

HEALTH CARE ETHICS AND THE LAW

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T.L. Beauchamp & J.F. Childress, *Principles of Biomedical Ethics*, 4th ed. (New York: Oxford University Press, 1994) at 44-119..... 1-1

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"Preconception Arrangements" *Proceed With Care*, Final Report of the Royal Commission on New Reproductive Technologies (1993) Volume 2, pp. 661-693..... 2-1

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Ontario Birth Registration number 88-05-045846 (Re), [1990] O.J. No. 608 (Ont. Prov. Ct. Fam. Ct.) (QL).

Fink (Re), [1994] B.C.J. No. 485 (B.C. Prov.Crt.) (QL).

Bill C-13, *An Act respecting assisted human reproduction*, 2nd. Sess., 37th Parl., 2002, (as first read on the 9 October 2002).

Endnotes for M. Martin *et al.*, "The Limits of Reproductive Freedom of Contract: The Commercialization of Reproductive Materials and services" in *Overview of Legal Issues in New Reproductive Technologies* Research Studies, Royal Commission on Reproductive Technologies (1993) Vol.3.

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- "Judicial Intervention in Pregnancy and Birth", *Proceed With Care*, Final Report of the Royal Commission on New Reproductive Technologies (1993) Volume 2, pp. 949-965.....3-15
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Winnipeg Child and Family Services v. G.(D.F.) [1997] S.C.J. No. 96, online: QL (SCC).

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Kathleen Cranley Glass & Trudo Lemmens, “Research involving Humans” in Jocelyn Downie, Timothy Caulfield & Colleen Flood, eds., *Canadian Health Law and Policy*, 2nd ed. (Toronto: Butterworths, 2002) 458.

Halushka v. University of Saskatchewan et al. (1965), 55 W.W.R. 608 (Sask. C.A.).

Coughlin v. Kuntz (1987), 17 B.C.L.R. (2d) 365 (B.C.S.C.).

Zimmer v. Ringrose (1981), 124 D.L.R. (3d) 215 (Alta. C.A.).

“Ground Zero: AIDS Research in Africa” (2000) 288 *Science* 2150-2178.

TriCouncil Policy Statement on Ethical Conduct for Research Involving Humans (Ottawa: Public Works and Government Services Canada, 1998).

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F. Baylis, “Three Mistakes and an Alternative” (2002) 27:3 *Journal of Medicine and Philosophy* 319.

F. Baylis, “Betwixt and between Human Stem cell Guidelines and Legislation” (2002) 11:1 *Health Law Review* 44.

Soren Holm, “Going to the Roots of the Stem Cell Controversy” (2002) 16:6 *Bioethics* 493.

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Source Informatics v. Department of Health, [1999] E.W.J. No. 2765 (H.C.J.Q.B.Div.U.K.) (QL).

Source Informatics Ltd., Re, [1999] E.W.J. No. 6880 (C.A. Civ. Div. U.K.) (QL).

Don E. Detmer, “Your privacy or your health –will medical privacy stop quality health care?” (2000) 12:1 *International Journal for Quality in Health Care* 1.

Elaine Gibson, “Is there a Privacy Interest in Anonymised Personal Health Information?” Forthcoming, *Health Law Journal* 2003.

Chapter 7. PUBLIC HEALTH: Challenges from SARS

University of Toronto Joint Centre for Bioethics, “Learning Lessons from the Toronto Experience,” online: The University of Toronto Joint Centre for Bioethics <http://www.utoronto.ca/jcb/SARS_workingpaper.asp>.

Apoorva Mandavilli, “SARS epidemic unmasks age old quarantine conundrum” *Nature Medicine* 9:5 (May 2003) 487.

Jonathan Watts, “China takes drastic action over SARS threat” *Lancet* 361: 9370 (17 May 2003) 1708.

Lawrence Gostin & Jonathan Mann, “Toward the Development of a Human Rights Impact Assessment for the Formulation and Evaluation of Public Health Policies” in Jonathan Mann et al., *Health and Human Rights* (New York: Routledge, 1999) 54.

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N Levy, “Deafness, culture and choice” (2002) 28 *Journal of Medical Ethics* 284-285.

KW Anstey, “Are attempts to have impaired children justifiable?” (2002) 28 *Journal of Medical Ethics* 286-288.

Ruth Chadwick and Mairi Levitt, “Genetic technology: A threat to deafness” (1998) 1 *Medicine, Healthcare and Philosophy* 209.

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Leonard J. Weber, “In Vitro Fertilization and the Just Use of Health Care Resources” in James M. Humber & Robert F. Almeder, eds., *Reproduction, technology, and rights* (Totowa, N.J.: Humana Press, 1996) 75.

Cameron and Smith v. Nova Scotia (Attorney General) [1999] N.S.J. No. 297 (C.A.), online: QL (NSJ)

D.R. and L.R., B.C. and L.A.C., B.L. and R.F., L.E. and M.E., J.H. and K.H. v. The General Manager, The Ontario Health Insurance Plan and Ontario (Attorney General) (29 January 1999), (Health Services Appeal Board) File no: 5472, 5491, 5932, 5937, 5948 *et al.*

Materials on Reserve

Eldridge v. British Columbia (Attorney General), [1997] 3 S.C.R. 624 (QL).

Cameron v. Nova Scotia (Attorney General), [1999] N.S.J No.33 (N.S.S.C.) (QL).

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A. Browne "Assisted Suicide and Active Voluntary Euthanasia" (1989) 2 *Canadian Journal of Law and Jurisprudence* 35..... 11-14

Senate of Canada, *Of Life and Death: Report of the Special Senate Committee on Euthanasia and Assisted Suicide* June (1995) at 54-63, 69-72, 74, 77-82, 84-89.....11-26

Materials on Reserve

R. v. Latimer (1995), 126 D.L.R. (4th) 203 (Sask. C.A.).

R. v. Latimer [1998] S.J. No. 731 (C.A.), online: QL (SJ).

R. v. Latimer, [2001] 1 S.C.R. 3 (QL).

R. v. Morrison [1998] N.S.J. No. 75 (Prov. Ct.), online: QL (NSJ).

R. v. Morrison [1998] N.S.J. No. 441 (S.C.), online: QL (NSJ).

Rodriguez v. British Columbia (Attorney General), [1993] 3 S.C.R. 519 (QL).

Chapter 12. CONJOINED TWINS: The Ethics of Separation

A (Children), Re [Siamese Twins Decision], [2000] E.W.J. No. 4875 (C.A. Civ. Div. U.K.) (QL) [edited].

Barbara Hewson, “Killing Off Mary: Was the Court of Appeal Right?” (Autumn 2001) 9 *Medical Law Review* 281.

“Was it ethical even to try?” *Toronto Star* (11 July 2003), online: *Toronto Star* <<http://www.thestar.com>>.

Materials on Reserve

A (Children), Re [Siamese Twins Decision], [2000] E.W.J. No. 4875 (C.A. Civ. Div. U.K.) (QL) [full].