

## HEALTH LAW AS PRIVATE LAW

*Health Law as Private Law* delves into the complex relationship between private law and health care. During the COVID-19 pandemic, the importance of public ordering and state-created rules was evident, yet this work reveals the equally important role of private agreements in shaping health care policy. The volume's five sections – theory and structure, reproductive care, costs and financing, innovation and institutions, contracts and torts – include innovative conceptualizations and approaches to applying private law to health law. Chapters authored by leading experts explore how private law can be utilized to address significant health care and public health problems, and to achieve much-needed health care reform. Comprehensive and timely, *Health Law as Private Law* opens new pathways that will influence future policy, jurisprudence, and regulation. This title is also available as Open Access on Cambridge Core.

I. Glenn Cohen is the James A. Attwood and Leslie Williams Professor of Law and a Deputy Dean at Harvard Law and the Faculty Director of Petrie-Flom Center for Health Law Policy, Biotechnology & Bioethics. He is one of the world's leading experts on the intersection of bioethics and the law, as well as health law. He also teaches civil procedure. He is the author of more than 200 articles and the author, editor, or coeditor of more than twenty books.

Susannah Baruch is the Executive Director of the Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics at Harvard Law School. She previously held key leadership roles in nonprofit organizations, academia, and government. Her research focuses on reproductive health law policy and issues surrounding genetics and genomics.

Wendy Netter Epstein is Vincent de Paul Professor of Law at DePaul University College of Law and an expert in health care law and policy, with an emphasis on the financing and delivery of health care, and matters of health equity. She has authored dozens of articles and coauthored *Contracts: Law in Action* (5th ed).

Christopher Robertson is N. Neal Pike Scholar and Professor of Law and Public Health at Boston University. He is an expert in health law, institutional design, and decision-making. Robertson has been published in *JAMA*, *NEJM*, and *Science*.

Carmel Shachar is Assistant Clinical Professor of Law and the Faculty Director of the Health Law and Policy Clinic at Harvard Law School. She previously served as the Executive Director of the Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics at Harvard Law School. Shachar is the coeditor of several other volumes including *Transparency in Health Care* and *Disability, Law, Health, and Bioethics*.



# Health Law as Private Law

PATHOLOGY OR PATHWAY

Edited by

**I. GLENN COHEN**

Harvard Law School

**SUSANNAH BARUCH**

Harvard Law School

**WENDY NETTER EPSTEIN**

DePaul University College of Law

**CHRISTOPHER ROBERTSON**

Boston University

**CARMEL SHACHAR**

Harvard Law School



**CAMBRIDGE**  
UNIVERSITY PRESS



CAMBRIDGE  
UNIVERSITY PRESS

Shaftesbury Road, Cambridge CB2 8EA, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India

103 Penang Road, #05-06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of Cambridge University Press & Assessment,  
a department of the University of Cambridge.

We share the University's mission to contribute to society through the pursuit of  
education, learning and research at the highest international levels of excellence.

[www.cambridge.org](http://www.cambridge.org)

Information on this title: [www.cambridge.org/9781009480451](http://www.cambridge.org/9781009480451)

DOI: [10.1017/9781009480468](https://doi.org/10.1017/9781009480468)

© Cambridge University Press & Assessment 2025

This publication is in copyright. Subject to statutory exception and to the provisions  
of relevant collective licensing agreements, with the exception of the Creative Commons  
version the link for which is provided below, no reproduction of any part may take  
place without the written permission of Cambridge University Press & Assessment.

An online version of this work is published at [doi.org/10.1017/9781009480468](https://doi.org/10.1017/9781009480468) under a  
Creative Commons Open Access license CC-BY-NC 4.0

When citing this work, please include a reference to the DOI [10.1017/9781009480468](https://doi.org/10.1017/9781009480468)

First published 2025

Cover image: Alexander Calder, Untitled, 1967. Gouache and ink on paper, 30 3/4" × 22 3/4"

© 2024 Calder Foundation, New York / Artists Rights Society (ARS), New York

*A catalogue record for this publication is available from the British Library*

*A Cataloging-in-Publication data record for this book is available from the Library of Congress*

ISBN 978-1-009-48045-1 Hardback

ISBN 978-1-009-48049-9 Paperback

Cambridge University Press & Assessment has no responsibility for the persistence  
or accuracy of URLs for external or third-party internet websites referred to in this  
publication and does not guarantee that any content on such websites is, or will  
remain, accurate or appropriate.