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INTRODUCTION
Under Attack: Reconceptualizing Informed Consent
Valerie Gutmann Koch and Nanette R. Elster

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Informed Consent: Charade or Choice?
George J. Annas
Informed consent has historically been described as critical in theory, but incapable of realization in practice, a superficial charade rather than an autonomous choice. This observation should help inspire us to reform our practice to make sure that informed choice actually upholds patient dignity, promotes rational decision-making, and protects self-determination.

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Certified Patient Decision Aids:
Solving Persistent Problems with Informed Consent Law
Thaddeus Mason Pope
The legal doctrine of informed consent has overwhelmingly failed to assure that the medical treatment patients get is the treatment patients want. This Article describes and defends an ongoing shift toward shared decision making processes incorporating the use of certified patient decision aids.

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Informed Consent as Societal Stewardship
Nadia N. Sawicki
When individual patients’ medical decisions contribute to population-level trends, physicians may struggle with how to promote justice while maintaining respect for patient autonomy. This article argues that this tension might be resolved by using the informed consent conversation as an opportunity to position patients as societal stewards.

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Flying Too Close to the Sun:
Lessons Learned from the Judicial Expansion of the Objective Patient Standard for Informed Consent in Wisconsin
Arthur R. Derse
The Wisconsin Supreme Court, after adopting the doctrine of the objective (reasonable) patient standard, expanded it in bold and innovative ways over nearly four decades, until the Wisconsin legislative and executive branches drastically reversed this course. The saga has implications for other jurisdictions considering adoption or expansion of the objective patient standard doctrine.

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A New Age of Patient Transparency:
An Organizational Framework for Informed Consent
Kenneth Campbell and Kayhan Parsi
With the many changes occurring in today’s healthcare organizations, patients are increasingly equipped with a vast quantity of health care data and being more included in the healthcare decision-making process. The new approach we propose incorporates a new patient-organization framework that examines relevant historical, legal and ethical elements within the doctrine of informed consent in addition to examining the role of new healthcare organizations’ obligations to include data to support addressing issues such as population health, health outcomes and health disparities within the informed consent. There is a growing consensus among healthcare professionals that using an evidence-based organizational informed consent framework to improve the informed consent process can lead to better comprehension, health outcomes, transparency and improved patient trust and retention overall.
a strong but illusory impression of capacity assessment. Hospital attorneys as well as clinical ethicists with a sophisticated understanding of health law can be in the vanguard of this reorientation.

Independent Articles

112 Shouldn’t Dead Be Dead? The Search for a Uniform Definition of Death
Ariane Lewis, Katherine Cahn-Fuller, and Arthur Caplan
In 1968, the definition of death in the United States was expanded to include not just death by cardiopulmonary criteria, but also death by neurologic criteria. We explore the way the definition has been modified by the medical and legal communities over the past 50 years and address the medical, legal and ethical controversies associated with the definition at present, with a particular highlight on the Supreme Court of Nevada Case of Aden Hailu.

129 Research Capacity Strengthening in Low- and Middle-Income Countries: Ethical Explorations
Adnan A. Hyder, Abbas Rattani, and Bridget Pratt
With developed country governments and high resource institutions engaging in research in low- and middle-income countries (LMIC), we argue that these entities have a moral obligation to help build and strengthen research infrastructure and capacity so local scientists and institutions can adequately conduct studies to understand and resolve the health burdens in low and middle income countries. We explore the moral justifications and motivations behind engaging in research capacity strengthening in the health sector in LMIC at multiple levels. In highlighting these issues, this paper aims to initiate a global discourse around why capacity development in LMIC has a moral basis at the individual, institutional and system levels.
Symposium articles are solicited by the guest editor for the purposes of creating a comprehensive and definitive collection of articles on a topic relevant to the study of law, medicine and ethics. Each article is peer reviewed.

Independent articles are essays unrelated to the symposium topic, and can cover a wide variety of subjects within the larger medical and legal ethics fields. These articles are peer reviewed.

Columns are written or edited by leaders in their fields and appear in each issue of JLME.

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Negotiating Commercial Interests in Biospecimens
Jessica L. Roberts
Proposed changes to the Common Rule would require publicly funded researchers to disclose whether a subject's biospecimens could be used for commercial profit and whether the subject will share in those proceeds. Disclosing commercial interests will inform research participants that their tissue may have commercial value, a possibility that those individuals might not have previously considered. The proposed changes may then provide people with an opportunity to negotiate commercial rights in their biospecimens despite the well-accepted legal precedent that individuals maintain no interests in their excised tissue.

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Is There a Particular Ethical Practice and Policy Space in North America for Uncontrolled Kidney Donation after Circulatory Death?
Jeffrey Kirby
Despite successful transplantation outcomes in Europe, uncontrolled organ donation after circulatory determination of death (uDCDD) has essentially been a non-starter in North America. In this paper, I identify and explore a set of interesting, ethics-related considerations that are of relevance to this organ donation-transplantation practice. The analysis provides a theoretical platform for my development of a proposal for the creation of a particular ethical practice and policy space for kidney uDCDD in the U.S. and Canada that recognizes and aims to effectively address the various, identified challenges and constraints.

Columns

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Compelled Disclosures of Health Records: Updated Estimates
Mark A. Rothstein and Meghan K. Talbott

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PUBLIC AND THE HEALTH LAW
Public Health “Preemption Plus”
James G. Hodge, Jr., Alicia Corbett, Kim Weidenaar, and Sarah A. Wetter

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