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SYMPOSIUM: HEALTH CARE AND THE CONSTITUTION -- Introduction

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SYMPOSIUM

HEALTH CARE AND THE
CONSTITUTION

INTRODUCTION

THIS ISSUE OF HEALTH MATRIX focuses on the constitutional implications of a variety of health care controversies. Many of the health care issues that have been most vigorously debated in recent decades have generated significant constitutional questions. These issues include abortion, euthanasia, DNA databanking, parental refusal of treatment for children, drug and alcohol testing in schools, hospitals, and the workplace, and many others. As medical technology evolves and offers us previously unthinkable options, society often finds itself reevaluating some of its essential philosophical and legal concepts, including life, death, parenthood, privacy, liberty, and property. One commentator has stated that "health care challenges our fundamental law—the Constitution—as few other interests do."\(^1\)

This symposium features a distinguished group of scholars who explore a broad range of questions relating to both health care and the Constitution. The first three articles provide a general analysis of the relationship between the two fields. Lawrence Gostin, a professor at both Georgetown University Law Center and Johns Hopkins University, examines public health theory and practice in the constitutional design. John Blum, Professor of Law at Loyola University Chicago School of Law, reflects upon federalism in health care and makes a variety of recommendations regarding the appropriate balance between state and federal regulation. Michael Shapiro, Professor of Law

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\(^2\) Id.
at the University of Southern California, analyzes the ways in which biomedical technology tests and reshapes constitutional adjudication and its standards of review.

The two articles that follow focus on specific problems that raise constitutional issues. Dena Davis, a professor at the Cleveland-Marshall College of Law, writes about male and female genital alteration and argues that it is constitutionally unacceptable to criminalize all female genital alteration while providing no legal oversight whatsoever for the male equivalent. Finally, Professors Roy Spece and John Marchalonis of the University of Arizona College of Law and College of Medicine, respectively, turn their attention to the Fourth Amendment and assess its applicability to searches of public university professors' offices and seizures of materials stored within them, in the context of scientific misconduct proceedings.

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