide a holistic approach to bridge the interdependencies with law and medicine. On Oct. 21, the school will introduce the Center of Health Law and Policy (CHALC) at a reception open to the legal community and general public. The Center will coordinate all components of health law at the law school, including the renowned *Journal of Law and Health, the Community Health Advocacy Law Clinic* and the Health Law Society.

The Center's new health law classes will prepare students for successful careers in health care law. The Center will be designed to teach students how to identify and address the legal issues that affect individuals living with health problems. A certificate will be available in Health Law with concentrations in Bioethics, Healthcare Legislation and Regulations, and Non-profit Organizations.

In Fall 2009, the inaugural members of CHALC at C-M began classes. CHALC is a partnership among three public institutions: Cleveland Marshall, the MetroHealth System and the Legal Aid Society of Cleveland. CHALC's mission is to help the city's most vulnerable citizens resolve legal problems that may place their health and health care at risk. The Clinic approaches cases through a model of collaboration between law students and medical professionals, which simultaneously helps resolve legal disputes and leads to improved health outcomes for clients. For the poor, finding adequate medical care is often compounded by legal problems.

The student work with the faculty, social workers, and legal aid attorneys on a holistic approach to representation, and the students deal with many legal issues the clients face as an obstacle to health care. The CHALC cases run the gamut, from helping a single mother obtain Medicaid for her children, to representing an HIV-positive client in a Social Security disability hearing, to setting up an education plan for a child having difficulties with mainstream classes.

Professor Pamela Daiker-Middaugh, the founding director of the law school's nationally-acclaimed Pro Bono Program, will direct the new clinic. CHALC offers law students academic credit

and includes classroom instruction as well as client-counseling experience. CHALC students and faculty will augment an existing partnership between MetroHealth and Legal Aid collectively known as the Community Advocacy Program (CAP).

CAP helps doctors, nurse practitioners, social workers and lawyers address patient needs. CHALC's involvement will increase CAP's ability to assist the city's elderly and low-income families in areas of the law that most often affect their physical, mental and social well-being: special education law, public benefits, disability law, housing law, and immigration law. The clinic's legal services will alleviate a great deal of stress for our clients, allowing them to focus their limited energy on their underlying health problems.

Thus far, participating students have practiced a broad range of practical lawyering skills in the areas of client interviewing, factual investigation, client counseling and litigation advocacy. The student interns will assist clients to access necessary health care, obtain public benefits, secure or maintain stable housing, establish court-approved emergency plans for the future care of children, and develop proxies that authorize health care agents to make health decisions.

Another addition to Cleveland-Marshall is the newest student organization, the Health Law Society. The Health Law Society is dedicated to making students more aware of health law issues, exposing students to a variety of health law career options and providing a community outlet for its membership. The new Clinic is actively involved with Health Law Society, coordinating additional health law activities and opportunities for organization's members. *Marilyn Robertson is a 2L student at Cleveland-Marshall. Marilyn is among the inaugural class of the CHALC clinic. She also serves as the President of the Health Law Society.*

## A Libertarian view on healthcare

The United States dwarfs the rest of the world in healthcare spending per capita, but we are no healthier for it. While U.S. Government spending alone rivals that of most socialized countries, what America spends in its private system is exponentially beyond any other nation. Why do we use our resources so inefficiently, and what is the solution?

People prefer compensation in money, rather than being limited to consuming or bartering goods and services received as payment. The exceptions to this rule are healthcare benefits, which employers provide to their employees in lieu of a salary. Why is this the case?

Section 106 of the U.S. Tax Code allows for employer-provided healthcare benefits to be tax-exempt to the employee. With few exceptions, all other healthcare must be purchased with after-tax dollars. This tax policy warps the natural preference to be paid in salary, as opposed to goods and services. An enormous incentive exists to receive as much healthcare as possible under the employer-provided umbrella.

Many argue that, irrespective of this backdoor subsidy for employer-provided benefits, employees would still prefer to receive them, due to aggregatory efficiencies (i.e., buying in bulk). While this possibly could be true in limited circumstances, particularly within corporations large enough to exercise economies of scale, the healthcare product offered would be unrecognizable, compared to the "insurance" that employers provide today.

Employer-provided health "insurance" is actually a misnomer. Insurance is defined as "the equitable transfer of the risk of a loss from one entity to another, in exchange for a premium." Common examples are homeowner's insurance, which pays-out in the event of fire, and car insurance, which pays-out in the event of an accident. Insurance, by definition, does not pay for routine expenses: homeowner's insurance does not pay to clean your gutters and car insurance does not pay to change your oil. Why then, does health insurance pay for routine doctor visits and prescriptions?

The reason is that health insurance is a thinly veiled, third-party payment mechanism. A comprehensive third-party payer maximizes one's tax savings under Section 106. With insurance companies paying for routine healthcare,

market price signals are stripped from the patient's decision-making process. This turns health insurance into the equivalent of an all-you-can-eat buffet where consumers gorge themselves with no consideration of cost, other than the price of admission. When was the last time you selected a doctor based on price? What about a prescription? When was the last time you even knew what the price — not the co-pay, mind you — actually was?

With no responsive pricing mechanism, healthcare demand becomes highly inelastic. Malinvestments are made to accommodate the unchecked demand for healthcare. Malinvestment is investment made in response to artificial price signals warped by government fiscal, monetary, or tax policy, as opposed to the legitimate signals generated by an unfettered market. Malinvestment is the "air" that forms economic bubbles.

Repealing the tax exemption for employer-provided health benefits is the pin needed to burst this enormous bubble. Prices would be forced down considerably, wringing out the bubble's excessive froth. While this would result in staggering losses for the US healthcare industry as it is forced to liquidate malinvestment, it would result

in tremendous wealth and efficiency gains for the healthcare consumer. It is important to realize that these losses would not be new, but instead already exist; they are presently socialized amongst healthcare consumers in the form of exorbitant costs. Those with no access to employer-provided coverage, who have to use after-tax dollars to purchase healthcare, are hit disproportionately hard.

It is telling to look at those few areas of medicine that fall outside the insurance system. Cosmetic surgery is an excellent example. While medical procedures in virtually all areas are seeing double-digit annual percentage increases, the cost of cosmetic surgery in inflation-adjusted terms has steadily fallen over the past twenty years!

The solution to America's healthcare crisis is repealing Section 106. Health insurance would return to the traditional product that one would reasonably expect to be — insuring against the risk of serious illness or accident. Price signals would be reintroduced to consumer decisions, there would be forced liquidation of malinvestment, and healthcare would once again be affordable.

## Christian Legal Society plans active semester

By Jason Csehi  
CONTRIBUTOR

Observant students may have noticed that since the first day of fall semester, the Christian Legal Society has had a prominent display in the cafeteria area. CLS has already held a major panel discussion and has much more on its agenda for the rest of the semester. Thus far this year, few organizations have been able to match the group's pace.

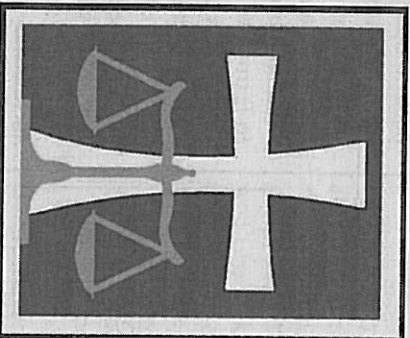
CLS President Tyessa Howard relates that CLS will hold monthly meetings at 5 p.m. on October 19, November 9, and December 7. Each meeting will include a brief Bible study and planning for future events. Bible study will

continue during the spring semester.

The organization is looking into establishing a Christian Legal Aid Society chapter in Cleveland. Howard

notes that Cleveland is one of the few major American cities that lacks such a group. CLS will also seek volunteers to help at a local soup kitchen on Nov. 20 and 21, and the group is considering participating in the Salvation Army's Angel Tree program, which accepts donated Christmas gifts for needy children whose parents are incarcerated.

CLS opened its busy semester slate on Aug. 31 with a panel discussion on Christian faith and the law. Panelists included the Hon. William "Bill"



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