LAW & MEDICINE

Volume 43, Number 1 • 2017

BOARD OF EDITORS

Faculty Advisors

Kevin Outterson, J.D., LL.M. Kathryn Zeiler, M.S., J.D., Ph.D. Boston University School of Law

Faculty Editor-in-Chief Emeritus

Frances H. Miller, J.D.

Boston University School of Law

Editor

Edward J. Hutchinson

American Society of Law,

Medicine & Ethics

Founding Editor

John A. Norris, J.D., M.B.A. *Health Discovery Corp.*

EDITORS

Gail B. Agrawal, J.D., M.P.H. University of Iowa College of Law

Michael Baram, J.D.
Boston University School of Law

Charles H. Baron, LL.B., Ph.D. Boston College Law School

Jay A. Gold, M.D., J.D., M.P.H. MetaStar Inc., Madison

 $\begin{array}{c} {\rm Ernest~M.~Haddad,\,J.D.} \\ {\it Boston~University~School~of~Law} \end{array}$

Clark C. Havighurst, J.D. Duke University School of Law

Nathan Hershey, LL.B. University of Pittsburgh Graduate School of Public Health (Retired)

David A. Hyman, M.D., J.D.
University of Illinois College of Law

Sheila Jasanoff, J.D., Ph.D. Harvard University Kennedy School of Government

Timothy S. Jost, J.D. Washington and Lee University School of Law

Stephen Latham, J.D., Ph.D. Yale University Interdisciplinary Center for Bioethics

Silvia A. Law, J.D. New York University School of Law David T. Morris, J.D., M.B.A. *AbbVie, Chicago*

Joseph P. Newhouse, Ph.D. Harvard University

Irwin N. Perr, M.D., J.D.
University of Washington School of Medicine

Harvey E. Pies, J.D., M.P.H. Blue Cross and Blue Shield of Florida

> Arti K. Rai, J.D. Duke University Law School

Philip R. Reilly, M.D., J.D. Third Rock Ventures, LLC

Marc A. Rodwin, J.D., Ph.D. Suffolk University Law School

Mark A. Rothstein, J.D.
University of Louisville School of Medicine
Institute for Bioethics, Health Policy and Law

David S. Szabo, J.D. $Locke\ Lord$

Linda V. Tiano, J.D. Epstein Becker & Green

 $\begin{array}{c} {\rm Sidney\ D.\ Watson,\ J.D.} \\ {\it Saint\ Louis\ University\ School\ of\ Law} \end{array}$

LAW & MEDICINE

INTERNATIONAL BOARD OF EDITORS

Koichi Bai

Director, Institute of Medical Humanities Kitasato University School of Medicine Japan

Erwin Deutsch

Faulty of Law University of Göttingen GERMANY

Bernard M. Dickens, Ph.D., LL.D.

Faculties of Law and Medicine
University of Toronto
CANADA

Honorable Justice Michael D. Kirby

President, Court of Appeal
Supreme Court of New South Wales
Australia

M.A.M. de Wachter

Director, Institute of Bioethics
The Netherlands

Christopher Newdick

Reader in Health Law University of Reading United Kingdom

Amos Shapira

Faculty of Law Tel Aviv University ISRAEL

Peter D.G. Skegg

Faculty of Law
University of Otago
New Zealand

LAW & MEDICINE

STUDENT BOARD OF EDITORS 2016-2017

Editor-in-Chief

Maryanne I. Tomazicc

Executive Editor

Shea Miller

Managing Editors

Justin Cacciatore Natalie Rowles Megan Smith-Mady

Projects EditorAdministrative EditorSymposium EditorsLewis OstermanMalavika LoboGabriella Andriulli
Casey Baines

Articles Editors

Note Editors

Yelena Greenberg Kristen Rogerson Adria Bonillas Beatriz C. Menéndez Sigourney LaBarre Lauren Rubin Stephanie Calnan Julie Pearlman Oliver Mavor-Parker Caitlin Zeytoonian

Third-Year Editor

Chelsie Vokes

Staff Members

Monica Chou Nicholaas H.P. Honig Carmen Riethman Eric Dunbar Brian Howell Christian W. Saucedo Vlada Feldman Melissa Kraus Jessica A. Scarbrough William H. Frederick Rima Mahmoud Sana Shakir Cecilie Gromada Catherine Mullaley Jordan Shelton Arianna Guardiola Andrea-Gale Okoro Nicholas Stone Kristyn L. Hansen Michael Onah Jonathan Traub Arielle Heinke Natasha Pereira Ong Vincent Uy Kathleen Henry Amar J. Patel Aaron I. Wiener Samantha Hirsch Eugenie Reich Christina Zandri

LAW & MEDICINE

Volume 43, Number 1 • 2017

ARTICLES

- 7 This Article Makes You Smarter! (Or, Regulating Health and Wellness Claims) Sarah Duranske
- **57** The End of Jacobson's Spread: Five Arguments Why an Anti-Intoxicant Vaccine Mandate Would be Unconstitutional *Kellen Russoniello*
- **They Chose . . . Poorly:** A Novel Cause of Action to Discourage Detrimental Genetic Selection *Sarah Weinberger*, *Sharon Nakar*, ℰ *Dov Greenbaum*

NOTES AND RECENT CASE DEVELOPMENTS

- **139 Celebrity Drug Endorsements:** Are Consumers Sufficiently Protected? *Megan Smith-Mady*
- 161 Recent Case Developments