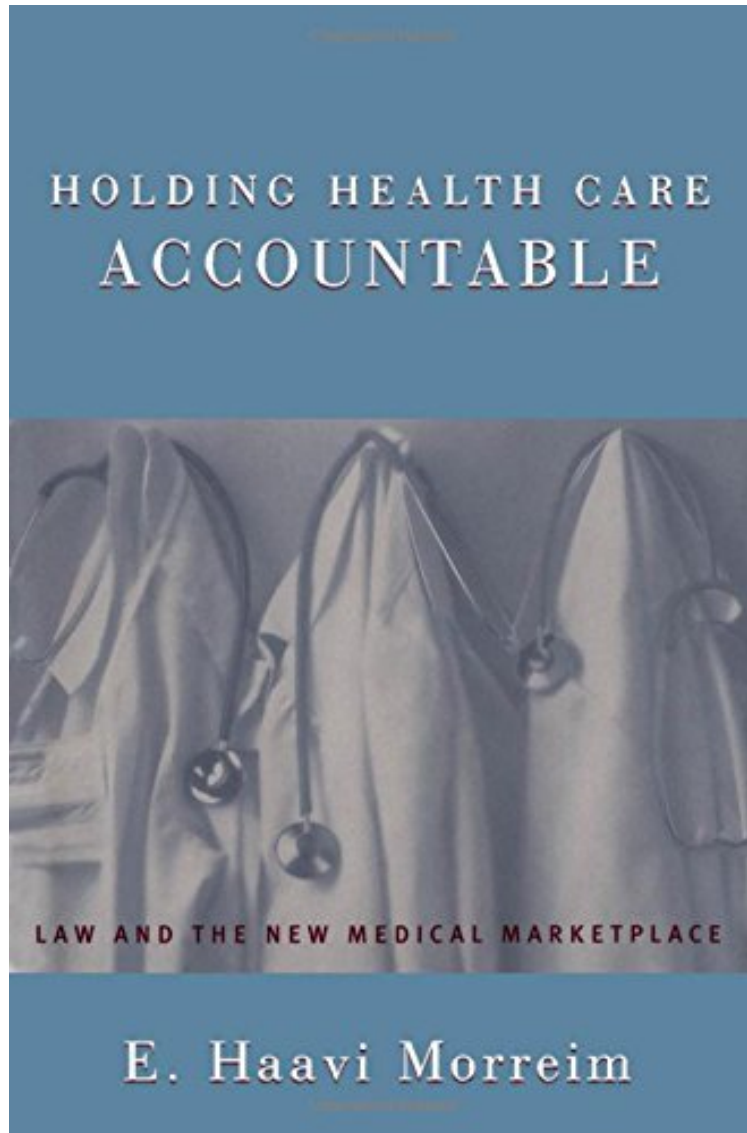


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# Holding Health Care Accountable: Law and the New Medical Marketplace

*E. Haavi Morreim*

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**E. Haavi Morreim : Holding Health Care Accountable: Law and the New Medical Marketplace** before purchasing it in order to gage whether or not it would be worth my time, and all praised Holding Health Care

Health care in the US and elsewhere has been rocked by economic upheaval. Cost-cuts, care-cuts, and confusion abound. Traditional tort and contract law have not kept pace. Physicians are still expected to deliver the same standard of care -- including costly resources - to everyone, regardless whether it is paid for. Health plans can now face litigation for virtually any unfortunate outcome, even those stemming from society's mandate to keep costs down while improving population health. This book cuts through the chaos and offers a clear, persuasive resolution. Part I explains why new economic realities have rendered prevailing malpractice and contract law largely anachronistic. Part II argues that pointing the legal finger of blame blindly or hastily can hinder good medical care. Instead of "whom do we want to hold liable," we should focus first on "who should be doing what, for the best delivery of health care." When things go wrong, each should be liable only for those aspects of care they could and should have controlled. Once a good division of labor is identified, what kind of liability should be imposed depends on what kind of mistake was made. Failures to exercise adequate expertise (knowledge, skill, care effort) should be addressed as torts, while failures to provide promised resources should be resolved under contract. Part III shows that this approach, though novel, fits remarkably well with basic common law doctrines, and can even enlighten ERISA issues. With extensive documentation from current case law, commentary, and empirical literature, the book will also serve as a comprehensive reference for attorneys, law professors, physicians, administrators, bioethicists, and students.

"I would highly recommended this book because Morreim raises, in a clear and concrete manner, important issues that are often neglected in bioethics." --Medical Humanities "The current provision of medical service is caught in a tight vise. Expectations for care are ever higher; the standards required of physicians and hospital are ever more stringent, and the resources to satisfy these demands ever more constrained. Working the way through this thicket is one of the main challenges of modern health care policy. Haavi Morreim has been an astute observer of these trends for the past generations, and in this volume offers her own roadmap to our nation's health care problems."--Richard Epstein, University of Chicago  
About the Author  
E. Haavi Morreim is a Professor in the College of Medicine, University of Tennessee, Memphis. For twenty years her research and writing have explored medicine's changing economics, with numerous publications in journals of law, medicine, and ethics.