



SCHOOL OF LAW  
CASE WESTERN RESERVE  
UNIVERSITY

**Health Matrix: The Journal of Law-  
Medicine**

---

Volume 19 | Issue 1

---

2009

## Volume 19 Issue 1 (2009)

Case Western Reserve Health Matrix: Journal of Law-Medicine

Follow this and additional works at: <https://scholarlycommons.law.case.edu/healthmatrix>



Part of the [Health Law and Policy Commons](#)

---

### Recommended Citation

Case Western Reserve Health Matrix: Journal of Law-Medicine, *Volume 19 Issue 1 (2009)*, 19 Health Matrix Iss. 1 (2009)  
Available at: <https://scholarlycommons.law.case.edu/healthmatrix/vol19/iss1/2>

This Front Matter is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Health Matrix: The Journal of Law-Medicine by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.



CASE WESTERN RESERVE  
UNIVERSITY

SCHOOL OF LAW



# HEALTH MATRIX:

## Journal of Law-Medicine

### ARTICLES

THE GHOST IN OUR GENES: LEGAL AND ETHICAL IMPLICATIONS OF EPIGENETICS

*Mark A. Rothstein, Yu Cai, and Gary E. Marchant*

ADVANCING CIVIL RIGHTS, THE NEXT GENERATION: THE GENETIC INFORMATION  
NONDISCRIMINATION ACT OF 2008 AND BEYOND

*Morse Hyun-Myung Tan*

SURVEY OF STATE MEDICAL AND OSTEOPATHY BOARD DISCIPLINARY WEB SITES IN 2006

*Meredith Larson, Peter Lurie, Benita Marcus and Sidney Wolfe*

### PROCEEDINGS: NEWBORN SCREENING FOR NONTREATABLE DISORDERS

INTRODUCTION

*Maxwell J. Mehlman*

THE BLURRED DISTINCTION BETWEEN TREATABLE AND  
UNTREATABLE CONDITIONS IN NEWBORN SCREENING

*Donald B. Bailey, Jr.*

SYSTEMS TO DETERMINE TREATMENT EFFECTIVENESS IN NEWBORN SCREENING

*R. Rodney Howell*

ASSESSING THE NEW CRITERIA FOR NEWBORN SCREENING

*Jeffrey R. Botkin*

ON TREATABILITY: CONSIDERATIONS OF TREATMENT IN THE CONTEXT OF NEWBORN SCREENING

*Marvin R. Natowicz and Shlomit Zuckerman*

TEN FINGERS, TEN TOES: NEWBORN SCREENING FOR UNTREATABLE DISORDERS

*Ellen Wright Clayton*

### NOTES

EXPANDING ACCESS TO INVESTIGATIONAL DRUGS FOR TREATMENT USE:  
A POLICY ANALYSIS AND LEGISLATIVE PROPOSAL

*Austin Winniford*

ASSISTED OUTPATIENT TREATMENT IN OHIO: IS JASON'S LAW  
LIFE-SAVING LEGISLATION OR A RASH RESPONSE?

*Steven Strang*

HOW THE PROMISES OF RICHES IN COLLEGIATE ATHLETICS LEAD TO  
THE COMPROMISED LONG-TERM HEALTH OF STUDENT-ATHLETES:  
WHY AND HOW THE NCAA SHOULD PROTECT ITS STUDENT-ATHLETES' HEALTH

*Brian C. Root*

Volume 19

Winter 2009

Number 1

# HEALTH MATRIX: JOURNAL OF LAW-MEDICINE



Volume 19

Winter 2009

Number 1

*Copyright by Health Matrix: Journal of Law-Medicine*

# HEALTH MATRIX: JOURNAL OF LAW-MEDICINE

*Editor-in-Chief*  
Andrew C. Lillis

*Managing Editor*  
S. L. Scott Esposito

*Executive Articles Editor*  
Brian C. Root

*Executive Copy Editor*  
Austin Winniford

*Publisher*  
Emily Seidman

## *Executive Notes Editors*

Ayham Bahnassi	Jee-Young Kim
Andrew J. Glessner	Peter Morrison
Lindsey Goldberg	Steven Strang
Liana Hollingsworth	Angela M. Thomas

## *Associate Editors*

Michael Andersen	Melissa A. Pachikara
Jessica Bencar	Brett J. Seifarth
John Crist	Andrew C. Schlueter
Aaron D. Hoffmann	Jeffrey D. Truitt
Erica M. James	Jonathan White
Sara Mahmoud-Davis	Gretchen Woodruff Root

*Faculty Advisors*  
Maxwell J. Mehlman  
Sharona Hoffman

---

HEALTH MATRIX: JOURNAL OF LAW-MEDICINE (ISSN 0748-383X) is published by the students of Case Western Reserve University School of Law. The views expressed in this issue are those of the authors and do not necessarily reflect the views of HEALTH MATRIX, its Editors and Staff, or the Case Western Reserve University School of Law.

HEALTH MATRIX welcomes submissions of original articles. Possible topical areas include: legal medicine, health law and policy, professional liability, biomedical ethics, and medical-legal research. HEALTH MATRIX conforms to THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (18th ed. 2005), and the style conforms generally to THE CHICAGO MANUAL OF STYLE (15th ed. 2003). Submissions will be considered for publication by the Editorial Board. The Editorial Board regrets that it cannot return submissions to authors unless the manuscript is accompanied by a self-addressed stamped envelope. Correspondence and manuscripts should be sent to:

Editorial and Business Office  
HEALTH MATRIX: JOURNAL OF LAW-MEDICINE  
Case Western Reserve University School of Law  
11075 East Boulevard  
Cleveland, OH 44106  
Telephone: (216) 368-2099

All accepted manuscripts are subject to editing by the HEALTH MATRIX Editorial Board. Manuscripts selected for publication are accepted with the understanding that editorial changes may be made to improve the readability of the Article and to ensure conformity with style policy. Accepted manuscripts become the permanent property of HEALTH MATRIX and may not be published elsewhere without written permission.

Annual subscriptions may be entered for the entire volume for \$25.00 for both foreign and domestic subscribers. Any correspondence regarding subscriptions should be sent to the Manager of Law Journals at the address listed above. Single issues of the current volume are available for \$14.00 each. Back issues may be obtained from HEALTH MATRIX, if available. Back issues from earlier volumes are also available from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14209. Back issues are also available in PDF format through HeinOnline <http://heinonline.org/>

For all photocopy or republication requests, please contact Copyright Clearance Center, Inc. by mail: 222 Rosewood Drive, Danvers, MA 01923; by phone: (978) 646-2600; by fax: (978) 646-8600; by email: [infoat@copyright.com](mailto:infoat@copyright.com); or online: [www.copyright.com](http://www.copyright.com).

Selected HEALTH MATRIX Articles are indexed in the National Reference Center for Bioethics Literature, Kennedy Institute of Ethics, Georgetown University, Washington, D.C. Volume 3 and subsequent volumes are indexed in the Index to Legal Periodicals. Selected Articles also are available on Lexis/Nexis, Westlaw, and PAIS.

This issue went to press in February of 2009.

*Health Matrix: Journal of Law-Medicine* is grateful to the Law-Medicine Center at Case Western Reserve University School of Law for its sponsorship of symposia and conferences concerning the latest developments in the area of law and medicine. During the more than fifty years of its operation, the Center has broadened its focus from issues involving forensic medicine to the whole range of legal, social, economic, scientific, and ethical issues in which law and medicine are inter-related.

# HEALTH MATRIX: JOURNAL OF LAW-MEDICINE

## ARTICLES

THE GHOST IN OUR GENES: LEGAL AND ETHICAL  
IMPLICATIONS OF EPIGENETICS

*Mark A. Rothstein, Yu Cai, and Gary E. Marchant* ..... 1

ADVANCING CIVIL RIGHTS, THE NEXT GENERATION:  
THE GENETIC INFORMATION NONDISCRIMINATION ACT  
OF 2008 AND BEYOND

*Morse Hyun-Myung Tan*.....63

SURVEY OF STATE MEDICAL AND OSTEOPATHY BOARD  
DISCIPLINARY WEB SITES IN 2006

*Meredith Larson, Peter Lurie, Benita Marcus  
and Sidney Wolfe*..... 121

## PROCEEDINGS: NEWBORN SCREENING FOR NONTREATABLE DISORDERS

INTRODUCTION

*Maxwell J. Mehlman* ..... 137

THE BLURRED DISTINCTION BETWEEN TREATABLE AND  
UNTREATABLE CONDITIONS IN NEWBORN SCREENING

*Donald B. Bailey, Jr.*..... 141

SYSTEMS TO DETERMINE TREATMENT EFFECTIVENESS  
IN NEWBORN SCREENING

*R. Rodney Howell* ..... 155

ASSESSING THE NEW CRITERIA FOR NEWBORN SCREENING

*Jeffrey R. Botkin* ..... 163

ON TREATABILITY: CONSIDERATIONS OF TREATMENT IN THE  
CONTEXT OF NEWBORN SCREENING  
*Marvin R. Natowicz and Shlomit Zuckerman* ..... 187

TEN FINGERS, TEN TOES: NEWBORN SCREENING FOR  
UNTREATABLE DISORDERS  
*Ellen Wright Clayton* ..... 199

## NOTES

EXPANDING ACCESS TO INVESTIGATIONAL DRUGS FOR  
TREATMENT USE: A POLICY ANALYSIS AND  
LEGISLATIVE PROPOSAL  
*Austin Winniford*..... 205

ASSISTED OUTPATIENT TREATMENT IN OHIO: IS JASON'S LAW  
LIFE-SAVING LEGISLATION OR A RASH RESPONSE?  
*Steven Strang* ..... 247

HOW THE PROMISES OF RICHES IN COLLEGIATE ATHLETICS  
LEAD TO THE COMPROMISED LONG-TERM HEALTH OF  
STUDENT-ATHLETES: WHY AND HOW THE NCAA SHOULD  
PROTECT ITS STUDENT-ATHLETES' HEALTH  
*Brian C. Root*..... 279