The recently released collection, *Nudging Health: Health Law and Behavioural Economics*, edited by I. Glenn Cohen, Holly Fernandez Lynch, and Christopher T. Robertson, presents an interesting window into the complex world of health policy and health decision-making from the perspective of behavioural economics. Although the contributing authors in this volume come from diverse fields and interests, almost all of them are American, and accept the central premises and aims of behavioural economics and related fields of study. Where the authors may disagree is in how the results of experimentation and research in behavioural economics is best applied to health policy. The book does not aim to critically analyse behavioural economics itself; its goal is to discuss the various ways in which law and policy can apply some of the findings from behavioural economics to the public’s health-related behaviours, in order to improve people’s choices. This means that the book is, in general, uncritical of the more fundamental assumptions in behavioural economics, such as the theory of rationality it assumes, the individual focus it takes, and the potential fallibility of research studies upon which it relies.

The book is composed of 24 chapters, grouped into eight sections, plus a foreword by Cass Sunstein. Sunstein is an influential academic in behavioural economics, and the editors attempt to frame his foreword as providing a grounding for the book’s central topics in their introduction. Unfortunately, the foreword to this book is rambling, confusing, and uses terminology in imprecise ways, and does not clearly contribute meaningfully to the book, or to the essays within it.

The first collection of essays is entitled, ‘Setting the Stage,’ and presents some background for the field of behavioural economics in history, policy, and literature, and introduces the reader to some of the central themes and debates within the academic literature around such concepts as ‘choice architecture,’ ‘libertarian paternalism,’ and ‘nudge’. This section includes one of the few chapters written from a non-American perspective, by a member of the Behavioural Insights Team in the United Kingdom.

The official Part 1 of the book, representing the second collection of essays, is entitled ‘Ethics of Nudge in Healthcare’. The four essays in this section are in debate with each other over the moral status of ‘nudges’. Nudge, for the uninitiated, is a concept defined in Richard Thaler and Cass Sunstein’s eponymous book as “any aspect of the choice architecture that alters people’s behavior in a predictable way without forbidding any options or significantly...
changing their economic incentives.¹ ‘Nudge’ has since been redefined by some writers, but this original definition seems to be the preferred take on the concept by the various authors contributing to Nudging Health. However, it is important to note that the word ‘nudge,’ and other terms that frequently appear in the book, are used without attention to definitional specificity throughout, so it may be that authors have a different definition in mind but have not specified what it is. I will say more about the lack of terminological clarity below, as it is one of the book’s more problematic features.

Part 2 is composed of only two essays on the topic of ‘Nudging and Public Health Policy’. The first essay focusses on providing incentives to mothers to have their children vaccinated, and the second focusses on paternalism in food policy. In this second essay, Andrea Freeman mentions one of the central ethical concerns with the application of behavioural economics to policy, by way of nudges or choice architecture. This is that the popular narratives about personal or individual responsibility, which are sustained by policy suggestions from behavioural economics, exacerbate social and health disparities by obscuring the structural factors that may contribute to them (p. 133). Unfortunately, her discussion of this issue is very short, and I would have liked to hear more about her criticism of this implication of applying behavioural economics to policy.

The third part of the book focusses on ‘Behavioural Economics and Healthcare Costs’. This section is very specific to policy questions within the United States, dealing with cost sharing and credit providers in a medical insurance marketplace that makes for interesting reading, but has little crossover with the policies and experiences of European nations. For example, one suggestion from Jim Hawkins is that data from bankruptcy filings could be used by researchers to determine the effects of having physicians act as credit arrangers via medical credit providers affiliated with their practice, as compared to independent medical credit providers (p. 178). It is interesting to see that rather than object to a system in which people must file bankruptcy for failing to repay medical creditors, researchers are encouraged to analyse their bankruptcies for data about which kind of medical creditor is ‘better’.

Part 4 of the book is about the idea of ‘Crowding Out,’ which is related to the relationship between intrinsic and extrinsic motivations. The central question is whether the creation of new extrinsic motivations may ‘crowd out’ the pre-existing intrinsic motivations, and thereby undermine them. The two essays in this section debate this, with one providing an argument that crowding out is