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ROMA TRE UNIVERSITÀ DEGLI STUDI
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Healthcare as a Right: A Comparative Discussion on Health Care in America and Abroad

Comparative Health Law Features: Italy and the US

Prof. Rebecca Spitzmiller, J.D.

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THE ITALIAN HEALTHCARE SYSTEM

Article 32 of the Italian Constitution: (1948)

The Republic safeguards health as a **fundamental right** of the **individual** and as a **collective interest**, and guarantees **free medical care to the indigent**.
No one may be obliged to undergo any health treatment except under the provisions of the law. The law may not under any circumstances violate the limits imposed by **respect for the human person**.

- Regions are the key operative actors, accentuated after the constitutional reform of Title V in 2001.
- Italian National Health Service (*Servizio sanitario nazionale*) provides universal health care coverage
- Organized at three levels:

- national	general objectives and fundamental principles
- regional	organization and administration of healthcare service delivery
- local	delivery of healthcare service (through local health units (*aziende sanitari locali*, *Asl*) and public & private accredited facilities and family doctors – as gatekeepers)

THE ITALIAN HEALTHCARE SYSTEM

"The Italian Health Service was established in 1978 to grant universal access to a uniform level of care throughout Italy, free at the point of use, financed by general taxation." (IRAP and IRPEF)*

*IRAP: Corporate tax (*Imposta regionale sulle attività produttive*)
IRPEF: Income tax (*Imposta sul reddito delle persone fisiche*)

OECD Reviews of Health Care Quality: Italy, Raising Standards, 2014.

"In 2016, the Italian National Health Service (INHS), a tax-funded, Beveridge-type public insurance scheme, covered about 75% of total healthcare expenditure (please see the *Appendix* for more details on the governance of the INHS). Private, out-of-pocket (OOP) expenditure accounted for 23% of healthcare expenditure, and the remaining 2% pertained to voluntary schemes like private insurance and mutual funds."

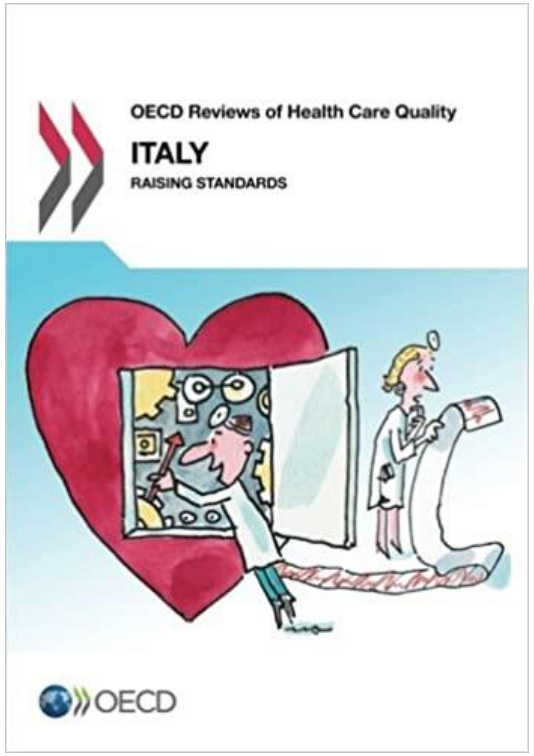
10 KEY FACTS to understand the Italian Healthcare System 2017 OASI REPORT– Executive summary, Bocconi University, 2017, p.3.

Share of GPD on health care expenditure in 2015

Italy: 8.9%

USA: 16.7%.

https://www.oecd-ilibrary.org/



THE ITALIAN HEALTHCARE SYSTEM
How does it work?

The Italian territory is comprised of 21 Regions, each run by an executive and a regional council, both democratically elected.*

CENTRAL GOVERNMENT:

- Guaranteeing public health protection and promotion

- Defining and monitoring uniform and essential levels of health services across the country

REGIONS:

- Planning, organizing and running healthcare services

- Monitoring quality, appropriateness and efficiency of the services provided

- Managing finances

* *Under Article 116 of the Italian Constitution, five of these regions (Sardinia, Sicily, Trentino-Alto Adige/Südtirol, Aosta Valley and Friuli Venezia Giulia) enjoy special status, granting them additional autonomy. Friuli Venezia Giulia is further divided into* ***2 autonomous provinces*** *which also enjoy constitutionally based self-government rights.*

THE ITALIAN HEALTHCARE SYSTEM: Benefits

Benefits:

Universal coverage

OECD says, “Italy’s indicators of health system outcomes, quality and efficiency are uniformly impressive.”[1]

Long life expectancy:

ITALY, Life expectancy at birth m/f in 2019: 80 / 84

USA, Life expectancy at birth m/f in 2019: 76 / 80

Italy’s system is efficient; costs overall are low.

Share of GPD on health care expenditure in 2015

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https://www.oecd-ilibrary.org/

Bloomberg 2019 Healthiest Country Index

2019 Rank	2017 Rank	Change	Economy	Health Grade	Health Score	Health Risk Penalties
1	6	+5	Spain	92.75	96.56	-3.81
2	1	-1	Italy	91.59	95.83	-4.24
3	2	-1	Iceland	91.44	96.11	-4.67
4	7	+3	Japan	91.38	95.59	-4.21
5	3	-2	Switzerland	90.93	94.71	-3.78
6	8	+2	Sweden	90.24	94.13	-3.89
7	5	-2	Australia	89.75	93.96	-4.21
8	4	-4	Singapore	89.29	93.19	-3.90
9	11	+2	Norway	89.09	93.25	-4.16
10	9	-1	Israel	88.15	92.01	-3.86
11	10	-1	Luxembourg	87.39	92.03	-4.64
12	14	+2	France	86.94	91.70	-4.76
13	12	-1	Austria	86.30	90.81	-4.51
14	15	+1	Finland	85.89	90.18	-4.29
15	13	-2	Netherlands	85.86	90.07	-4.21
16	17	+1	Canada	85.70	90.31	-4.61
17	24	+7	S. Korea	85.41	89.48	-4.07
18	19	+1	New Zealand	85.06	89.68	-4.62
19	23	+4	U.K.	84.28	88.74	-4.46
20	22	+2	Ireland	84.06	89.57	-5.51

No one risks financial ruin due to health problems.

1. OECD Reviews of Health Care Quality: Italy 2014

THE ITALIAN HEALTHCARE SYSTEM: Benefits and Disadvantages

More benefits:

Broad coverage: Every citizen has a family doctor giving free care; emergency and hospital coverage is free. Drugs cost very little, sharing expenses between private and public, and are free for indigents and chronic pathology.
Legal foreign residents are included in the universal coverage.
Undocumented immigrants have access to the health care system for urgent and essential services.

Disadvantages:

Waiting lists: for certain procedures you may have to wait for availability or pay for "*intramoanea,"* or private treatment
Bureaucracy: you have to register with your family doctor in your region of residence and change if you move, etc.
Some items not covered: e.g., dental care, orthodontics (free only for indigents). Cosmetic surgery and laser eye surgery, To compensate, many have private insurance, and there are possibilities to pay for private services.
Regional variations in health-care quality
Low competitiveness for quality service

THE ITALIAN HEALTHCARE SYSTEM: Reform, legal culture, malpractice insurance

Law 24/2017, a comprehensive national regulation passed by the Italian Parliament in March 2017, **Gelli-Bianco law,** recognized **patient safety** as a fundamental right and a national priority in health policy.
It also regulated **liability of healthcare professionals**, introducing fair principles to legitimately claim **malpractice,** while allowing to pursue evidence-based medicine in everyday care.
Law 24 also formalized the role of **risk managers**, paving the ground for patient-safety monitoring uniformly across Italy. **Links clinical guidelines to liability.**

On hospital webpages, all insurance coverage must be shown; utmost **transparency**.

The “National Observatory on **Good Practices** for Patient Safety” was introduced by Art.3 of Law 24 to bridge the gap between the central government, regions and local providers. Its mandate is to **coordinate** all efforts, including data integration and reporting of indicators at all levels, through the technical support of AGENAS.

THE ITALIAN HEALTHCARE SYSTEM: MD's salaries, malpractice insurance, claims and damages

- Italian doctors in the public system earn less than US MDs. Average **salary** €73.000 euro gross/year* *www.truenumbers.it/stipendio-medico/
- All public doctors and medical personnel are **insured** by the public health care system, by their employer, for most claims. Additional **insurance coverage** for could cost doctors a few hundred to a few thousand euro per year.
- Average amounts of **medical malpractice claims** is about 50,000 euro.
- "The damage caused by medical malpractice is compensated on the basis of the tables in articles 138 and 139 of the code of private insurance." Law 24/2017. Art. 10.6 Now we are in a **transitional phase**, because these new criteria have not been issued yet. Now, courts are still using what are known as the Milan tables, which calculate damages using criteria of age and the percentage of invalidity of each case.

2018 Table

% invalidity | claimable damage | max. personalized | %

punti inval.	danno risarcibile	*personalizz. massima.*	%
1	1.389	*2.084*	50%
2	2.952	*4.428*	50%
3	4.689	*7.034*	50%
4	6.599	*9.899*	50%
5	8.683	*13.025*	50%
6	11.462	*17.193*	50%
7	14.588	*21.882*	50%
8	18.061	*27.092*	50%
9	21.882	*32.823*	50%
10	26.258	*39.124*	49%

2021 Table

% invalidity | biological damage | increase for pain and suffering | % | non pecuniary damage | max. personalized | %

punti inval.	danno biologico	incremento per sofferenza	%	danno non patrimoniale	*personalizz. massima.*	%
1	1.127	282	25%	1.409	*2.114*	50%
2	2.395	598	25%	2.993	*4.490*	50%
3	3.803	951	25%	4.754	*7.131*	50%
4	5.352	1.339	25%	6.691	*10.037*	50%
5	7.043	1.760	25%	8.803	*13.205*	50%
6	9.296	2.325	25%	11.621	*17.432*	50%
7	11.832	2.958	25%	14.790	*22.185*	50%
8	14.649	3.662	25%	18.311	*27.467*	50%
9	17.748	4.437	25%	22.185	*33.278*	50%
10	21.128	5.494	26%	26.622	*39.667*	49%

https://www.avvocatoandreani.it/servizi/tabelle_danno_biologico_macropermanenti.php#Res

Health Care Systems - Four Basic Models

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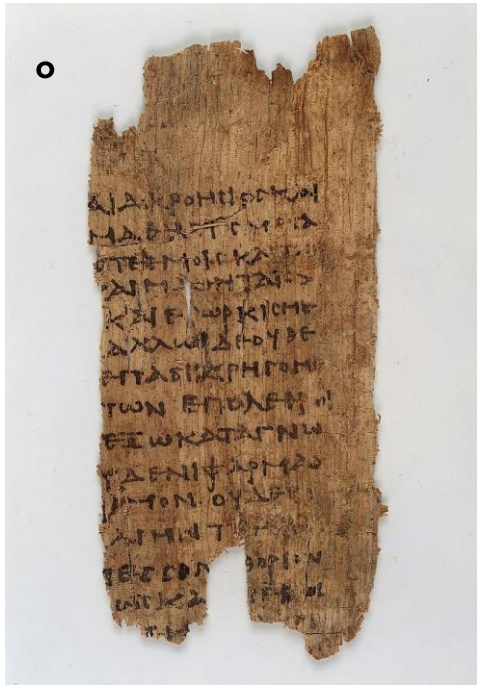
- **The Beveridge Model:** health care provided and financed by the government through tax payments ("single payer" UK, Italy)
- **The Bismarck Model:** financed jointly by employers and employees through payroll deduction. (Germany)
- **The National Health Insurance Model:** mix of Beveridge and Bismarck with private-sector providers, paid for by a government-run insurance program that every citizen pays into. Provinces may also charge a health premium on their residents to help pay for publicly funded health care services, for certain services. (Canada)
- **The Out-of-Pocket Model:** the rich get medical care; the poor stay sick or die. (Most developing nations.)
- The **US** has elements of all of four types, fragmented. For veterans, it's like Italy. For working Americans who get insurance on the job, like Germany. For Americans > 65 on Medicare, like Canada. And for the still many uninsured…despite ACA, like a developing nation.
- https://www.pnhp.org/single_payer_resources/health_care_systems_four_basic_models.php

Why seek universal health care?

“Fraternity” = Kindredship* as a Civil and Human Right, a legal principle upon which democracy rests, giving rise to health care as a common good.

- Legal-rights triad established in the French Revolution: Liberty, Equality & **Fraternity**
- Article 1 of the Universal Declaration of Human Rights underlines **Fraternity’s** relevance through modern times: “All human beings are born free and equal in dignity and rights […] and should act towards one another in a spirit of brotherhood.”
- **John Rawls,** ** **Fraternity** implies a sense of civic friendship and social solidarity, but … expresses no definite requirement. The difference principle: a natural meaning of fraternity: not wanting greater advantages unless it benefits others who are less well off.
- **Medical Ethics:** Hippocratic Oath° (circa 400 BC) Feminist ethics = Care (today)



*R Spitzmiller, “**Kindredship,** Subsidiarity and Grassroots Movements: Catalysts for Effective Legal Change” **Roma Tre Law Review**

***A Theory of Justice*, The Belknap Press of Harvard University Press, Cambridge, Massachusetts, revised edition of the 1971 original, 6th printing, 2003, p 90.