

Of Note

A Third of All Food Wasted Says UN Report

In June, Pope Francis said, “Throwing away food is like stealing from the table of the poor and the hungry.” A recent report by the UN Food and Agriculture Organization (FAO) found that an estimated 1.3 billion tons of food for human consumption is wasted every year. This is equivalent to one-third of all food. The report also estimated that the carbon foot print of the wasted food was equal to 3.3 billion tons of carbon dioxide per year. Mathilde Iweins, Sustainable Development Officer for the FAO, remarked on the report, “Almost 30 percent of the total overall agriculture land area is used to produce food that is finally wasted, this represents an enormous area. It’s the equivalent of China plus Mongolia plus Kazakhstan.” As a result of this study the UN has recommended actions to reduce the amount of food wasted. Recommendations include improving communication between producers and consumers, donating surplus food to charities and creating alternatives to dumping food in landfills. (Lydia O’Kane, <http://www.news.va/en/news/a-third-of-all-food-wasted-says-un-report>, Sept. 11, 2013)

More Americans Struggle to Afford Food

Since January 2008, Gallup-Healthway has been conducting surveys every month to track the well-being of American households. The results for August show that 20 percent of Americans lacked necessary funds to purchase food for themselves or their families in the past 12 months. This figure represents the highest percentage since November 2008 (20.4 percent). The survey also reported on the Basic Access Index which accounts for respondents’ ability to access basic necessities including food, housing, and health care. The Basic Access Index was 81.4 in August, near a record low of 81.2 from October 2011. Article author, Alyssa Brown concludes that, “These findings suggest that the economic recovery may be disproportionately benefiting upper-income Americans rather than those who are struggling to fulfill their basic needs.” (Alyssa Brown, www.gallup.com/poll/164363/americans-struggle-afford-food.aspx?version, Sept. 12, 2013)

New Concerns on Robotic Surgeries

Robotic surgery has grown more than 400 percent in the U.S. between 2007 and 2011. A recent study examines device-related injuries and deaths and how often these incidents were reported to the F.D.A. as mandated. Researchers at Johns Hopkins University found that reports of

problems associated with the da Vinci system, robotic surgical equipment, were “vastly underreported.”

Angela Wonson of Intuitive Surgical Inc., makers of the da Vinci system said, “We take this requirement very seriously and make every effort to account for all reportable events – even those from several years prior.” This study is one among many recently published that are critical of the da Vinci system. Other reports question the strategies used to market the system, pressures on surgeons to use the new devices and the lack of training on the equipment. Dr. Martin A. Makary, senior author of the Johns Hopkins study, expressed concerns over the lack of monitoring and evaluation of the equipment, “We adopt expensive new technologies, but we don’t even know what we’re getting for our money – if it’s of good value or harmful.” (Roni Caryn Rabin, http://well.blogs.nytimes.com/2013/09/09/new-concerns-on-robotic-surgeries/?_r=0, Sept. 9, 2013)

Report Finds Aging U.S. Faces Crisis in Cancer Care

As new diagnoses of cancer are projected to reach 2.3 million a year in 2030, many problems concerning the complexity of cancer care are coming to the forefront. Along with the rising number of cancer diagnoses, doctors are facing more complex treatments and difficult decisions about which of the many treatment options are best suited for each individual. A panel at the Institute of Medicine

(IOM) found that changing the health care system and encouraging more knowledgeable patients are necessary for combating these problems. Dr. Patricia Ganz, a cancer specialist and panel member, stresses that patients should take time to research options, get a second opinion and even suggests particular questions for patients to ask the doctor. The IOM offered recommendations to the government including more research to determine how to treat different patients and creation of tools to assist doctors in communicating treatment options. (Lauran Neergaard, *The Associate Press*, Sept. 10, 2013)

1 in 5 ICU Patients Get ‘Futile’ Care

In a study published in *JAMA Internal Medicine*, researchers reported that 11 percent of 1,136 patients in the five UCLA intensive care units were given treatment that doctors considered futile at a cost of \$2.6 million. Neil S. Wenger, senior author of the study, says the report is “intended to be a wake-up call for everyone [who says] that medicine has amazing tools ... But those tools need to be appropriately applied, and if not appropriately applied, you end up extending the dying process, not benefiting the patient in the ICU bed, probably not benefitting the family, and using resources that probably could be better used elsewhere.” The researchers looked to answer the question: if the doctors deem the treatment futile, why do they keep providing it? The probable answer is lack of clear and honest communication with patients and the

patient's family about the goals of care. In a commentary on this study, Robert Truog, MD and Douglas B. White, MD of Harvard Medical School's Department of Global Health and Social Medicine, question the findings of this report. Truog and White disagree with the methodology used to define futile care because it was determined by a single physician's assessment. They also wrote, "There is ongoing debate about the boundaries of acceptable practice near the end of life. Short of brain death, there are no criteria or rules to which clinicians can appeal to justify decisions to refuse life support, at least when those treatments hold even a small chance of achieving the patient's goals." (Cheryl Clark, *HealthLeaders Media*, Sept. 10, 2013)

New Answers on ER and the Poor

A study published in the July issue of *Health Affairs* provides new information about why poor patients utilize emergency rooms instead of primary care providers. Researchers conducted interviews with 40 Philadelphia area residents who were uninsured or on Medicaid. Emergency rooms were utilized because the care is cheaper, of better quality and easier to access than primary care providers. Researchers found those interviewed fell into one of two categories: high utilizers or low utilizers. The high utilizers usually faced complex problems relating to food, housing or drug abuse while low utilizers were usually uninsured or unable to afford time off work for regular doctor visits. The results of the study are particularly important as the health care system

undergoes changes. (Curtis Skinner, www.philly.com/philly/blogs/healthcare/New-answers-on-ER-and-the-poor.html, July 18, 2013)

US Brain Project Puts Focus on Ethics

President Barack Obama's Commission for the Study of Bioethical Issues held a meeting on August 20th to discuss ethical standards for the new BRAIN Initiative. The BRAIN (Brain Research through Advancing Innovative Neurotechnologies) Initiative was started to create technology to help understand how brain neurons work together in the creation of thought, memory, movement and emotion. The Initiative involves the U.S. Defense Advanced Research Projects Agency, the National Institutes of Health and the National Science Foundation. Institutional review boards are in place to monitor ethical standards but as neuroscience moves beyond the laboratory into other fields, more oversight is necessary. The commission's executive director, Lisa Lee, says that discussion will center on ethical concerns for human and animal participants in neuroscience research and possible societal implications of the results of the BRAIN Initiative. (Helen Shen, *Nature*, Aug. 15, 2013)

Students from the Center for Health Law Studies at the Saint Louis University School of Law contributed the following items to this column. Amy N. Sanders, assistant director, Center for Health Law Studies, supervised the contributions of health law students Joel Halvorsen (JD anticipated May '14) and Christopher Scofield (JD anticipated May '14).

Obamacare vs. Romneycare: The Labor Impact

Casey Mulligan, an economics professor at the University of Chicago and author of *The Redistribution Recession: How Labor Market Distortions Contracted the Econom*, wrote in *The New York Times* that claims made by advocates of the Affordable Care Act (ACA) are mistaken that labor market contraction relating to the expanded health care system will be insignificant. According to Mulligan, ACA advocates such as Professor David Cutler of Harvard base their claims on a comparison to the labor market impact Massachusetts experienced after Romneycare was implemented. Mulligan's analysis, using marginal tax rates from the American Recovery and Reinvestment Act of 2009 and unemployment insurance reactions, calculates Romneycare as causing a less than one percentage point increase to Massachusetts' marginal tax rate. Using the same analysis, Mulligan calculates that the Affordable Care Act will increase the nationwide marginal tax rate by close to five percent. The consequences of this difference could translate into an effect of the ACA on the labor market approximately twelve times greater than the effect Romneycare had on Massachusetts. Reasons for the difference include the lower penalty on employers in the Massachusetts law, population differences between Massachusetts and the U.S., and the fact that the state had already been providing health insurance assistance to the unemployed. (Casey B. Mulligan, "Obamacare vs. Romneycare: The Labor Impact," *The New York Times*, Sept. 4, 2013)

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<http://economix.blogs.nytimes.com/2013/09/04/obamacare-vs-romneycare-the-labor-impact/?ref=healthcarereform&r=0>

BioMerieux Buys Privately Held BioFire for \$450 Million

BioFire, spun out 20 years ago from the University of Utah, is a privately held business in Salt Lake City that produces FilmArray. FilmArray can perform an analysis from a single test that can identify 20 bacterial and viral infections within a single hour, which drastically reduces time to identify many common diseases such as the flu and streptococcus. The \$450 million deal will allow the French firm BioMerieux to expand its role as a global provider for diagnostic tests for bacterial infections. Jean-Luc Belingard, chairman and chief executive of BioMerieux, has stated that the objective of the acquisition is to expand the ability of the FilmArray test to identify a total of 70 diseases over the next three (3) years. (Andrew Jack, "BioMerieux Buys Privately Held BioFire for \$450m," *The Financial Times*, Sept. 3, 2013)

<http://www.ft.com/intl/cms/s/0/78c05b4a-14b4-11e3-b3db-00144feabdc0.html?siteedition=intl#axzz2g3P4Ocku>

Getting Mental Health Care at the Doctor's Office

Under the Affordable Care Act, health insurance plans sold through insurance exchanges are required to provide some mental-health coverage. Existing plans will also be required to provide mental-

health coverage when they expire and are subsequently renewed. The White House estimates that roughly 62 million more Americans will become eligible for mental-health coverage as the Affordable Care Act is implemented. In preparation for the surge of new mental-health patients, various health care providers are starting to use an “integrated-care practice.” In some instances, psychiatrists and psychologists work alongside primary-care providers on cases. In others, primary-care doctors prescribe antidepressants or other medications, and care managers confer weekly with patients to monitor progress, often using a standardized depression quiz. Recent studies have shown that integrated care helped reduce patients’ medical bills by roughly \$4,000 over a four year period. However, critics of the model say that it provides superficial, standardized care that relies too heavily on medication. (Melinda Black, *The Wall Street Journal*, Sept. 24, 2013)

<http://online.wsj.com/article/SB10001424052702303983904579095123535328450.html>

One State’s Way to Bolster Health Coverage for Poor

Arkansas’ plan to expand Medicaid coverage under the Affordable Care Act by buying private coverage for poor people through the insurance marketplace has been approved by federal officials. The initiative is expected to primarily assist low-income parents and adults without any dependent children. Under the current Arkansas program, adults without

dependent children are generally not eligible for Medicaid. Furthermore, parents who have dependent children are eligible only if they have an income less than 17 percent of the poverty level. This new initiative, known as “the private option,” will allow households to maintain enrollment in one plan regardless of whether their coverage is subsidized through Medicaid or through tax credits. Currently, the Arkansas Medicaid program generally pays providers less than commercial insurers pay. Arkansas state officials believe that higher reimbursement rates could induce more doctors to participate in Medicaid, increasing access to care for poor people. Moreover, officials predict that better access to doctors will help save money as beneficiaries will make less use of emergency rooms for regular care. (Robert Pear, *The New York Times*, Sept. 27, 2013)

<http://www.nytimes.com/news/affordable-care-act/2013/09/27/one-states-way-to-boost-health-coverage-for-poor/>

Judges Weigh Whether Businesses Can Be Exempt from Health Care Law’s Contraceptive Mandate

Francis and Phillip Gilardi, two brothers who own businesses in Ohio, are currently arguing in the 6th U.S. Circuit Court of Appeals that they should be exempted from a contraceptive mandate in the health care law because of their Roman Catholic beliefs and moral values. Another appeals court panel has already barred the government from enforcing the mandate against the Giraldis while they

case is pending. The case is one of many which have been heard by courts of appeal throughout the nation. The Obama administration has urged the Supreme Court to weigh in on the issue. Hobby Lobby and its sister corporation, Mardel Christian bookstore, have already won a temporary exemption in the 10th U.S. Circuit Court of Appeals and are currently not required to cover morning-after pills or similar emergency contraceptives. In contrast, the 3rd U.S. Circuit Court of Appeals ruled against a Pennsylvania furniture company owned by a group of Mennonites who had similarly claimed that their constitutional rights had been violated by the contraceptive requirement. (Fred Frommer, *The Washington Post*, Sept. 24, 2013)

http://articles.washingtonpost.com/2013-09-24/politics/42342040_1_contraceptive-mandate-health-care-law-francis-manion

Large Employers Project an Increase in Health Care Benefit Costs in 2014

According to a recent survey by the National Business Group on Health, a nonprofit whose members include 66 Fortune 100 companies, the cost of health care benefits is expected to rise by seven percent in 2014. Many of these large employers believe that their best option for controlling costs is to implement a consumer-directed health plan.

Consumer-directed health care generally involves insurance plans which allow members to use health care savings accounts to pay routine health care expenses directly, while catastrophic medical expenses would be covered by

high-deductible coverage. Wellness programs have also helped large employers manage costs. Helen Darling, president and chief executive of the National Business Group on Health, said that “most employers are putting in some [cost] increases that will be balanced out by wellness credits.” Employees can typically receive wellness credits after completing activities such as a biometric screening or completion of a tobacco cessation program. (Sarah Halzack, *The Washington Post*, Sept. 1, 2013)
http://articles.washingtonpost.com/2013-09-01/business/41671062_1_health-care-employers-national-business-group