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Privacy and Research Involving Humans – *Beth Gaze*
Human research ethics committees in Australia are required to consider compliance with privacy law as an element of the ethics of research. Recent legislation has introduced federal private sector privacy protection, as well as privacy protection at State and Territory levels. In Victoria, which is used as an example in this article, State privacy legislation covers public sector information and health records. This article considers the implications for research involving human participants and for ethics committees of the new privacy regimes. Although privacy law is a potential barrier to research about humans, the need for exceptions has been dealt with effectively in the context of medical or health research. However, privacy law and its chilling effect could potentially be a serious impediment to some forms of non-health-related research, such as social and socio-legal research. 410

Public Health Law in the New Century – *Christopher Reynolds*
Public health law is a broad and sometimes nebulous field which has undergone extensive reform and rethinking over the past decade. This article provides a survey of current issues in public health law, highlighting these reforms and the potential for public health legislation to deal with upcoming threats, notably bioterrorism. While recognising the anxieties bioterrorism brings, public health responses must be grounded in a coherent philosophy of risk management. Its administrators must also be aware that large-scale threats to public health are not unprecedented and that past experience can provide an important guide for future strategies. 435

Authority to Treat: A Comparative Look at the Jurisdiction, Practice and Procedure of the Supreme Court of Victoria, Children's Court of Victoria and Family Court of Australia in Medical Matters – *William J Keough*

The medical treatment of children is a crucial interface of law and medicine. The problems in this emotive area of law are compounded by the current state of the law in Australia which is uncertain and fractured. It is the purpose of this article to examine the jurisdictions of the various courts that stand competent to order that a child undergo medical treatment in circumstances where the child's parents/guardian refuse to provide consent to such treatment. The problems associated with the present system are identified and proposals for the reform of the current system offered. …………………………. .... ……...……………………………..…..442

Disclosing Health Information Breaches of Confidence, Privacy and the Notion of the "Treating Team" – *Moira Paterson and Ea Mulligan*

The authors utilise cases collected during a randomised population survey to illustrate some of the legal and policy issues concerning routine transfers of information between treating practitioners. Their analysis suggests that implied consent for many routine uses of health information should not be assumed. An important part of consent to health information disclosure is the patients' ability to tailor its scope and content. This requires that they should be provided with additional information. Introducing the measures advised into the clinical setting would bring health information-gathering practices closer to compliance with the collection principles contained in Australian information privacy legislation. 460

Implications of Genetic Testing: Discrimination in Life Insurance and Future Directions – *Annie Mould*

This article examines the possibility of genetic discrimination in life insurance and discusses the inability of current Australian legislation to deal adequately with genetic test result information. Genetic information has certain features that distinguish it from other medical information and thus a specialist legislative package is required to regulate its use. This article outlines how current practices in the life insurance industry are inconsistent with notions of human rights. Several legislative options are suggested and examined. Given the negative and damaging impact that adverse selection is likely to have on the life insurance industry should the use of all genetic test results be prohibited, an approach which modifies the current regime is recommended. This includes a comprehensive review scheme and the introduction of additional insurance products tailored to individuals suffering from various genetic illnesses or predispositions to future disease. ……………………………………………………………………………………………...…470

The Attack of the Clones: Patent Law and Stem Cell Research – *Matthew Rimmer*

This article considers the integral role played by patent law in respect of stem cell research. It highlights concerns about commercialisation, access to essential medicines and bioethics. The article maintains that there is a fundamental ambiguity in the *Patents Act 1990* (Cth) as to whether stem cell research is patentable subject matter. There is a need to revise the legislation in light of the establishment of the National Stem Cell Centre and the passing of the *Research Involving Embryos Act 2002* (Cth). The article raises concerns about the strong patent protection secured by the Wisconsin Alumni Research Foundation and Geron Corporation in respect of stem cell research in the United States. It contends that a number of legal reforms could safeguard access to stem cell lines, and resulting drugs and therapies. Finally, this article explores how ethical concerns are addressed within the framework of the European Biotechnology Directive. It examines the decision of the European Patent Office in relation to the so-called "Edinburgh patent", and the inquiry of the European Group on Ethics in Science and New Technologies into "The Ethical Aspects of Patenting Involving Human Stem Cells". ..….……………..……...…..488

The "GeneTrustee": A Universal Identification System That Ensures Privacy and Confidentiality for Human Genetic Databases – *Leslie Burnett, Kris Barlow-Stewart, Anné L Proos and Harry Aizenberg*

This article describes a generic model for access to samples and information in human genetic databases. The model utilises a "GeneTrustee", a third-party intermediary independent of the subjects and of the investigators or database custodians. The GeneTrustee model has been implemented successfully in various community genetics screening programs and has facilitated research access to genetic databases while protecting the privacy and confidentiality of research subjects. The GeneTrustee model could also be applied to various types of non-conventional genetic databases, including neonatal screening Guthrie card collections, and to forensic DNA samples. 506

Cloning and Stem Cell Research: A Critical Overview of the Present Legislative Regime in Australia and the Way Forward – *Melodie Slabbert*

The application of stem cell research in biomedical science has recently sparked debates similar to the calls nearly 25 years ago for a ban involving recombinant DNA. This article critically examines the present legislative framework in Australia governing stem cell research and cloning, after briefly seeking a clear understanding of what these procedures involve, as well as suggesting an ethical paradigm within which these issues can be approached. The deficiencies in the proposed legislative framework are also highlighted. Australia has a duty to future generations to pursue the benefits unlocked by this type of research and it is hoped that the next two years will lead to more insights regarding the potential of such research and hence a revision of the present legal impediments. 514

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