EDITORIAL – Ian Freckelton
Regulation of health practitioners: Grappling with temptations and transgressions
............................................................................................................................... ...401

LEGAL ISSUES – Danuta Mendelson
Abortion and the criminal law .................................................................409

MEDICAL ISSUES – David Ranson
Exclusionary causes of death: Sudden unexpected death in epilepsy........414
Numerical injury assessment scales and scoring systems.......................416

NURSING ISSUES – Kim Forrester
Rendering assistance in an emergency.....................................................421

MEDICAL LAW REPORTER – John Devereux
Exclusion of expert evidence in care proceedings (In matter of FG) ..................426

ARTICLES
The human genome: Lessons for life, love and the law— David Weisbrot
In 2003, the Australian Law Reform Commission and the Australian Health Ethics Committee (of the National Health and Medical Research Council) completed a major inquiry into the Protection of Human Genetic Information, focusing on privacy protection; protection against unlawful discrimination based on genetic status; and the establishment and maintenance of high ethical standards. The joint inquiry considered these matters across a wide range of contexts, with the final report, Essentially Yours, making 144 recommendations in such diverse areas as medical research; clinical genetic services; genetic research databases; employment; insurance; immigration; sport; parentage testing; and law enforcement. This article discusses some of the major themes that emerged in the course of the inquiry and underpinned the broad-based strategy adopted to prepare Australia for the challenges of the “New Genetics”.................................................................428

Survey of methods for the rating of psychiatric impairment in Australia — George Mendelson
One of the enduring clinical issues in the assessment of plaintiffs in personal injury and workers’ compensation claims, as well as applicants for social security and disabiability benefits, is that of the evaluation of impairment and work incapacity. Many writers on this topic confuse the concepts of impairment and disability, and similar confusion is reflected in a number of the rating methods that purport to evaluate impairment but in reality assess disability. In Australia there are 20 distinct statutory schemes for workers’ compensation, motor accident compensation, and social security and other benefits, which utilise a variety of methods for the rating of psychiatric impairment. Recent legislative changes designed to restrict access to personal injury compensation at common law, which in two Australian State jurisdictions require the use of impairment rating scales, also specify the rating methods to be used in the assessment of psychiatric impairment. This article discusses the concepts of impairment and disability as defined by the World Health Organisation, and reviews the various methods for the rating of psychiatric impairment that are specified by statute in the federal and State jurisdictions in Australia.................................................................446
related standard perceive an asymmetry between the level of capacity required for consent to a treatment, and
the level required to competently refuse the treatment, particularly if the probable outcome of refusal is death.
Despite the intuitive appeal of the risk-related standard, its opponents propose that when the risks of treatment or
refusal are high, we should not require a higher standard of capacity, but be scrupulous in ensuring
that a procedural standard is observed. This article considers both standards, from the point of view of the
persons, interests and principles which ethics and the law seek to protect. It argues that a risk-related standard is
incoherent, that a rigorously applied procedural standard will minimise paternalistic medical interventions, and
that this should be reflected in the law. ................................................................. 482

Australian tort law reform: Statutory principles of causation and the common law –
Danuta Mendelson
By mid-2004, Parliaments in each Australian jurisdiction will either complete or will be in the process of partial
codification of the law of torts. The reforms, including those to the law of negligence, are extensive. This article
focuses on codification of the law of causation as an element of the cause of action in negligence. It examines
the background to “tort reform”, as the process has been labelled, and discusses the common law paradigm of
negligence and various approaches to causation. It then analyses and compares the causation provisions in each
jurisdiction. ................................................................. 492

Abortion in Australia: Access versus protest – Rebecca Elizabeth Dean and Susie Allanson
Currently in Australia anti-choice protesters’ right to freedom of speech and freedom to protest is privileged
over a woman’s right to privacy and to access a health service safely, free from harassment, intimidation and
obstruction. This article considers how this situation is played out daily at one Victorian abortion-providing
clinic. The Fertility Control Clinic was thrown into the spotlight after the murder of its security guard by an anti-
choice crusader in July 2001. Australian common law appears not to offer women protection from anti-choice
protesters. By contrast, United States and Canadian “bubble” legislation sits comfortably with key constitutional
rights. It would be a useful development if Australian governments passed legislation to ensure the rights,
wellbeing and safety of Australian women accessing health services. Such legislation would be another step
away from the misogynistic and androcentric values once central to our legislative framework. ..................... 510

BOOK REVIEWS
Women, Medicine, Ethics and the Law, by S Sherwin and B Parish (eds) ......................... 516
Forensic Medicine: Colour Guide, by JAM Gall, SC Boos, JJ Payne-James and EJ Culliford ..... 517
Law and Medical Practice – Rights, Duties, Claims and Defences, by L Skene ..................... 519
Surviving the Extremes: A Doctor’s Journey to the Limits of Human Endurance, by K Kamler... 520

VOLUME 11 – 2003-2004

Table of Authors ................................................................. 525
Table of Editorials, Legal Issues and Medical Issues ......................................................... 527
Table of Nursing Issues, Medical Law Reporter and Books Reviewed ................................ 528
Table of Cases ....................................................................................................................... 529
Table of Statutes ................................................................................................................... 533
Index .................................................................................................................................. 539
Guidelines for Contributors

Submission and licence agreement instructions
All contributions to the journal are welcome and should be sent, with a signed licence agreement, to the Production Editor, Journal of Law and Medicine, Lawbook Co., PO Box 3502, Rozelle, NSW 2039 (mail), 100 Harris St, Pyrmont, NSW 2009 (courier) or by email to jlm@thomson.com.au, for forwarding to the Editor. Licence agreements can be downloaded via the internet at http://www.lawbookco.com.au/authorsupport/d_authorJournals.asp. If you submit your contribution via email, please confirm that you have printed, signed and mailed the licence agreement to the attention of the Production Editor at the mailing address noted above.

Letters to the Editor
By submitting a letter to the editor of this journal for publication, you agree that Thomson Legal & Regulatory Limited, trading as Lawbook Co., may edit and has the right to, and may license third parties to, reproduce in electronic form and communicate the letter.

Manuscript
- Manuscript must be original, unpublished work that has not been submitted for publication elsewhere.
- Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript.
- Manuscript must be submitted electronically via email or on disk in Microsoft Word format.
- Manuscript should not exceed 10,000 words for articles or 2,000 words for section commentary or book reviews. An abstract of 100-150 words is to be submitted with article manuscripts.
- Proof pages will be sent to contributors. Authors are responsible for the accuracy of case names, citations and other references. Excessive changes to the text cannot be accommodated.
- Contributors of articles receive 25 free offprints of their article and a copy of the part in which the article is published. Other contributors receive a copy of the part to which they have contributed.
- All articles submitted to the journal, as well as editorials, are subject to blind peer review and where changes are necessary, referees’ comments are communicated to the authors.

Style
1. Levels of headings should be clearly indicated (no more than four levels).
2. Cases:
   - Case citation follows case name. Where a case is cited in the text, the citation should follow immediately rather than as a footnote. Give at least two and preferably all available citations, the first listed being the authorised reference.
   - Australian citations should appear in the following order: authorised series; Lawbook Co./ATP series; other company series (ie CCH, Butterworths); media neutral citation.
   - “At” references should only refer to the best available citation, eg: Mabo v Queensland [No 2] (1992) 175 CLR 1 at 34; 66 ALJR 408; 107 ALR 1.
   - Where only a media neutral citation is available, “at” references should be to paragraph, eg: YG v Minister for Community Services [2002] NSWCA 247 at [19].
   - For international cases best references only should be included.
3. Legislation should be cited as follows:
   - Trade Practices Act 1974 (Cth), s 51AC. The full citation should be repeated in footnotes.
4. Books should be cited as follows:
   - In footnotes do not use ibid or op cit. The following style is preferred:
     - 5. Austin, n 4, p 56.
5. Journals should be cited as follows:
   - Ogden S, “Police Interrogation: A Decade of Legal Development” (1990) 14 Crim LJ 220. Wherever possible use official abbreviations not the full name for journal titles.
   - In footnotes do not use ibid or op cit. The following style is preferred:
     - 7. Sheehy et al, n 6 at 221.
6. Internet references should be cited as follows:

For further information visit the Lawbook Co. website at http://www.lawbookco.com.au or contact the Production Editor.
SUBSCRIPTION INFORMATION

The Journal of Law and Medicine comprises four parts a year.

Customer Service and sales inquiries:
Tel: 1800 650 522
Fax: 61 2 8587 7200
Web: www.lawbookco.com.au
Email: service@thomson.com.au

Editorial inquiries:
Tel: (02) 8587 7000

HEAD OFFICE
100 Harris Street PYRMONT NSW 2009
Tel: (02) 8587 7000 Fax: (02) 8587 7100

© Thomson Legal & Regulatory Limited ABN 64 058 914 668 trading as Lawbook Co.

ISSN 1320-159X

Typeset by Lawbook Co., Pyrmont, NSW
Printed by Ligare Pty Ltd, Riverwood, NSW