

INTRODUCTION: Investigating Malingering and Public Policy Through an Interdisciplinary Working Group

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Keywords: Malingering, Policy, Public, Interdisciplinary, Group

Abstract: This Introduction frames the context of the interdisciplinary working group that examined the role of malingering in health and social policy in 2019–2020. The Symposium Issue here is the result of the group’s time, energy, and analysis.

Anxieties about “fakers” seeking welfare and other social benefits are at least 500 years old in the West and are traceable back to the origins of the modern welfare state. Such concerns are saturated with prejudices and beliefs surrounding race, gender, disability, and class (to name a few). While individual articles analyze malingering and feigned illness, to our knowledge no comprehensive work in the humanities and social sciences studies the persistence of such concerns over time in the West in medicine, health and society. This gap is problematic not simply because concerns over “faking” persist, but because they do so widely across many different public policy arenas, including employment status, public benefits, disability accommodations, access to health care, occupational health, sports participation, child welfare and family policy, and veterans’ support. Indeed, historians have noted that concerns about entitlement and just desserts are critical components of the very idea of the modern welfare state. Therefore, there is an urgent

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need to produce work directly focused on modern anxieties about malingering in the context of health and social policy.

In 2018, two contributors to this Symposium Issue (Casper and Goldberg) began discussing the possibility of producing a historical anthology that might help fill the gap described above. Several rounds of conversation produced a draft proposal for an anthology and plans to submit to a university press. However, further discussion suggested the merits of slowing down and spending some time in a scholarly workshop that could deepen the scholarship and perspectives on malingering and social policy in historical context. After considering several possibilities for an organization that could serve as the host, serendipity struck in the form of a request for proposals for scholarly working groups extended by the Consortium for the History of Science, Technology, & Medicine (“CHSTM”).

Established in 2007, the CHSTM brings under a single umbrella the support and the historical collections available at a considerable number of universities, research libraries, and museums. Directed by physicist-historian Babak Ashrafi, the CHSTM offers a wide variety of programming, including public lectures, an online research hub, a fellowship program, and, of particular interest here, working groups comprised of members from all over the world.

CHSTM accepted the “Malingering & Social Welfare Policy” Working Group’s proposal for the 2020 calendar year, providing a host of benefits, including secure web space, access to Zoom software for meetings, and expert facilitation and logistical support from environmental historian and CHSTM Manager of Academic Programs Lawrence Kessler (to whom many thanks are owed).

In its late 2019 proposal, the Working Group schedule anticipated 4-6 scholarly meetings during the following year and convened its inaugural meeting in January 2020. Obviously, the world changed dramatically in early 2020. Nevertheless, with considerable assistance from the CHSTM, the Working Group found ways to continue its efforts into early 2021.

Collectively, the six members of the Working Group supplied expertise in health law, public health, epidemiology, history, policy, bioethics, disability studies, sociology, and medicine. All of the contributors to this Symposium issue have spent years thinking, researching, writing, and teaching about these anxieties over faking, feigned illness, and malingering. The remarkable breadth of the Working Group constituents in both approach and substantive expertise produced

tional 1913 Sherlock Holmes tale “The Adventure of the Dying Detective.”

Historian Lauren MacIvor Thompson begins her analysis in late Victorian Gilded Age America, assessing the eugenic politics of birth control and alcohol reform in the US.² These politics tracked prevalent ideas about suspicion, doubt, and skepticism of women in particular, thereby reinforcing a key theme in the history of anxieties about malingering: Not all groups are equally likely to be accused of feigning illness. The contributions in this collection show how a variety of historically marginalized groups, including but not limited to women, People of Color, and disabled people have often been targets of skepticism and mistrust in context of illness, welfare benefits, and social policy. Accordingly, the history of concerns

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The original ideas that drove the impetus for the Working Group are historical claims and multiple members of the Working Group have professional training in history. Unsurprisingly, the core theme that animates the entire project, and virtually all of the contributions in this issue, are that deeply rooted Western and especially USian anxieties about malingering are central to social welfare policy in the US. The first contribution to this Symposium studies the historical theme in earnest, as physician-historian Lakshmi Krishnan traces how ideas about deception and malingering played a key role in changing the very idea of diagnosis in fin-de-siècle Great Britain.¹ It is no accident that the genre of detective fiction flourished at the same time as the birth of the clinic, with the latter's focus on forensic investigation to discern the “objective” truth of a patient's illness complaint. Krishnan's paper explores these themes in light of two important cases: The real-life case of physician Cornélius Herz's ordeal in light of the collapse of the French Panama Canal Company of 1889, and the fic-

about malingering and their connection to the warp and weft of social policy are also interwoven with histories of structural violence, the consequences of which endure to the present.

The 19th c. is especially important in making sense of contemporary connections between malingering and US social policy. Thus, the third contribution to this Symposium Issue, from historian Stephen Casper, also traces important developments in the history of brain injury since the 1800s.³ There is a tendency among both researchers and policymakers when discussing traumatic brain injury, especially in context of collision sports, to assert an alleged novelty to brain injury science. Casper's manuscript reveals the long history of knowledge and attention to the risks of impact and collisions in causing long-term neuropathology, as well as the myriad ways in which such knowledge was doubted and invalidated in service of various political and economic interests.

Casper is also the principal author and organizer of the fifth piece in the Symposium Issue, which again shows how past and present are connected in the context of malingering and social policy.⁴ The paper

proposes best ethical and policy standards for international consensus statements that address concussion in sport. At first blush, this might not seem closely connected to accusations of malingering and social policy. However, there is a deep and complex history between disbelief, suspicion, and doubt of illness complaints connected to hazardous products introduced into the stream of commerce by regulated industries. Accusations of deception and malingering are a tried-and-true tactic wielded in service of “the manufacture of doubt,” a method by which regulated industries accused of selling dangerous products undermine evidence of a causal connection between the products and health harms. The obvious example here is the tobacco industry, although these techniques have been deployed by numerous other industries, including but not limited to railroad, lead, vinyl, mining, automobile, and pharmaceutical companies. Governing bodies for collision sports including American tackle football, rugby, and ice hockey have all been accused of perpetuating the manufacture of doubt. And, health care professionals and scientists have historically played an important role in this construction of ignorance (“agnotology”), which justifies ethical standards for consensus statements and position papers.

Continuing with the theme of collision sports and the ways in which illness complaints sustained in participation are delegitimized and doubted, public health scholar Kathleen Bachynski’s contribution examines how risks of injury were systematically denied by coaches, administrators, and politicians in US college football.⁵ Picking up on her authoritative scholarship on these issues, Bachynski further explores how damaging norms of masculinity and everyday racism converged to intensify skepticism and mistrust of brain injury sustained through participation in tackle football in US colleges during the 20th c. Bachynski’s article also underscores the extent to which concerns about malingering have contributed to relative neglect of non-fatal outcomes in many contexts. While deaths are more difficult to doubt, chronic illness and impairment (such as degenerative brain disease) are easier to question and delegitimize.

The seventh contribution to the Symposium Issue (Goldberg) offers a broader historical lens in which to consider the role of malingering and its connections to social welfare policy in the West in general and in the US in particular.⁶ Beginning especially with the passage of major poor laws in Europe during the 17th century, Western societies connected even older ideas about deservingness to the entitlements of the burgeoning welfare apparatuses. In the modern era, anxieties about malingering took on a forensic quality, and it became increasingly important for scientific, medi-

cal, and legal experts to distinguish true from false illness claims. The rise of the modern welfare state during the 19th c. greatly accelerated anxieties over malingering, and the racialized, gendered, and classed nature of these concerns became socially and politically transparent. The essay concludes by connecting modern anxieties over malingering to present policy debates in the US; it argues that the stigma and disbelief so many people who seek public assistance endure is only explicable in context of these deeper historical and social structures.

The final two contributions complete the historical arc of the Symposium Issue by linking past to present. Health law scholar and Medicaid policy expert Nicole Huberfeld addresses the use of Medicaid demonstration waivers to impose eligibility restrictions such as work requirements and draws the connection between modern “able bodied” rhetoric and historical suspicion, blame, and doubt of poor, subordinated, and disabled people.⁷ Huberfeld warns that attempts to impose such barriers, which further immiserate some of the most vulnerable populations, accelerated under the Trump administration, but these ideas have a long history in American social programs traceable to Elizabethan Poor Laws. The forces that give rise to such efforts defy political or ideological affiliation and are likely to ascend again if stronger legal protections do not exist for low-income populations.

Disability law and health law scholar and social scientist Doron Dorfman closes the Symposium with a deep dive into the ways in which the COVID-19 pandemic has intensified the “fear of the disability con.”⁸ Dorfman has pioneered work into the extent to which people in different contexts are willing to forego social welfare benefits for themselves and for others in their relevant communities because of their fears that disabled people are “conning” society and thereby receiving ‘extra’ or ‘special’ benefits. There are obvious connections between the ‘fear of the disability con’ and anxieties about malingering and feigned illness, which Dorfman explores in the context of the COVID-19 pandemic and how such fears manifest in various legal and policy mechanisms for pandemic response and control.

The original hope for the anthology and the Working Group that resulted was to provide a sustained and synthetic analysis of the connections between malingering and social policy in US history. The contributions to the Symposium Issue offer tantalizing hints for the reasons why state- and national- level fear of dependency have such a powerful effect in shaping social welfare policy, including by restricting it completely for marginalized communities. The argument is essentially that the subject is important enough to

merit such attention; the Symposium Issue highlights that a great deal more work remains to be done.

Finally, the contributors to the Working Group⁹ and the Symposium Issue are grateful both to the CHSTM and to the *JLME* for creating and for supporting the scholarly space needed to think carefully and deeply about these important issues and supporting this work even during a devastating pandemic.

Note

The author has no conflicts to disclose.

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9. The contributors to the Symposium Issue would like to extend special thanks to Working Group member Mical Raz, M.D., Ph.D., whose participation enriched the scholarly conversations enormously and without whom the Symposium Issue would not have been possible.