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## CURRENT TOPICS IN BIOMEDICAL ETHICS -- Introduction

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# PROBLEMS IN LAW AND BIOETHICS

## INTRODUCTION

In this issue of *Health Matrix*, we present a series of articles on problems in law and bioethics. The field of law and bioethics is relatively new, but it has grown by leaps and bounds in the roughly three decades since its inception. Today, questions involving life-sustaining treatment, assisted reproduction, genetic screening and testing, organ transplantation, and biomedical research are often addressed in courtrooms, legislatures, law reviews, and law school classrooms. More and more attorneys are asked to draft advance treatment directives, to serve on hospital ethics committees, and to perform other legal work related to bioethical concerns. We are pleased to publish four pieces that contribute to the continuing analysis and debate of important topics in law and bioethics.

Mark Anderson provides a thorough analysis of existing proposals for increasing the supply of vital organs for transplantation. He reviews the positive and negative elements of each proposal and selects as the most promising avenue an option that has received relatively little attention thus far: the voluntary donation by living persons of a kidney or portion of the liver or lungs. As long as such donations may be made without serious health risk to the donor, Anderson believes that they should be encouraged, even among unrelated donors and recipients. Yet he rejects the idea that living donors should be paid, because of the threat such a system would pose to the principles of voluntary consent and to the welfare of indigent persons.

The next article shifts to issues concerning the administration of life-sustaining treatment. The best interests standard is an important substantive guide to treatment decision making on behalf of patients unable to choose for themselves. Legal and ethical commentary has for the most part examined when the best interests standard requires officials to order the administration of life-sustaining treatment against the wishes of an incompetent patient's family or other surrogate decisionmaker. In contrast, Dale Moore discusses a much-neglected question raised by the best interests standard: when should a parent's or other surrogate's request *for* life-sustaining treatment be overridden because the pain, suffering, or other burdens that treat-

ment would inflict on the patient outweigh any benefits the patient is expected to obtain? She supports the notion that in some situations an incompetent patient's welfare should take priority over a surrogate's request for continued treatment.

Beatrice Crofts Yorker examines a different sort of "over-treatment." Parents exhibiting a behavior known as "Munchausen Syndrome by Proxy" falsely report or create illness in their children and then seek medical attention for them. The parents' attempts to induce illness may directly impose harm on the children; moreover, the children often are exposed to unnecessary tests and other medical procedures involving some risk. When a parent is suspected of causing or fabricating a child's condition, hospital officials may propose covert video surveillance as a method to evaluate the parent's conduct. Yorker examines the constitutional and other legal issues raised by such surveillance.

With the final piece in the series, we revisit the topic of organ transplantation. Lisa Hanger focuses on one population in which the vital organ shortage is particularly severe: the very young. Many infants who could survive with heart, liver, or other vital organ transplants die before the necessary organ becomes available. Hanger examines a proposal to ameliorate this shortage by allowing parents of infants with anencephaly, a condition in which much of the brain is undeveloped, to donate their children's organs for transplantation. She concludes that the proposal is unacceptable because of the serious medical, ethical, and legal problems it presents.

Each of these authors engages in the careful and thoughtful analysis that offers genuine guidance to the health professionals and policymakers facing complex bioethics issues. We hope that our collection advances and enriches our readers' understanding of some challenging legal developments in this area.

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