IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PLANNED PARENTHOOD OF THE HEARTLAND, Plaintiff, v. DAVE HEINEMAN, Governor of Nebraska, in his official capacity; JON BRUNING, Attorney General of Nebraska; in his official capacity; KERRY WINTERER, Chief Executive Officer, and DR. JOANN SCHAEFER, Director of the Division of Public Health, Nebraska Department of Health and Human Services, in their official capacities; and CRYSTAL HIGGINS, President, Nebraska Board of Nursing, and BRENDA BERGMAN-EVANS, President, Nebraska Board of Advanced Practice Registered Nurses, in their official capacities; Defendants.	)	Case No. 4:10-cv-3122

INDEX OF EVIDENCE IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER

In support of Plaintiff's Motion for Preliminary Injunction and Temporary Restraining Order, Plaintiff submits the following evidence:

Exhibit 1 – Legislative Bill 594 ("Act")

Exhibit 2 – Declaration of Penelope A. Dickey

Exhibit 3 – Declaration of Paul S. Appelbaum, M.D.

Exhibit 4 – Declaration of Darla Eisenhauer, M.D.

Exhibit 5 – Declaration of Kelly Blanchard

Exhibit 6 – Declaration of Jill L. Meadows, M.D.

Dated: June 28, 2010

BY: PLANNED PARENTHOOD OF THE HEARTLAND, Plaintiff

BY: __/s/ Andrea D. Snowden_____

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*Application for admission *pro hac vice* pending

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OF COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

I, Andrea D. Snowden, am one of the attorneys of record for Plaintiff and hereby certify that on the 28th day of June, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and hand delivered a copy to the following:

Dave Heineman, Governor of Nebraska
c/o Jon Bruning, Attorney General
2115 State Capitol
Lincoln, NE 68509

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BY: /s/ Andrea D. Snowden
Andrea D. Snowden,# 21784

Exhibit 1

LEGISLATIVE BILL 594

Approved by the Governor April 13, 2010

Introduced by Dierks, 40; McCoy, 39; Pirsch, 4.

FOR AN ACT relating to abortion; to amend sections 28-325, 28-340, and 38-2021, Reissue Revised Statutes of Nebraska, and sections 28-101, 28-326, 28-327, 28-327.01, 28-327.03, and 28-327.04, Revised Statutes Supplement, 2009; to state and restate legislative findings and declarations; to define and redefine terms; to change provisions relating to voluntary and informed consent to an abortion; to prohibit waivers, provide additional remedies, provide requirements for certain civil actions, provide burdens of proof, provide for tolling statute of limitations, and restrict applicability to criminal and disciplinary actions; to require information regarding certain service agencies to be made available on the Internet; to harmonize provisions; to provide severability; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-101, Revised Statutes Supplement, 2009, is amended to read:

28-101 Sections 28-101 to 28-1356 and sections 5 to 11 of this act shall be known and may be cited as the Nebraska Criminal Code.

Sec. 2. Section 28-325, Reissue Revised Statutes of Nebraska, is amended to read:

28-325 The Legislature hereby finds and declares:

(1) That the following provisions were motivated by the legislative intrusion of the United States Supreme Court by virtue of its decision removing the protection afforded the unborn. Sections 28-325 to 28-345 and sections 5 to 11 of this act are in no way to be construed as legislatively encouraging abortions at any stage of unborn human development, but are rather an expression of the will of the people of the State of Nebraska and the members of the Legislature to provide protection for the life of the unborn child whenever possible;

(2) That the members of the Legislature expressly deplore the destruction of the unborn human lives which has and will occur in Nebraska as a consequence of the United States Supreme Court's decision on abortion of January 22, 1973;

(3) That it is in the interest of the people of the State of Nebraska that every precaution be taken to insure the protection of every viable unborn child being aborted, and every precaution be taken to provide life-supportive procedures to insure the unborn child its continued life after its abortion;

(4) That currently this state is prevented from providing adequate legal remedies to protect the life, health, and welfare of pregnant women and unborn human life; ~~and~~

(5) That it is in the interest of the people of the State of Nebraska to maintain accurate statistical data to aid in providing proper maternal health regulations and education; ~~.~~

(6) That the existing standard of care for preabortion screening and counseling is not always adequate to protect the health needs of women;

(7) That clarifying the minimum standard of care for preabortion screening and counseling in statute is a practical means of protecting the well-being of women and may better ensure that abortion doctors are sufficiently aware of each patient's risk profile so they may give each patient a well-informed medical opinion regarding her unique case; and

(8) That providing right to redress against nonphysicians who perform illegal abortions or encourage self-abortions is an important means of protecting women's health.

Sec. 3. Section 28-326, Revised Statutes Supplement, 2009, is amended to read:

28-326 For purposes of sections 28-325 to 28-345 and sections 5 to 11 of this act, unless the context otherwise requires:

(1) Abortion means the use or prescription of any instrument, medicine, drug, or other substance or device intentionally to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child, and which causes the premature termination of the pregnancy;

(2) Complications associated with abortion means any adverse

physical, psychological, or emotional reaction that is reported in a peer-reviewed journal to be statistically associated with abortion such that there is less than a five percent probability (P < .05) that the result is due to chance;

(3) Conception means the fecundation of the ovum by the spermatozoa;

(4) Emergency situation means that condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial impairment of a major bodily function;

~~(2)~~ (5) Hospital means those institutions licensed by the Department of Health and Human Services pursuant to the Health Care Facility Licensure Act;

(6) Negligible risk means a risk that a reasonable person would consider to be immaterial to a decision to undergo an elective medical procedure;

(7) Partial-birth abortion means an abortion procedure in which the person performing the abortion partially delivers vaginally a living unborn child before killing the unborn child and completing the delivery. For purposes of this subdivision, the term partially delivers vaginally a living unborn child before killing the unborn child means deliberately and intentionally delivering into the vagina a living unborn child, or a substantial portion thereof, for the purpose of performing a procedure that the person performing such procedure knows will kill the unborn child and does kill the unborn child;

~~(3)~~ (8) Physician means any person licensed to practice medicine in this state as provided in the Uniform Credentialing Act;

~~(4)~~ (9) Pregnant means that condition of a woman who has unborn human life within her as the result of conception;

~~(5) Conception means the fecundation of the ovum by the spermatozoa;~~

(10) Probable gestational age of the unborn child means what will with reasonable probability, in the judgment of the physician, be the gestational age of the unborn child at the time the abortion is planned to be performed;

(11) Risk factor associated with abortion means any factor, including any physical, psychological, emotional, demographic, or situational factor, for which there is a statistical association with one or more complications associated with abortion such that there is less than a five percent probability (P < .05) that such statistical association is due to chance. Such information on risk factors shall have been published in any peer-reviewed journals indexed by the United States National Library of Medicine's search services (PubMed or MEDLINE) or in any journal included in the Thomson Reuters Scientific Master Journal List not less than twelve months prior to the day preabortion screening was provided;

(12) Self-induced abortion means any abortion or menstrual extraction attempted or completed by a pregnant woman on her own body;

(13) Ultrasound means the use of ultrasonic waves for diagnostic or therapeutic purposes, specifically to monitor an unborn child;

~~(6)~~ (14) Viability means that stage of human development when the unborn child is potentially able to live more than merely momentarily outside the womb of the mother by natural or artificial means; and

~~(7) Emergency situation means that condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial impairment of a major bodily function;~~

~~(8) Probable gestational age of the unborn child means what will with reasonable probability, in the judgment of the physician, be the gestational age of the unborn child at the time the abortion is planned to be performed;~~

~~(9) Partial-birth abortion means an abortion procedure in which the person performing the abortion partially delivers vaginally a living unborn child before killing the unborn child and completing the delivery. For purposes of this subdivision, the term partially delivers vaginally a living unborn child before killing the unborn child means deliberately and intentionally delivering into the vagina a living unborn child, or a substantial portion thereof, for the purpose of performing a procedure that the person performing such procedure knows will kill the unborn child and does kill the unborn child;~~

~~(10)~~ (15) Woman means any female human being whether or not she has reached the age of majority.~~;~~ ~~and~~

~~(11) Ultrasound means the use of ultrasonic waves for diagnostic or~~

~~therapeutic purposes, specifically to monitor an unborn child.~~

Sec. 4. Section 28-327, Revised Statutes Supplement, 2009, is amended to read:

28-327 No abortion shall be performed except with the voluntary and informed consent of the woman upon whom the abortion is to be performed. Except in the case of an emergency situation, consent to an abortion is voluntary and informed only if:

(1) The woman is told the following by the physician who is to perform the abortion, by the referring physician, or by a physician assistant or registered nurse licensed under the Uniform Credentialing Act who is an agent of either physician, at least twenty-four hours before the abortion:

(a) The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, perforated uterus, danger to subsequent pregnancies, and infertility;

(b) The probable gestational age of the unborn child at the time the abortion is to be performed;

(c) The medical risks associated with carrying her child to term; and

(d) That she cannot be forced or required by anyone to have an abortion and is free to withhold or withdraw her consent for an abortion.

The person providing the information specified in this subdivision to the person upon whom the abortion is to be performed shall be deemed qualified to so advise and provide such information only if, at a minimum, he or she has had training in each of the following subjects: Sexual and reproductive health; abortion technology; contraceptive technology; short-term counseling skills; community resources and referral; and informed consent. The physician or the physician's agent may provide this information by telephone without conducting a physical examination or tests of the patient, in which case the information required to be supplied may be based on facts supplied by the patient and whatever other relevant information is reasonably available to the physician or the physician's agent;

(2) The woman is informed by telephone or in person, by the physician who is to perform the abortion, by the referring physician, or by an agent of either physician, at least twenty-four hours before the abortion:

(a) The name of the physician who will perform the abortion;

(b) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(c) That the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion;

(d) That she has the right to review the printed materials described in section 28-327.01. The physician or his or her agent shall orally inform the woman that the materials have been provided by the Department of Health and Human Services and that they describe the unborn child and list agencies which offer alternatives to abortion. If the woman chooses to review the materials, they shall either be given to her at least twenty-four hours before the abortion or mailed to her at least seventy-two hours before the abortion by certified mail, restricted delivery to addressee, which means the postal employee can only deliver the mail to the addressee. The physician and his or her agent may disassociate themselves from the materials and may comment or refrain from commenting on them as they choose; and

(e) That she has the right to request a comprehensive list, compiled by the Department of Health and Human Services, of health care providers, facilities, and clinics that offer to have ultrasounds performed by a person at least as qualified as a registered nurse licensed under the Uniform Credentialing Act, including and specifying those that offer to perform such ultrasounds free of charge. The list shall be arranged geographically and shall include the name, address, hours of operation, and telephone number of each entity. If requested by the woman, the physician who is to perform the abortion, the referring physician, or his or her agent shall provide such a list as compiled by the department;

(3) If an ultrasound is used prior to the performance of an abortion, the physician who is to perform the abortion, the referring physician, or a physician assistant or registered nurse licensed under the Uniform Credentialing Act who is an agent of either physician, or any qualified agent of either physician, shall:

(a) Perform an ultrasound of the woman's unborn child of a quality consistent with standard medical practice in the community at least one hour prior to the performance of the abortion;

(b) Simultaneously display the ultrasound images so that the woman may choose to view the ultrasound images or not view the ultrasound images. The woman shall be informed that the ultrasound images will be displayed so

that she is able to view them. Nothing in this subdivision shall be construed to require the woman to view the displayed ultrasound images; and

(c) If the woman requests information about the displayed ultrasound image, her questions shall be answered. If she requests a detailed, simultaneous, medical description of the ultrasound image, one shall be provided that includes the dimensions of the unborn child, the presence of cardiac activity, if present and viewable, and the presence of external members and internal organs, if present and viewable;

(4) At least one hour prior to the performance of an abortion, a physician, psychiatrist, psychologist, mental health practitioner, physician assistant, registered nurse, or social worker licensed under the Uniform Credentialing Act has:

(a) Evaluated the pregnant woman to identify if the pregnant woman had the perception of feeling pressured or coerced into seeking or consenting to an abortion;

(b) Evaluated the pregnant woman to identify the presence of any risk factors associated with abortion;

(c) Informed the pregnant woman and the physician who is to perform the abortion of the results of the evaluation in writing. The written evaluation shall include, at a minimum, a checklist identifying both the positive and negative results of the evaluation for each risk factor associated with abortion and both the licensed person's written certification and the woman's written certification that the pregnant woman was informed of the risk factors associated with abortion as discussed; and

(d) Retained a copy of the written evaluation results in the pregnant woman's permanent record;

(5) If any risk factors associated with abortion were identified, the pregnant woman was informed of the following in such manner and detail that a reasonable person would consider material to a decision of undergoing an elective medical procedure:

(a) Each complication associated with each identified risk factor; and

(b) Any quantifiable risk rates whenever such relevant data exists;

(6) The physician performing the abortion has formed a reasonable medical judgment, documented in the permanent record, that:

(a) The preponderance of statistically validated medical studies demonstrates that the physical, psychological, and familial risks associated with abortion for patients with risk factors similar to the patient's risk factors are negligible risks;

(b) Continuance of the pregnancy would involve risk of injury to the physical or mental health of the pregnant woman greater than if the pregnancy were terminated by induced abortion; or

(c) Continuance of the pregnancy would involve less risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated by an induced abortion;

~~(4)~~ (7) The woman certifies in writing, prior to the abortion, that:

(a) The information described in subdivisions (1) and (2)(a), (b), and (c) of this section has been furnished her;

(b) She has been informed of her right to review the information referred to in subdivision (2)(d) of this section; and

(c) The requirements of subdivision (3) of this section have been performed if an ultrasound is performed prior to the performance of the abortion; and

~~(5)~~ (8) Prior to the performance of the abortion, the physician who is to perform the abortion or his or her agent receives a copy of the written certification prescribed by subdivision ~~(4)~~ (7) of this section. The physician or his or her agent shall retain a copy of the signed certification form in the woman's medical record.

Sec. 5. Any waiver of the evaluations and notices provided for in subdivision (4) of section 28-327 is void and unenforceable.

Sec. 6. In addition to whatever remedies are available under the common or statutory laws of this state, the intentional, knowing, or negligent failure to comply with the requirements of section 28-327 shall provide a basis for the following damages:

(1) The award of reasonable costs and attorney's fees; and

(2) A recovery for the pregnant woman for the wrongful death of her unborn child under section 30-809 upon proving by a preponderance of evidence that the physician knew or should have known that the pregnant woman's consent was either not fully informed or not fully voluntary pursuant to section 28-327.

Sec. 7. Any action for civil remedies based on a failure to comply with the requirements of section 28-327 shall be commenced in accordance with

section 25-222 or 44-2828.

Sec. 8. If a physician performed an abortion on a pregnant woman who is a minor without providing the information required in section 28-327 to the pregnant woman's parent or legal guardian, then the physician bears the burden of proving that the pregnant woman was capable of independently evaluating the information given to her.

Sec. 9. Except in the case of an emergency situation, if a pregnant woman is provided with the information required by section 28-327 less than twenty-four hours before her scheduled abortion, the physician shall bear the burden of proving that the pregnant woman had sufficient reflection time, given her age, maturity, emotional state, and mental capacity, to comprehend and consider such information.

Sec. 10. In a civil action involving section 28-327, the following shall apply:

(1) In determining the liability of the physician and the validity of the consent of a pregnant woman, the failure to comply with the requirements of section 28-327 shall create a rebuttable presumption that the pregnant woman would not have undergone the recommended abortion had section 28-327 been complied with by the physician;

(2) The absence of physical injury shall not preclude an award of noneconomic damages including pain, suffering, inconvenience, mental suffering, emotional distress, psychological trauma, loss of society or companionship, loss of consortium, injury to reputation, or humiliation associated with the abortion;

(3) The fact that a physician does not perform elective abortions or has not performed elective abortions in the past shall not automatically disqualify such physician from being an expert witness. A licensed obstetrician or family practitioner who regularly assists pregnant women in resolving medical matters related to pregnancy may be qualified to testify as an expert on the screening, counseling, management, and treatment of pregnancies;

(4) Any physician advertising services in this state shall be deemed to be transacting business in this state pursuant to section 25-536 and shall be subject to the provisions of section 28-327;

(5) It shall be an affirmative defense to an allegation of inadequate disclosure under the requirements of section 28-327 that the defendant omitted the contested information because statistically validated surveys of the general population of women of reproductive age, conducted within the three years before or after the contested abortion, demonstrate that less than five percent of women would consider the contested information to be relevant to an abortion decision; and

(6) In addition to the other remedies available under the common or statutory law of this state, a woman or her survivors shall have a cause of action for reckless endangerment against any person, other than a physician or pharmacist licensed under the Uniform Credentialing Act, who attempts or completes an abortion on the pregnant woman or aids or abets the commission of a self-induced abortion. Proof of injury shall not be required to recover an award, including reasonable costs and attorney's fees, for wrongful death under this subdivision.

Sec. 11. (1) In the event that any portion of section 28-327 is enjoined and subsequently upheld, the statute of limitations for filing a civil suit under section 28-327 shall be tolled during the period for which the injunction is pending and for two years thereafter.

(2) Nothing in section 28-327 shall be construed as defining a standard of care for any medical procedure other than an induced abortion.

(3) A violation of subdivision (4), (5), or (6) of section 28-327 shall not provide grounds for any criminal action or disciplinary action against or revocation of a license to practice medicine and surgery pursuant to the Uniform Credentialing Act.

Sec. 12. Section 28-327.01, Revised Statutes Supplement, 2009, is amended to read:

28-327.01 (1) The Department of Health and Human Services shall cause to be published the following easily comprehensible printed materials:

(a) Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies and agencies and services for prevention of unintended pregnancies, which materials shall include a comprehensive list of the agencies available, a description of the services they offer, and a description of the manner, including telephone numbers and addresses in which such agencies may be contacted or printed materials including a toll-free, twenty-four-hour-a-day telephone number which may be called to orally obtain

such a list and description of agencies in the locality of the caller and of the services they offer;

(b) Materials designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time when a woman can be known to be pregnant to full term, including pictures or drawings representing the development of unborn children at the two-week gestational increments, and any relevant information on the possibility of the unborn child's survival. Any such pictures or drawings shall contain the dimensions of the unborn child and shall be realistic and appropriate for the stage of pregnancy depicted. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The materials shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each such procedure, the possible detrimental psychological effects of abortion, the medical risks commonly associated with abortion, and the medical risks commonly associated with carrying a child to term; and

(c) A comprehensive list of health care providers, facilities, and clinics that offer to have ultrasounds performed by a person at least as qualified as a registered nurse licensed under the Uniform Credentialing Act, including and specifying those that offer to perform such ultrasounds free of charge. The list shall be arranged geographically and shall include the name, address, hours of operation, and telephone number of each entity.

(2) The printed materials shall be printed in a typeface large enough to be clearly legible.

(3) The printed materials required under this section shall be available from the department upon the request by any person, facility, or hospital for an amount equal to the cost incurred by the department to publish the materials.

(4) The Department of Health and Human Services shall make available on its Internet web site a printable publication of geographically indexed materials designed to inform the woman of public and private agencies with services available to assist a woman with mental health concerns, following a risk factor evaluation. Such services shall include, but not be limited to, outpatient and crisis intervention services and crisis hotlines. The materials shall include a comprehensive list of the agencies available, a description of the services offered, and a description of the manner in which such agencies may be contacted, including addresses and telephone numbers of such agencies, as well as a toll-free, twenty-four-hour-a-day telephone number to be provided by the department which may be called to orally obtain the names of the agencies and the services they provide in the locality of the woman. The department shall update the publication as necessary.

Sec. 13. Section 28-327.03, Revised Statutes Supplement, 2009, is amended to read:

28-327.03 No civil liability for failure to comply with subdivision (2)(d) of section 28-327 or that portion of subdivision ~~(4)~~ (7) of such section requiring a written certification that the woman has been informed of her right to review the information referred to in subdivision (2)(d) of such section may be imposed unless the Department of Health and Human Services has published and made available the printed materials at the time the physician or his or her agent is required to inform the woman of her right to review them.

Sec. 14. Section 28-327.04, Revised Statutes Supplement, 2009, is amended to read:

28-327.04 Any person upon whom an abortion has been performed or attempted in violation of section 28-327 or the parent or guardian of a minor upon whom an abortion has been performed or attempted in violation of such section shall have a right to maintain a civil cause of action against the person who performed the abortion or attempted to perform the abortion. A violation of ~~such section~~ subdivision (1), (2), (3), (7), or (8) of section 28-327 shall be prima facie evidence of professional negligence. The written ~~certification prescribed by subdivision (4)~~ certifications prescribed by subdivisions (4) and (7) of section 28-327 signed by the person upon whom an abortion has been performed or attempted shall constitute and create a rebuttable presumption of full compliance with all provisions of section 28-327 in favor of the physician who performed or attempted to perform the abortion, the referring physician, or the agent of either physician. The written certification shall be admissible as evidence in the cause of action for professional negligence or in any criminal action. If judgment is rendered in favor of the plaintiff in any such action, the court shall also render judgment for a reasonable attorney's fee in favor of the plaintiff against the

defendant.

Sec. 15. Section 28-340, Reissue Revised Statutes of Nebraska, is amended to read:

28-340 Any person whose employment or position has been in any way altered, impaired, or terminated in violation of sections 28-325 to 28-345 and sections 5 to 11 of this act may sue in the district court for all consequential damages, lost wages, reasonable attorney's fees incurred, and the cost of litigation.

Sec. 16. Section 38-2021, Reissue Revised Statutes of Nebraska, is amended to read:

38-2021 Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of medicine and surgery or the ethics of the profession, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to:

(1) Performance by a physician of an abortion as defined in subdivision (1) of section 28-326 under circumstances when he or she will not be available for a period of at least forty-eight hours for postoperative care unless such postoperative care is delegated to and accepted by another physician;

(2) Performing an abortion upon a minor without having satisfied the notice requirements of sections 71-6901 to 71-6908; and

(3) The intentional and knowing performance of a partial-birth abortion as defined in subdivision ~~(9)~~ (7) of section 28-326, unless such procedure is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

Sec. 17. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 18. Original sections 28-325, 28-340, and 38-2021, Reissue Revised Statutes of Nebraska, and sections 28-101, 28-326, 28-327, 28-327.01, 28-327.03, and 28-327.04, Revised Statutes Supplement, 2009, are repealed.

Exhibit 2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PLANNED PARENTHOOD OF THE HEARTLAND, Plaintiff, v. DAVE HEINEMAN, Governor of Nebraska, in his official capacity; JON BRUNING, Attorney General of Nebraska; in his official capacity; KERRY WINTERER, Chief Executive Officer, and DR. JOANN SCHAEFER, Director of the Division of Public Health, Nebraska Department of Health and Human Services, in their official capacities; and CRYSTAL HIGGINS, President, Nebraska Board of Nursing, and BRENDA BERGMAN-EVANS, President, Nebraska Board of Advanced Practice Registered Nurses, in their official capacities; Defendants.	)	Case No. _____

DECLARATION OF PENELOPE A. DICKEY

PENELOPE A. DICKEY declares and states as follows:

1. I am over 18 years of age and competent to make this declaration.

2. I am a registered nurse. I am presently the Chief Operating Office ("COO") of Planned Parenthood of the Heartland, Inc. ("Planned Parenthood"). I submit this declaration in support of Plaintiffs' Motion for Preliminary Injunction and Temporary Restraining Order preventing LB 594 from taking effect.

3. Planned Parenthood fears that, absent immediate injunctive relief from this Court, Planned Parenthood and its staff will be subject to severe penalties, including potentially endless and highly burdensome civil lawsuits, suspension or revocation of our health care facility license, suspension or revocation of our medical staff's professional licenses, and financial harm.

4. Planned Parenthood is a not-for-profit corporation registered as a foreign corporation doing business in Nebraska. Planned Parenthood operates a health center in Lincoln, Nebraska, which is licensed by the Nebraska Department of Health and Human Services. Our Lincoln health center provides a broad range of reproductive health services, including, but not limited to, physical exams, pregnancy testing and planning services, contraception and contraceptive education, HIV testing, sexually transmitted infections testing and treatment, screening for breast, cervical, colon, prostate, and testicular cancer, and abortion.

5. Planned Parenthood's Lincoln health center is the only generally available provider of abortion services in Lincoln, and one of only two generally available abortion providers in the state. Our patients seeking abortion services come from all across the state.

6. Currently, Planned Parenthood's Lincoln health center provides surgical abortion services through 16 weeks of pregnancy dated from the first day of the woman's last menstrual period ("LMP") and medication abortion services through 9 weeks LMP.

7. Before an abortion, as with any medical procedure, Planned Parenthood ensures that informed consent is obtained, including meeting all common law and statutory law requirements. Prior to an abortion procedure, we take a full medical history from the patient and obtain ultrasound and laboratory results. We ensure that every patient understands what the procedure entails, as well as the risks, side-effects, benefits, and alternatives to the procedure. In addition, Planned Parenthood reviews every patient's decision with her to ensure that she has

considered her options, is confident in her decision, and was not coerced or pressured into the decision. Every patient is given multiple opportunities to ask questions of and discuss concerns (if any) with our medical staff prior to the abortion procedure.

8. Registered nurses and nurse practitioners often assist the physician with abortion procedures, including monitoring the patient's vital signs, working with and supporting the patient in the procedure room, and administering IV medications as ordered by the physician.

9. Planned Parenthood also provides abortion services in Iowa and advertises those services in Nebraska through, among other things, the phone book, the Internet, signage, and brochures.

10. As COO of Planned Parenthood, I oversee, among other things, our health services department. In that capacity, I am responsible for medical operations as they relate to implementing policy and procedures at all Planned Parenthood health centers. Part of that responsibility includes working with legal and health services staff to determine what needs to be done at the clinical level to ensure compliance with all applicable federal and state laws, rules, and regulations.

11. I have reviewed the new so-called "informed consent" requirements at issue in this lawsuit. I do not understand what they require. Read literally, LB 594 appears to require that, as a condition to providing abortion services, we search for every article ever published in any of thousands of journals that mentions "risk factors" associated with abortion, review each of those articles, evaluate every patient to identify the presence of any risk factors mentioned in any of those articles, and disclose to her a list of complications associated with those risk factors. If this is what the statute requires, we could never comply with it because, to start, the volume of material that we would have to track down and review would be unmanageable. Even if we

could isolate and analyze every relevant article, it would take countless hours, and therefore be impossible, to evaluate every patient for the potentially hundreds of risk factors that would result from such a process.

12. If there are certain implicit limitations on LB 594's requirements, it is completely unclear what those are. For example, we do not know whether there are any limits on the materials that must be searched, including date or language restrictions, or restrictions on the types of journals and articles that must be included.

13. In addition, it is unclear whether our practitioners can use their medical judgment to assess what information must be included in the patient evaluation and subsequent discussion. Do we have to discuss everything in the literature regardless of the validity or strength of the findings of a particular article? What if a study has been refuted? Or is out-of-date? Or conflicts with other studies? What if the medical community disagrees with the findings of a study? What if our practitioners determine that the information would not be applicable or material to the particular patient?

14. Further, to what extent, if any, can we group risk factors that are similar, or fall within the same category, but are not identical? For example, there may be a number of risk factors that would fall under the general heading "ambivalence" but that vary in some way. Do we have to evaluate for each particular risk factor, or can we generally evaluate for ambivalence? Relatedly, what if risk factors are assessed in different articles using different tools or methods? Do we have to mimic those precise methods? To the extent there are any limits on the requirements imposed by LB 594, these are just some of the questions for which the answers are completely unclear.

15. If taken literally, we fear that no amount of diligence or good faith on the part of abortion providers could insulate us from the severe penalties imposed by the statute, including countless civil lawsuits and suspension or loss of our health care facility license and the professional licenses of our staff. If the statute is subject to certain boundaries, it is totally unclear what those limits are and what abortion providers must do to comply, and thus, under this reading, providers would also be at risk every time they perform an abortion. Further, undertaking efforts—however futile—to comply with this statute will be expensive and require significant time and resources. To avoid the threat of these serious penalties and financial harm, providers' only choice is to stop performing abortion procedures, therefore denying our patients medical care and their constitutional right to abortion in this state altogether.

16. The new law leaves abortion providers no choice but to face severe penalties or cease to provide medical care to our patients. This choice is untenable.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 25, 2010, in Des Moines, Iowa.

By: Penelope A. Dickey
PENELOPE A. DICKEY

Exhibit 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PLANNED PARENTHOOD OF THE HEARTLAND, Plaintiff, v. DAVE HEINEMAN, Governor of Nebraska, in his official capacity; JON BRUNING, Attorney General of Nebraska; in his official capacity; KERRY WINTERER, Chief Executive Officer, and DR. JOANN SCHAEFER, Director of the Division of Public Health, Nebraska Department of Health and Human Services, in their official capacities; and CRYSTAL HIGGINS, President, Nebraska Board of Nursing, and BRENDA BERGMAN-EVANS, President, Nebraska Board of Advanced Practice Registered Nurses, in their official capacities, Defendants.	)	Case No. _____

PAUL S. APPELBAUM, M.D. declares and states as follows:

1. I am over 18 years of age and competent to make this declaration.

2. I have been made aware of Legislative Bill 594, the proposed new law that would govern informed consent for abortion in Nebraska ("the Act"). I submit this declaration in support of Plaintiff's Motion for a Preliminary Injunction and for a Temporary Restraining Order, preventing the Act from taking effect.

3. As I understand it, the Act would require medical providers to evaluate each woman who has decided to have an abortion for the presence of any "risk factor associated with abortion" (as broadly defined in the Act) that has been published in any peer-reviewed journal included in certain search services or journal lists as being associated with any "complication associated with abortion" (again, as broadly defined in the Act). If such a "risk factor" is present, the medical provider would have to inform the woman of each "complication" associated with it. These requirements would be imposed as part of the informed consent process.

4. As I understand it, to comply with the Act's requirements, the medical provider would have to be familiar with an enormous body of literature; engage in an extensive evaluation process of each woman; and then disclose a laundry list of information to the woman based on the results of that process. And as I understand it, the Act appears on its face to require medical providers to conduct these evaluations and make these disclosures without regard to the validity of the findings in the article or articles that linked the "risk factor" or "complication," and without regard to whether the information is material and helpful to the particular patient.

5. Putting to the side the question of whether it is even possible to literally comply with the Act's requirements – a question that I understand is being addressed by a different declaration – these requirements bear little or no resemblance to how informed consent is typically provided in any other area of clinical practice. I will detail this in the first section of my declaration, below.

6. Furthermore, trying to comply with these requirements would be detrimental to the informed consent process, and would actually leave women with *less* information – not more

– about the risks and potential downsides of the decision they are considering. I will detail this in the second section of my declaration, below.

Qualifications and Experience

7. I am a board-certified psychiatrist; the Elizabeth K. Dollard Professor of Psychiatry, Medicine and Law at the Columbia University College of Physicians and Surgeons (that is, Columbia University's medical school); the Director of the Division of Psychiatry, Law and Ethics, also at the Columbia University College of Physicians and Surgeons; and a Research Scientist at the New York State Psychiatric Institute.

8. I am the co-author of one of the leading textbooks on informed consent, Jessica W. Berg, Paul S. Appelbaum, Charles W. Lidz & Lisa S. Parker, *Informed Consent: Legal Theory and Clinical Practice* (Oxford Univ. Press 2d ed. 2001) (1987). I teach informed consent in several contexts, including to residents and fellows at the Columbia University Medical Center, at grand rounds presentations across the country, and at the Columbia Law School. I have conducted research on informed consent for over thirty years, and have also published over 200 peer-reviewed research articles, including many on informed consent issues. I am a journal referee (meaning that I conduct peer review for articles) for dozens of journals, and also serve on the editorial boards of numerous publications.

9. In addition to my academic and research positions, I treat patients with a broad variety of problems, including depression, anxiety, and adjustment problems.

10. I was the President of the American Psychiatric Association from 2002-2003, and have also served as its Secretary, Vice President, and a member of its Board of Trustees.

11. Prior to joining the faculty at Columbia, I taught at the University of Pittsburgh, the Harvard Medical School, the University of Massachusetts, and Georgetown University.

12. A copy of my curriculum vitae is annexed hereto as Exhibit A.

The Act's Definitions of "Risk Factor" and "Complication"

13. Before continuing, I think it is useful to discuss the Act's definitions of two key terms.

14. The Act's definition of "complications associated with abortion" is broader than the way the term "complications" is generally used in the medical context. The Act's definition is: "any adverse physical, psychological, or emotional reaction that is reported in a peer-reviewed journal to be statistically associated with abortion such that there is less than a five percent probability . . . that the result is due to chance." Nothing in this definition appears to exclude expected after-effects of an abortion, or reactions that are mild and transient.

15. In conventional medical usage, a "complication" would never include the expected after-effects of a procedure or treatment. It would be misleading and inaccurate to refer to expected after-effects as a "complication," as the term connotes that something unexpected or unusual has happened. For example, discomfort is not a "complication" of starting an intravenous line; it is a consequence. Nor would conventional medical usage of the term "complication" include reactions that are mild and transient. For example, if I start a patient on certain antidepressant medications he or she may experience a consequence of mild sleepiness for several days, until his or her body adjusts to the medication. I would not consider that to be a complication; it is a temporary side effect.

16. Turning to the definition of "risk factor associated with abortion," the Act's definition is, in relevant part: "any factor, including any physical, psychological, emotional, demographic, or situational factor, for which there is a statistical association with one or more complications associated with abortion such that there is less than a five percent probability . . .

that such statistical association is due to chance." This definition is also very broad, and captures a range of factors that the literature would not necessarily identify as risk factors.

I. How Informed Consent Is Typically Provided

17. While the specific legal requirements for informed consent vary from state to state, and the specifics of practice vary from provider to provider, the basic goal of informed consent remains the same: to enable the patient to make a meaningful decision about what treatment to have, or whether to undergo a particular procedure, by providing the information that is likely to be most salient to the patient's decision. Enabling meaningful decision-making is the foundational goal and guiding principle of informed consent.

18. Physicians have a professional obligation to develop general knowledge of and familiarity with the significant risks and benefits of the medical treatment or procedure being considered, as well as any risk factors that would, if present, significantly change those risks and benefits. This does not mean being aware of, much less disclosing, every potential risk factor or complication of the treatment or procedure that has ever been discussed in the medical literature. Even putting aside issues of the reliability of findings that have not been replicated, are out of date, have been rebutted, or for other reasons are of questionable applicability to your patient (an issue to which I will return later), almost any medical intervention, whether pharmacologic or surgical, has a large number of risks and potential risk factors associated with it, and it would be neither practical nor desirable to discuss each one with a patient making a medical decision.

19. Rather, the physician's professional obligation is to develop general knowledge of and familiarity with the *significant* risks and benefits of the treatment or procedure being considered. For risks, "significance" is determined by some combination of frequency and severity. That is, if a risk is very severe (such as death), a physician should disclose it even if it

is relatively rare, and conversely, even a relatively non-severe risk should be disclosed if it is common. However, these rules cannot be taken to the extreme. A patient could die from anaphylactic shock as a response to aspirin, but no physician would disclose death as a risk of aspirin. This is so because neither frequency nor risk level alone is sufficient to make a risk appropriate for disclosure; rather, what risks to disclose depends on the interaction between the two.

20. Similarly, if something is a risk factor for a complication that is extremely rare, or transient, or for whatever other reason not something the physician would disclose to a patient as part of the informed consent process, whether the risk factor is present is immaterial. And the same is true if the presence or absence of the potential risk factor has only a relatively small effect on the patient's risk of experiencing a particular complication, or (in some cases) if the complication is one that will be discussed with the patient regardless of the presence of the risk factor.

21. The reason that physicians focus on significant risks and risk factors is that these are the ones likely to be material to the patient – that is, relevant to the patient in making a meaningfully informed medical decision. Exercising medical judgment to determine which risks are likely to be material to the patient is an essential part of the physician's role.

22. I mentioned above that physicians have a professional obligation to develop general knowledge of and familiarity with the risks and benefits of the medical treatment or procedure being considered, as well as certain risk factors that may increase a patient's risk of experiencing a particular complication. In contrast to the requirements of the Act, physicians do not develop this knowledge by doing a literature survey of every article ever published on the

treatment or procedure. Conducting such a survey simply would not be feasible; among other problems, it would require a staggering time commitment.

23. Rather, in typical practice, physicians develop this knowledge and familiarity from a variety of sources that synthesize and digest the information in the medical literature, including publications and practice guidelines from professional organizations, review articles in major medical journals, presentations at medical association meetings, and conversations with other physicians about their practices.

24. Nor would the average individual physician have the expertise necessary to understand and evaluate all of the published literature on a medical procedure or treatment, and start from scratch in developing appropriate risk factor screening and informed consent disclosures. The average practicing physician would not even be aware of the number of choices that go into determining the methodology of a research study, or how its results are analyzed – much less be in a position to evaluate the statistical and methodological issues implicated in each article, or to understand the article's conclusions in the context of those issues and the broader literature.

25. In contrast, when a professional organization proposes to issue guidance on a procedure or treatment, it typically has a committee that will review the risks and benefits of the procedure or treatment, and then make recommendations to the professional organization. At least some members of the committee will have methodological and statistical expertise, whereas others may have more clinical expertise. Thus, the recommendations of the committee as a whole will be more informed than the product that the individual members (much less other physicians) would be able to produce. In my capacities as President of the American Psychiatric

Association and as a member of the Board of Trustees of the same organization, I had oversight responsibility for this process for guidance to be issued by the American Psychiatric Association.

26. It is worth noting that the task professional organizations undertake when they propose to issue guidance on a procedure or treatment is very different from what the Act appears to require, if taken literally. In conventional practice, what professional organizations seek to do is identify the risks that should be considered in deciding on a treatment because they are likely to be material to patients, as well as certain risk factors for which patients should be screened to see whether the patient is at increased risk of experiencing a complication. However, there would also be an enormous category of risks and risk factors that have been published in a peer-reviewed journal but that professional organizations would never identify as a basis for treatment decision-making for a variety of reasons, including that they have not been replicated; have been rebutted; are insignificant, rare, transient, or out-of-date; apply to patient populations significantly different from the patients at issue; or for other, similar reasons. As with individual physicians, it is an essential part of the role of professional organizations issuing practice guidance to exercise medical judgment in determining what risk factors and complications to include. These guidance documents are then frequently, and appropriately, used by medical providers as a guide for their informed consent disclosures.

27. Nor would a professional organization that proposes to issue guidance on a procedure or treatment start by conducting an exhaustive literature survey, much less one from the beginning of time. Rather, it would build on a certain level of knowledge that committee members already have. In part, this is because treatments, procedures, and medications change over time, and risk factors and complications do not stay the same. And in part this is because

older medical literature is often less methodologically precise, and therefore less reliable, than the recent literature, because research standards have changed.

28. In short, in a variety of ways, the Act's requirements bear little or no resemblance to the ways that informed consent is generally provided, and in fact, if taken literally, deprive physicians of the medical judgment that normally permeates the informed consent process.

II. The Act's Requirements are Detrimental to True Informed Consent

29. As stated above, the basic purpose of informed consent is to enable meaningful decision-making by providing the information that is helpful to a patient in making a medical decision. This is the principle by which any specific informed consent requirement or practice must be evaluated.

30. The Act's requirements would force healthcare providers to violate this principle by forcing them to disclose information to patients based on a single citation in the medical literature, without any ability to exercise medical judgment either as to the reliability, validity, and applicability of the risk factor or complication at issue, or as to its materiality to the patient's medical decision-making. This is antithetical to the informed consent process, as described below in more detail.

31. To enable meaningful informed consent, a medical provider must be able to select the information that is the most material to the patient's decision, and distill it into a form that the patient is able to digest and understand. Providing extraneous information is counterproductive, as patients get "flooded" and are no longer able to process the information in any meaningful way. People have the ability to attend to only limited amounts of information. If a medical provider overwhelms a patient's capacity to integrate that information, rather than

being informed, the patient is likely to be bewildered, flustered, anxious, and less able to make a truly informed decision.

32. For example, the FDA-approved prescribing information for Prozac (generic name: fluoxetine), the first of the SSRI-anti-depressants, and quite a safe medication, lists sixty-three adverse effects that have been attributed to the medication, and singles out twelve issues for specific warnings. Putting aside the time it would take to discuss and explain all of these possible side effects, disclosing them all would flood patients with information of little importance to them (*e.g.*, people who take Prozac are significantly more likely to experience yawning), while distracting them from the few items that are important for them to focus on (*e.g.*, an increased risk of anxiety and insomnia). Effective informed consent practices require physicians to focus on the subset of risks that patients should take into account in their decision-making.

33. Indeed, since the 1960s it has been known that the more information that is provided to patients beyond a basic description of a treatment and its risks and benefits, the less absolute information patients will retain. (Epstein, L.C. and Lasagna, L. (1969). Obtaining Informed Consent: Form or Substance. *Archives of Internal Medicine*, 123, 682-688.) The reason for this effect was suggested more than a half-century ago, when experiments indicated that on average, people could retain about seven different items in their working memory, including for the purposes of making decisions, at any point in time. (Miller, G.A. (1956). The Magical Number Seven, Plus or Minus Two: Some Limits on Our Capacity for Processing Information. *Psychological Review* 63, 81-97.) More recent studies indicate that the limit may be even lower. (Cowan, N. (2010). The Magical Mystery Four: How is Working Memory Capacity Limited, and Why? *Current Directions in Psychological Science* 19, 51-57.) Thus,

merely providing more information to patients does not help them make better decisions, and may overwhelm their abilities to process the information they receive.

34. Thus, requiring a healthcare provider to give information on every "risk factor" and associated "complication" published in any of a laundry list of peer-reviewed journals, without any ability to exercise judgment as to what information is material to the patient or even what information is reliable, would undermine the informed consent process. At the end of these disclosures, patients may have received more information in theory, but in practice they will retain and process far less information than had the provider been allowed to have an appropriately tailored conversation. And because flooding a patient with information will all but ensure that the patient fails to pay attention to the most important information, any significant risks are likely to be drowned out by a host of findings from the literature that (as discussed below) are unreplicated, disproven, out-of-date, inapplicable, misleading, or methodologically suspect.

35. Further, as I understand it, the Act appears to require information to be provided to the patient without any medical judgment as to the quality or relevance of the information, based solely on the fact that the information appeared in a peer-reviewed journal that is included in MedLine, PubMed, or the Thomson Reuters Master Journal List. This is enormously problematic.

36. First, a physician would almost never normally rely on a single study merely on the basis of its being published in a peer-reviewed journal, and assume that the study's finding is valid. The essence of science is confirmation. In general, unless a finding is replicated, it cannot be relied on. Yet, as I understand it, the Act appears to require healthcare providers to evaluate

patients for supposed risk factors and disclose supposedly associated complications based on a single study.

37. Second, medical knowledge is constantly evolving and developing, and it happens routinely that findings or associations that were once believed to be valid and confirmed are subsequently disproven. One highly publicized recent example is that an article published in one of the world's leading journals, *The Lancet*, found an association between vaccinations and autism. This led many parents not to vaccinate their children, leaving them exposed to a variety of childhood illnesses. The article has now been widely rejected among the medical community, and accepted as disproven. If every pediatrician were required to disclose to parents that vaccines can cause autism based on this disproven article, it would make a travesty of the informed consent process and could lead to significant loss of life. And yet, as I understand it, nothing on the face of the Act allows medical providers to avoid evaluating patients for a supposed risk factor or disclosing a supposed complication on the ground that the claimed association has been disproven. This is a truly astonishing and perverse aspect of this legislation, as it would require physicians to violate their professional responsibility by giving the patient information that is not true.

38. Third, even for findings that have not been disproved, the fact that the state of medical knowledge is constantly developing and evolving means that procedures and medications do not stay the same, and nor do risk factors and complications. For example, excessive bleeding may be a common complication of the way a surgical procedure used to be done, but not of the more recent version of the procedure. Thus, requiring evaluations and disclosures based on out-of-date articles would lead to patients getting poor-quality information

that in some cases will be highly misleading, and will also distract patients from more material and reliable information.

39. Fourth, even current and replicated findings cannot be applied mechanically outside the context in which they were made; considerable medical judgment and knowledge goes into determining to which patients a study's findings can reasonably be applied. The Act ignores this complexity, and instead requires providers to give automatic disclosures to their patients based on the presence of a single risk factor regardless of the study's context, despite the fact that in many cases the resulting disclosures will be irrelevant or misleading to patients, as well as distracting them from more material information.

40. For example, the provision of medical services varies widely from country to country, as do many characteristics that are relevant to risk factors and complications, and yet the Act does not on its face appear to allow the physician to engage in any medical judgment as to whether an international article's findings can be applied to patients in Nebraska. It would be obviously misleading to require automatic disclosure to Nebraska patients of complication rates associated with a particular risk factor in patients receiving a medical service in a developing country, in which medical services, baseline health and nutrition levels, and social context may all be very different from what is found in Nebraska.

41. The same is true for studies done on some populations in the United States. In considering how broadly a particular study's findings can be applied, doctors and/or professional organizations must consider the characteristics of the population that was studied, including such factors as access to adequate medical services, nutritional habits, age, race, adherence to follow-up care instructions, and many others. To give an obvious example, if the average age of women in a study is fifty-five, and my patient is twenty-five, the complication

rates in the study may not be relevant to my patient (and in fact would be misleading) despite the fact that my patient has some risk factor identified in the study as associated with the complication.

42. And similarly, suppose that a study shows that women over forty are at risk of a particular complication, but a subsequent study shows that the risk applies only if the woman has never been pregnant. The first study has not been disproven, but its findings have been refined with a demonstration of a relevant protective effect. Thus, disclosure of the risk to a woman over forty wh*o has* been pregnant would be misleading – and yet would appear to be required by the Act, because the woman has the risk factor of being over forty.

43. These complexities and ambiguities are entirely typical of the medical literature and the way that medical knowledge develops. And yet, if taken literally, the Act appears to fail to recognize this complexity, or to allow healthcare providers to exercise appropriate medical judgment to determine what risk factors and complications may apply to their patients.

44. Fifth, the fact that a study is published in a peer-reviewed journal is no guarantee of its quality or reliability. I do peer review for dozens of journals, including the *Journal of the American Medical Association*, the *New England Journal of Medicine*, *The Lancet*, the *Archives of Internal Medicine*, and the *American Journal of Public Health*, and am highly familiar with the process. Although the goal of peer review is to provide some check on the quality of evidence entering the medical literature, it is known to be a highly imperfect system. As noted above, the state of medical knowledge is constantly evolving, and part of the reason this is so is that many findings that are published even in the best journals – much less in the broader range of peer-reviewed journals – are subsequently disproven. Many are also subsequently understood to be methodologically suspect in ways that were not understood at the time.

45. There are also significant differences in the quality of peer review among journals. Part of what differentiates prestigious, highly reliable journals such as the *New England Journal of Medicine* or the *Journal of the American Medical Association* is that they have rigorous peer review. Many other journals have less rigorous peer review, both because they attract less expert peer reviewers and because they impose lesser editorial standards. Whereas a journal such as the *New England Journal of Medicine* rejects the vast majority of articles that are submitted, other smaller journals may be less concerned with maintaining the highest standards than with ensuring that they have sufficient articles to fill the next issue; the majority of journals fall somewhere between these two extremes. Further, there is no requirement that peer-reviewed journals reject articles that receive negative responses from peer-reviewers; this is a highly discretionary determination by the journal editor, especially if the reviews are mixed.

46. In my professional experience, patients are likely to overestimate the import of a finding they are told has been published in a peer-reviewed journal, and believe such publication to mean that the information is valid. The average patient has no concept that there is a range of quality and reliability in the published literature, much less that articles published in even the best of journals are often subsequently disproven or significantly refined. Indeed, many patients are familiar with the phrase "peer-reviewed study" (which frequently occurs in the popular media) and assume this is the sole criterion for validity. This common misperception would make the disclosures required by the Act particularly misleading for patients, and is an additional reason why they would be harmful to the informed consent process.

47. This effect would be exacerbated by the fact that, in my professional experience, patients assume that their physician or physician's staff would not give them information unless

the physician thought the information was important. In a typical informed consent process, the information the patient receives reflects the physician's medical judgment about what it is important for the patient to know. Taken at face value, the Act would change that rule in ways that I believe would be difficult for patients to understand, and ultimately would make the disclosures required by the Act very misleading for patients.

48. Aside from publication in a peer-reviewed journal (which, as noted above, is far from adequate quality control), my understanding is that on the face of the Act, the only attempt at controlling the quality of a study that would trigger an evaluation and disclosure obligation is that the study has to claim a "p-value" of less than .05, meaning that there is a less than 5% probability that the statistical association is due to chance. This p-value requirement is not adequate quality control, for several reasons.

49. First, p-values are very limited in what they purport to measure. For example, a p- value provides no information about a study's methodological soundness, including such factors as the representativeness or randomness of the sample being studied or the appropriateness of any comparison group. Nor would a study's p-value provide any indication of serious problems in selection of variables, data collection, or data analysis. If a study's methodology is poor, its p-value is meaningless as an indicator of the validity of the study's finding.

50. This is a critical limitation, as study design is complex and involves a large number of discretionary decisions, each of which is an opportunity for bias based on the predilections of the researcher to be built into the study. These discretionary decisions include, among others, selection of the control group, selection of the population or sample studied, what measures are used to test outcomes, and how these measures are applied (including who does the

rating, how objective that person's administration of the selected measures is, and whether that person knows the hypothesis being tested and/or knows the subject's status as a member of the control or experimental group). Each of these factors has an enormous impact on the associations that end up being reported as statistically significant, as measured by p-value.

51. Second, p-values give no indication of the magnitude of the difference being measured, or its importance; rather, they indicate only that a non-chance difference appears to exist. It is common for a difference between two populations to be statistically significant but clinically irrelevant. In fact, with a large enough sample it is a given that even very small differences, which are likely to be clinically irrelevant, will be statistically significant.

52. Third, p-values provide no information on whether a study's results may be applied to a different population than the one that was studied.

53. Fourth, p-values provide no information on a study's reliability, that is, whether its findings can be replicated by future studies using different data sets. In fact, even with a p-value of less than .05, a certain percentage of findings (up to 1 out of 20) will be due to chance. This is part of the reason why replication is so important, and it is bad medicine to require evaluation or disclosures based on a single study.

54. Finally, although .05 is a reasonable and conventionally-accepted p-value requirement to use in many contexts as a way to eliminate the majority of false associations, in other contexts it is inadequate. For example, if studies based on the same data set look at multiple potential risk factors, the appropriate p-value has to be decreased in order to avoid suggesting false statistical associations. Statisticians refer to this as a "correction for multiple comparisons." If this correction is not done, it is highly likely that some of the potential risk factors being evaluated will appear to be associated with a complication when in fact the

association is purely random and would not be replicated if the study were repeated with another data set.

55. In short, the Act appears to require mechanical disclosures based on any risk factor published in a peer-reviewed journal as associated with any complication of abortion, and thus inhibits the normal process that medical providers engage in when deciding what risk factors and complications are valid, significant, applicable, and material to their patients. As discussed above, giving patients inapplicable or immaterial information is harmful to the informed consent process, both because the patient will become overburdened with extraneous information and unable to absorb the critical information, and because the patient is likely to overestimate the likelihood that the information *does* apply to her. And there can be no doubt that requiring medical providers to give patients information that is unreliable or misleading is directly harmful to the informed consent process. For these reasons, if the Act's requirements are taken literally, the disclosures it requires would leave women less, not more, able to make informed decisions about their care.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 24, 2010, in New York, N.Y.

By: _____
PAUL S. APPELBAUM, M.D.

Exhibit A

June 2010

Curriculum Vitae

Personal Data

Name: Paul S. Appelbaum, M.D.

Title: Elizabeth K. Dollard Professor of Psychiatry, Medicine, and Law
Director, Division of Psychiatry, Law and Ethics
Department of Psychiatry
Columbia University College of Physicians and Surgeons

Research Scientist
New York State Psychiatric Institute

Director, Center for ELSI (Ethical, Legal and Social Implications)
Research on Psychiatric, Neurologic, and Behavioral Genetics
Department of Psychiatry
Columbia University College of Physicians and Surgeons

Address: New York State Psychiatric Institute/
Columbia University Medical Center
1051 Riverside Drive, Box 122
New York, NY 10032 (office)

Date of Birth: November 30, 1951
Place of Birth: Brooklyn, New York

Academic Training

1968		Stuyvesant High School, NY
1972	A.B.	Columbia College (Biology)
1976	M.D.	Harvard Medical School
1979-1980		Harvard Law School (special student)
1983-1984		Graduate School of Public Health, University of Pittsburgh (special student)

Traineeship

1976-1977	Intern in Medicine, Soroka Hospital, Beersheva, Israel
1977-1979	Resident in Psychiatry, Massachusetts Mental Health Center/Harvard Medical School, Boston, MA
1979-1980	Chief Resident in Legal Psychiatry, Massachusetts Mental Health Center/Harvard Medical School, Boston, MA
1979-1980	Fellow in Mental Health Administration, Massachusetts Mental Health Center/Harvard Medical School, Boston, MA

Licensure and Certification

1977	Massachusetts License No. 53808 (no longer active)
1980	Pennsylvania License No. MD-023867-E (no longer active)

1981	Board Certification in Psychiatry, American Board of Psychiatry and Neurology, Certificate #22719
1988	District of Columbia License No. 17336 (no longer active)
1994	Added Qualifications in Forensic Psychiatry, American Board of Psychiatry and Neurology, Certificate #18 (renewed, 2004)
2005	New York License No. 237042

Professional Organizations and Societies

Memberships in Professional Societies:

1979-	American Psychiatric Association
1979-1980	Massachusetts Psychiatric Society
1980-1984	Pennsylvania Psychiatric Society
1980-	American Academy of Psychiatry and the Law
1983-	American Society of Law, Medicine, and Ethics
1984-2006	Massachusetts Psychiatric Society
1988-	International Academy of Law and Mental Health
1996-2005	Association for the Advancement of Philosophy and Psychiatry
1998-2006	American Medical Association
2005-2009	American College of Psychiatrists
2005-	New York Academy of Medicine
2006-	New York County Psychiatric Society
2006-	New York Psychiatric Society
2007-	Neuroethics Society

Service:

American Psychiatric Association:

1980-1984	Committee on State Hospitals, (corresponding member 1982-1984)
1980-1983	Task Force on Psychiatric Participation in Sentencing
1981-1990	Commission on Judicial Action (consultant 1981-1984; chairman 1984-1990)
1984-1994	Joint Reference Committee (ex-officio member)
1984-1986	Task Force on Tardive Dyskinesia (consultant)
1990-1995	Council on Psychiatry and Law (chair, 1990-1994)
1995-2001	Isaac Ray Award Board (chair, 1995-2000)
1995-2000	Committee on the Use of the Litigation Fund (vice-chair, 1999-2000)
1997-2006	Board of Trustees
1997-1999	Secretary
1997-1999	Ethics Appeals Board (chair)
1997-1998	Task Force to Review APA Conflict of Interest Policy
1998-1999	Editorial Advisory Committee (chair)
1998-1999	Board Subcommittee to Review the By-Laws of the Research Institute
1999-2001	Vice-President
1999-2002	Joint Reference Committee (chair, 2001-2002)
1999-2001	Committee on District Branch Relations (consultant, 1999-2000;

	chair, 2000-2001)
1999	Task Force to Review Future Options for the Journal of Psychotherapy Practice and Research (chair)
2000	Ad Hoc Task Force to Develop Procedures for Revenue Sharing (co-chair)
1999-2002	Commission on Public Policy, Advocacy and Litigation (consultant, 2001-2002)
2000	Work Group on Selection of Directors for the American Psychiatric Publishing Group (chair)
2000-2002	Task Force on Research Ethics (Board liaison)
2001-2002	President-Elect
2001-2003	Board of Directors, American Psychiatric Institute for Research & Education (Executive Committee, 2001-2003)
2001-2003	Board of Directors, American Psychiatric Publishing, Inc.
2001-2003	Distinguished Service Award Committee (chair)
2002-2003	President
2003-2004	Nominating Committee (chair)
2004-	Council on Psychiatry & Law (chair, 2004-2008)
2004-2008	Joint Reference Committee (ex officio)
2004-2008	Committee on Advocacy & Litigation Funding
2008-	Ad Hoc Workgroup on Relationships Between Psychiatrists and Industry (chair)
2009-	Committee on Judicial Action (consultant, 2009-2010; chair 2010-)

American Academy of Psychiatry and the Law:

1982-1985	Program Committee
1984-1986	Committee on Ethics
1984-1986	Rappeport Fellowship Committee (chairman)
1987-1990	Councilor
1995-1996	President (president-elect, 1994-1995; executive council, 1994-1997)
1997-2002	Long Range Planning Committee
1997-1999	Nominating Committee
1998-2000	Awards Committee (chair, 1998-2000)

Massachusetts Psychiatric Society:

1992-1993	President (president-elect, 1991-1992; executive committee, 1991-1994)
1995	Task Force on Confidentiality (chair)

Academic Appointments

1977-1980	Clinical Fellow in Psychiatry, Harvard Medical School
1980-1984	Assistant Professor of Psychiatry, University of Pittsburgh School of Medicine
1981-1982	Assistant Professor of Law (secondary appointment), University of Pittsburgh School of Law
1982-1984	Associate Professor of Law (secondary appointment), University of Pittsburgh School of Law

1984	Associate Professor of Psychiatry, University of Pittsburgh School of Medicine
1984-1985	Lecturer in Psychiatry, Harvard Medical School
1985	Associate Professor of Psychiatry, Harvard Medical School
1988-1989	Visiting Interdisciplinary Professor, Georgetown University Law Center
1985-2005	A.F. Zeleznik Distinguished Professor of Psychiatry, University of Massachusetts Medical School, Worcester, MA (tenured)
1992-2005	Chairman, Department of Psychiatry, University of Massachusetts Medical School
1996-1997	Fellow, Center for Advanced Study in the Behavioral Sciences, Stanford, CA
2006-	Faculty Associate, Columbia University Center for Bioethics
2006-	Affiliated Faculty Member, Columbia Law School
2006-	Member, Center for Human Genetics, Columbia University
2006-	Elizabeth K. Dollard Professor of Psychiatry, Medicine, and Law, and Director, Division of Psychiatry, Law and Ethics, Department of Psychiatry, Columbia University College of Physicians and Surgeons (tenured)

Hospital Appointments

1979-1980	Director, Legal Psychiatry Consultation Service, Massachusetts Mental Health Center, Boston, MA
1980-1981	Medical Consultant, Family Therapy Clinic, Western Psychiatric Institute and Clinic, Pittsburgh, PA
1980-1984	Consultant, Law and Psychiatry Consult Service, Western Psychiatric Institute and Clinic, Pittsburgh, PA
1981-1984	Medical Consultant, Special Therapies and Mood Disorders Modules, Western Psychiatric Institute and Clinic, Pittsburgh, PA
1983-1984	Co-director, Law and Psychiatry Program, Western Psychiatric Institute and Clinic, Pittsburgh, PA
1984	Director, Law and Psychiatry Program, Western Psychiatric Institute and Clinic, Pittsburgh, PA
1984-1985	Executive Officer, Massachusetts Mental Health Center, Boston, MA
1984-1985	Director, Program in Psychiatry and the Law, Massachusetts Mental Health Center, Boston, MA
1985-2005	Director, Law and Psychiatry Program, University of Massachusetts Medical School, Worcester, MA
1992-2005	Chairman, Department of Psychiatry, University of Massachusetts Medical Center/UMass Memorial Medical Center
2006-	Attending Psychiatrist, New York Presbyterian Hospital
2006-	Research Psychiatrist, New York State Psychiatric Institute

Honors

1972	Phi Beta Kappa
1979-1980	Sol. W. Ginzburg Fellowship, Group for the Advancement of Psychiatry

1980	Honorable Mention, 22nd Annual Harry C. Solomon Essay Award, Massachusetts Mental Health Center
1981	First Prize, 23rd Annual Harry C. Solomon Essay Award, Massachusetts Mental Health Center
1983	Manfred S. Guttmacher Award of the American Psychiatric Association and the American Academy of Psychiatry and the Law for the outstanding contribution to the literature of forensic psychiatry (awarded for the *Clinical Handbook of Psychiatry and the Law*)
1983	3rd Annual Norbert Enzer Memorial Lecture, Mt. Sinai Hospital, Milwaukee
1983-1984	Research Scientist Career Awardee, National Institute of Mental Health
1984	Honorable Mention, Nellie Westerman Prize of the American Federation for Clinical Research for research in medical ethics
1986	Dean's Alumni Award, Columbia College
1986	Sam G. Dunn Lecture in Medicine and the Humanities, University of Texas Medical Branch at Galveston
1986	4th Samuel and Kathryn Yochelson Lecture, Yale University, New Haven
1990	1st Bruce Siegel Memorial Lecture, Mount Carmel Medical Center, Columbus, Ohio
1990	Fellow, American Psychiatric Association
1990	Isaac Ray Award of the American Psychiatric Association for outstanding contributions to forensic psychiatry and the psychiatric aspects of jurisprudence
1991	Isaac Ray Award Lectures: Massachusetts Mental Health Center, Boston; Western Psychiatric Institute and Clinic, Pittsburgh
1992-	Best Doctors in America, 1st edition and all subsequent editions
1992-	Who's Who in America, 43rd edition and all subsequent editions
1992	5th P. Browning Hoffman Memorial Lecture, University of Virginia Law School, Charlottesville
1993	Kinsman Lecture on Medical Ethics, Oregon Health Sciences University, Portland
1993	Saleem Shah Memorial Award of the State Mental Health Forensic Directors Association for contributions to forensic mental health services
1994	Jacob Finesinger Memorial Lecture, University of Maryland Medical School, Baltimore
1994	4th Paul Mendelsohn Memorial Grand Rounds, Tufts-New England Medical Center, Boston
1995	Pfizer Visiting Professor, Department of Psychiatry, University of California at Davis
1995	Will Solimene Award for Excellence in Medical Communication, New England Chapter, American Medical Writers Association (awarded for *Almost a Revolution: Mental Health Law and the Limits of Change*)
1996	Manfred S. Guttmacher Award of the American Psychiatric Association and the American Academy of Psychiatry & the Law for the outstanding contribution to the literature of forensic psychiatry (awarded for *Almost a Revolution: Mental Health Law & the Limits of Change*)
1996-1997	Fritz Redlich Fellow, Center for Advanced Study in the Behavioral

	Sciences
1997	Edward J. Strecker, M.D., Award of the Institute of Pennsylvania Hospital and Jefferson Medical College for outstanding contributions in the field of clinical psychiatry
1998	Pfizer Visiting Professor, Maryland Psychiatric Research Center, University of Maryland
1998	Kenneth Gray Memorial Lecture, Canadian Psychiatric Association Annual Meeting, Halifax
1999	13th Charles E. Steinberg Lecture in Psychiatry and Law, University of Rochester School of Medicine, Rochester, NY
1999	4th Raymond W. Waggoner Lecture on Ethics and Values in Medicine, University of Michigan Medical Center, Ann Arbor
1999	Excellence in Teaching Award, Psychiatric Residency Program, University of Massachusetts Medical School
2000	Manfred S. Guttmacher Award of the American Psychiatric Association and The American Academy of Psychiatry and the Law for the outstanding contribution to the literature of forensic psychiatry (awarded for *Assessing Competence to Consent to Treatment: A Guide for Physicians and Other Health Professionals*).
2000	Elected to membership in the Institute of Medicine of the National Academy of Sciences
2000	26th Herman Dinkel Lecture, Oregon Health Sciences University, Columbia Gorge, Oregon
2000	Peter Scott Memorial Lecture, Royal College of Psychiatrists Annual Meeting, Edinburgh, Scotland
2000	1st Mark Nordenberg Lecture on Law and Psychiatry, University of Pittsburgh School of Law, Pittsburgh, PA
2001	C. Charles Burlingame Award of the Institute of Living for major contributions to the field of psychiatry.
2001	Pfizer Visiting Professor, Mount Sinai Medical School, City University of New York.
2001	Seymour Pollack Award of the American Academy of Psychiatry and the Law for distinguished contributions to the field of forensic psychiatry.
2002	Manfred S. Guttmacher Award of the American Psychiatric Association & the American Academy of Psychiatry and the Law for the outstanding contribution to the literature of forensic psychiatry (awarded for *Rethinking Risk Assessment: The MacArthur Study of Mental Disorder and Violence*.)
2002	Phillippe Pinel Award of the International Academy of Law and Mental Health for outstanding contributions to scholarship, pedagogy, and leadership in the field of law and mental health.
2002	Fredrick L. Weniger Lecture, Western Psychiatric Institute, University of Pittsburgh Medical School, Pittsburgh, PA.
2002	Enid Stokes Lecture, Titus Harris Psychiatric Society, Galveston, TX.
2002	1st George Harding IV, MD Lecture on Religion & Psychiatry, Loma Linda University Medical School, Loma Linda, CA
2003	Wolfe Adler Lecture, Sheppard Pratt Heath System, Baltimore, MD.

2003	Distinguished Fellow, American Psychiatric Association
2003	12th Roger Alan Moore Lecture on Values & Medicine: Ethical, Religious and Cultural Perspectives, Harvard Medical School, Boston, MA.
2003	1st Seth Adams Memorial Lecture, Faulkner Hospital, Boston, MA.
2004	Janssens Distinguished Visiting Professor, Department of Psychiatry, Mayo Clinic, Rochester, MN
2004	Guide to America's Top Psychiatrists (Consumers' Research Council of America, also 2009)
2005	Fellow, American College of Psychiatrists
2005	Fellow, New York Academy of Medicine
2006	20th Ed Hornick Memorial Lecture, New York Academy of Medicine, New York, NY
2006	President's Award of the Massachusetts Psychiatric Society for distinguished contributions to psychiatry
2006	George Saslow Lecture, Oregon Health Sciences University, Portland, OR
2007	Merck Visiting Scholar, Seton Hall University School of Law, Newark, NJ
2007	Best Doctors in New York (also 2008, 2009)
2007	Honorary Distinguished Member, American Psychology-Law Society
2007	Isaac Hays, MD and John Bell, MD Award for Leadership in Medical Ethics and Professionalism, American Medical Association
2007	Best Doctors in America (also 2008, 2009)
2008	Special Recognition Award, American Psychiatric Association
2008	Max and Sara Cowan Memorial Lectures in Humanistic Medicine, University of Utah School of Medicine
2008	America's Top Doctors (Castle Connolly, also 2009, 2010)
2009	Honorary Member, Israel Psychiatric Association
2009	18th Annual John J. Conley, MD Lecture in Medical Ethics, St. Vincent's Hospital, NY, NY
2010	Highly Cited Researcher, Institute for Scientific Information
2010	Sconyers/Godfrey Ethics Lecture, Seattle Children's Hospital/University of Washington
2010	Keynote Speaker, Annual Meeting, Royal Australia and New Zealand College of Psychiatrists, Auckland, NZ

Grant Support

Past Funding

1979-1980	Principal Investigator, Patients' Competence to Consent to Hospitalization, Foundations Fund for Research in Psychiatry.
1980-1983	Principal Investigator, Clinical Training in Forensic Psychiatry, National Institute of Mental Health.
1980-1984	Co-Investigator, Legal and Ethical Issues in Psychiatric Research, Foundations Fund for Research in Psychiatry. (Loren H. Roth, M.D., Principal Investigator)

1981-1982	Principal Investigator, Patients Who Refuse Treatment in Medical Hospitals, President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.
1983-1984	Principal Investigator, Studies of Civil Commitment of the Mentally Ill, Research Scientist Development Award, National Institute of Mental Health.
1987-1988	Principal Investigator, Neuropsychological Correlates of Competence, Basic Science Research Grant (NIH), University of Massachusetts Medical Center.
1989-1996	Co-Principal Investigator, Assessing the Decision-making Capacities of the Mentally Ill, John D. and Catherine T. MacArthur Foundation (with Thomas Grisso, PhD), $1,084,873.
1989-1997	Co-Principal Investigator and Site PI, Risk Assessment of Violence in the Mentally Disordered (Henry Steadman, PhD, Principal Investigator), John D. and Catherine T. MacArthur Foundation, approx. $1,200,000.
1998-2000	Co-Principal Investigator, Informed Consent and the Therapeutic Misconception, NIMH, (Charles Lidz, PhD, Principal Investigator), $600,000.
1999-2004	Consultant, Clinical Antipsychotic Trials in Intervention Effectiveness, NIMH Grant # R01-MH90001 (Jeffrey Lieberman, M.D., Principal Investigator), $42,750.
2000-2004	Co-Investigator, Research Ethics in Schizophrenia, NIMH Grant # R01 MH58898-06 (Will Carpenter, MD, Principal Investigator), subcontract $85,000.
2001-2003	Co-Investigator and Site PI, Violence Risk Assessment Software (SBIR), NIMH Grant # R44-MH59453-02 (Henry Steadman, PhD, Principal Investigator) subcontract $14,690.
2002-2004	Co-Principal Investigator and Site PI, Prevalence Study of Leverage in Community Treatment, John D. and Catherine T. MacArthur Foundation, $73, 797.
2005	Principal Investigator, Leverage in Assertive Community Treatment Programs. John D. and Catherine T. MacArthur Foundation, $43,000.
2004-2006	Co-Investigator, Competition Between Science and Care In Clinical Trials, NINDS Grant # R01-NS049595 (Charles Lidz, PhD, Principal Investigator), $436,365.
2002-2006	Co-Investigator, Effectively Implementing Psychiatric Advance Directives, NIMH Grant # R01 MH063949-02 (Jeffrey Swanson, PhD, Principal Investigator), subcontract $44,902.

2007-2008 Principal Investigator, Voluntary Decision Making About Participation in Human Subjects Research. Greenwall Foundation, $48,900.

2004-2008 Co-Investigator, DVD Consent for Research in Older Schizophrenia Patients, NIMH Grant #1-R01-MH067902-01 (Dilip Jeste, MD, Principal Investigator), subcontract $33,430.

Active Funding

2004-2010 Co-Investigator, Research Ethics in Schizophrenia, NIMH Grant #2 R01 MH58898-06 (Will Carpenter, MD, Principal Investigator), subcontract $119,156.

2006-2011 Co-Investigator and Site PI, An Observational Description Study of IRB Practices, NCI Grant #1R01CA107295 (Charles Lidz, PhD, Principal Investigator), subcontract $207,000.

2006-2011 Co-Investigator, Clinical and Translational Science Award, NIH Grant #1 UL1 RR024156-01 (Henry Ginsberg, MD, Principal Investigator), 10% FTE.

2007-2012 Co-Investigator, Proxy Decision-Making for Alzheimer Disease Research, NIA Grant # 1RO1AG027986 (Laura Dunn, MD, Principal Investigator). subcontract $79,250.

2008-2013 Co-Director of the Ethics and Policy Core, HIV Center for Clinical and Behavioral Studies. NIMH Grant # P30 MH43520 (Anke Ehrhardt, PhD, PrincipaI Investigator). $1,587,706, 10% FTE.

2008-2010 Co-Investigator, Capacity to Appoint a Proxy for Dementia Research, NIMH Grant #R01 MH075023 (Scott Kim, MD, PhD, Principal Investigator), subcontract $48,933.

2008-2012 Co-Investigator, Ethical Issues in Surrogate Consent for Dementia, NIA Grant #RO1 AG029550 (Scott Kim, MD, PhD, Principal Investigator), subcontract $111,333.

2008-2010 Co-Investigator, Examining Ethical Issues in Research on Deep Brain Stimulation, Greenwall Foundation, (Laura Dunn, MD, Principal Investigator), subcontract $10,980.

2009-2011 Co-Investigator, Capacity of Children and Teens to Decide About Cancer Trials, NCI Grant # 1 R21 CA134864-01A1 (Steven Joffe, MD, PhD, Principal Investigator), subcontract $62,632.

2009-2011 Co-Investigator, The Blurring of Treatment and Research in Clinical Trials: Two Problems, NINR Grant #1RC1 NR011612-01 (Chuck Lidz, PhD, Principal Investigator), subcontract $123,584

2010-2013 Principal Investigator, Center for ELSI Research on Psychiatric, Neurologic, and Behavioral Genetics, NHGRI grant # 1P20HG005535-01, $150,000

Departmental and University Committees

University of Pittsburgh School of Medicine:

1983-1984 Mental Health Clinical Research Center Seed Monies Committee, Department of Psychiatry
1983-1984 Academic Promotions Committee, Department of Psychiatry

Harvard Medical School:

1984-1985 Committee on Governance, Department of Psychiatry
1984-1995 Working Group on Mental Health Policy, Division of Health Policy Research and Education
1994, 1995 Ad Hoc Committee on Professorial Appointment

University of Massachusetts Medical School:

1985-1986 Task Force on Medical Humanities
1986-1988 Task Force on the Impaired Student
1986-2005 Executive Committee, Department of Psychiatry
1991-1992 Ethicist Search Committee (Chair)
1992-1998 Chancellor's Advisory Committee
1992-2005 Executive Faculty Council (Secretary, 1995-1996; President 1997-99)
1993-1995 Pharmacology Chair Search Committee
1994-1995 Task Force on Multi-year Contracts (Chair)
1994-1995 Task Force on Tenure Policy
2003 Work Group on Composite Assessment of the Clinical Departments (Chair)
2004-2005 Search Committee for Neurology Chair

University of Massachusetts Medical Center

1985-1992 Treatment Issues Committee (Chair, Subcommittee on Consent, 1988; Vice-Chair, 1986-1988; Chair, 1989-1992)
1992-1998 Hospital Executive Committee
1992-1998 Group Practice Advisory Committee
1993-1998 Clinical Policies Committee
1995-1996 Task Force on the Role of the Clinical Chairs (Co-Chair)

UMass Memorial Health Care

1998-2001 Physician's Advisory Board
1998-2005 Leadership Council (prior to 2003, Clinical Chairs Council)

1998-1999	Group Practice Advisory Committee
1998-2005	UMass Memorial Behavioral Health System (President and Chairman of the Board)
1998-2001	Ethics and Treatment Issues Committee
1999-2003	Board of Directors, UMass Memorial Medical Group
2003-2005	Palliative Care Steering Committee
2004-2005	Finance Committee, UMass Memorial Medical Group

Columbia University

2006-2007	Ethics Committee, Department of Psychiatry
2006-2007	Sachar Award Selection Committee, Department of Psychiatry
2006-	Advisory Board, Center for the Study of Science and Religion
2006-2007	Geriatric Psychiatry Division Director Search Committee, Department of Psychiatry (Chair)
2006-	Steering Committee, Clinical and Translational Research Award (CTSA), Columbia University Medical Center
2007-2008	Committee to Review Medical Student Teaching in Psychiatry, Department of Psychiatry (Chair)
2007-2008	Committee on Conflicts of Interest Policy at the College of Physicians and Surgeons
2007-	Ethics Advisory Board, Department of Psychiatry (Co-chair)
2007-2008	Residency Training Director Search Committee, Department of Psychiatry
2007-	Member, Prevention, Control and Disparities Program, Columbia Cancer Center
2008	Committee to Review the Residency Training Curriculum, Department of Psychiatry (Chair)
2008-	Executive Advisory Committee, Department of Psychiatry
2008	Subcommittee on Consent and Privacy, Biobank Planning Committee (chair)

Teaching Experience and Responsibilities

1971-1972	Teaching assistant in biology, Columbia University
1974	Teaching assistant in neuropathology, Harvard Medical School
1977-1979	Clinical supervisor of medical students on psychiatry rotations, Harvard Medical School
1978-1979	Seminar leader and psychiatric consultant, Harvard Voluntary Defenders, Harvard Law School
1979-1980	Organizer and Director, Ethics Rounds, Massachusetts Mental Health Center
1979-1980	Supervisor of residents in legal psychiatry, Massachusetts Mental Health Center
1980-	Lecturer at grand rounds, symposia, and seminars in the United States and Canada
1980-1984	Supervisor of and lecturer to medical students and residents on legal psychiatry rotations, Western Psychiatric Institute and Clinic

1980-1981	Organizer and lecturer, course on Introduction to Psychiatry, psychology and social work trainees, Family Therapy Clinic, Western Psychiatric Institute and Clinic
1981-1984	Supervisor of residents in psychotherapy, Western Psychiatric Institute and Clinic
1982-1984	Teacher and co-teacher, Mental Health Law, University of Pittsburgh School of Law
1983-1984	Co-teacher, Law and Medicine, University of Pittsburgh School of Law
1985-2005	Supervisor of residents in psychotherapy, University of Massachusetts Medical School
1985-2005	Lecturer on legal and ethical issues in the practice of psychiatry and medicine to medical students and residents, University of Massachusetts Medical School
1988-1989	Lecturer, Law and Psychiatry (seminar for faculty); The Concept of Mental Competence in Law (seminars for faculty and students), Georgetown University Law Center
1993-2005	Small group leader, Mind, Brain, Behavior II Course, University of Massachusetts Medical School
1996	Co-organizer and lecturer, Law & Medicine (elective course for medical students), University of Massachusetts Medical School.
2004-2005	Lecturer on Suicide, Mind, Brain, Behavior II Course, University of Massachusetts Medical School
2006-	Seminar leader on law and psychiatry, Psychiatry Residency Training Program, Columbia University
2006-	Supervisor, Forensic Psychiatry Fellowship Program, Columbia University
2006-	Seminar on Informed Consent, Columbia Law School
2007-	Seminar on Mental Health Law, Columbia Law School

Other Professional Activities

1978	Task Force on Involuntary Medication, Massachusetts Department of Mental Health
1978-1980	Committee on Human Studies, Joslin Diabetes Foundation, Boston, MA
1981-1983	Advisory Board, Involuntary Civil Commitment Project, National Center for State Courts, Williamsburg, VA
1981-1983	Advisory Board, Patients' Rights Research Project, Human Interaction Research Institute, Los Angeles, CA
1982-1987	Commission on the Mentally Disabled, American Bar Association
1982-1984	Ethics/Human Rights Committee, Presbyterian-University Hospital, Pittsburgh, PA
1984	Forensic Subcommittee, Special Advisory Committee on Public Policy, United Mental Health of Western Pennsylvania, Pittsburgh, PA
1984-1988	National Task Force on Standards for Involuntary Civil Commitment, National Center for State Courts, Williamsburg, VA
1984-1986	Mental Health Law Committee, American Society of Law and Medicine (co-chairman)

1985-1986	Advisory Board, Legal Procedures for Handicapped Infant Care Project, American Bar Association
1987-1996	Research Network on Mental Health & the Law, John D. and Catherine T. MacArthur Foundation
1987	Participant, National Invitational Conference on the Future of Psychiatry
1987-1990	Advisory Committee to the American Academy of Forensic Sciences Committee on Ethics
1989-1991	Massachusetts House Committee on Physician/Therapist Sexual Misconduct, Subcommittee on Criminal/Civil Statutes
1992-2005	Board of Directors, Community HealthLink, Inc. (formerly Worcester Area Community Mental Health Center)(executive committee, 1992-2005)
1992-1994	Working Group on Guidelines for Maintenance of Boundaries in Psychotherapy, Massachusetts Board of Registration in Medicine
1993-1994	Ad Hoc Working Group for Mental Health and Criminal Justice Systems, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration
1994-2000	Forensic Advisory Council, Massachusetts Department of Mental Health
1995-1996	Ethics Advisory Board, BRCA-1 Genetic Screening Project, Dana-Farber Cancer Center, Boston
1995-1996	Project on Human Research Ethics, Center for Bioethics, University of Pennsylvania
1996-2004	Research Advisory Committee, United States Secret Service
2000-2005	Ethics Committee, Clinical Antipsychotic Trials of Intervention Effectiveness (CATIE) (chair)
2000-	Research Network on Mandated Community Treatment, John D. and Catherine T. MacArthur Foundation
2000	Work Group on Informed Consent and Ethical Issues in Human Studies, National Institute of Mental Health
2001-2004	Board on Neuroscience and Behavioral Health, Institute of Medicine of the National Academy of Sciences
2002-2005	Advisory Board, TRIAD Project, National Alliance for the Mentally Ill
2003	Steering Committee on the Genetics of Addiction, Institute of Medicine
2004-2005	Committee on Crossing the Quality Chasm: Adaptation to Mental Health And Addictive Disorders, Institute of Medicine
2004-2007	Ethics Advisory Board, Treatment Units for Research on Neurocognition in Schizophrenia (TURNS) Program (chair)
2006-	Advisory Board, National Resource Center on Psychiatric Advance Directives
2006-2009	Subcommittee on Research Involving Individuals with Impaired Decision-Making Capacity, Secretary's Advisory Committee on Human Research Protections (SACHRP), U.S. Department of Health and Human Services
2007	Roundtable on Student Mental Health and the Law, Jed Foundation (chair)
2007-2009	Scientific Advisory Panel, Assisted Outpatient Treatment Study, NY State Office of Mental Health
2007-2009	Committee on Health Research and the Privacy of Health Information: the HIPAA Privacy Rule, Institute of Medicine

2007-	Clinical Research Ethics Key Function Committee, Clinical and Translational Science Award (CTSA) Consortium, NIH (chair, 2007-2009)
2007-	Advisory Board, Scattergood Program in Applied Ethics of Psychiatry and Behavioral Health, University of Pennsylvania
2008	Planning Committee for a Conference on Military Medical Ethics, Institute of Medicine
2008-	Consultant, Committee on the Development of the 3rd Edition of the Reference Manual on Scientific Evidence, Federal Judicial Center/National Academy of Sciences
2008-	Scientific Council, National Alliance on Mental Illness
2008-	Standing Committee on Ethics, World Psychiatric Association
2008-	Advisory Committee, Voting and Cognitive Impairments Project, American Bar Association
2009-	Honorary Advisor, Chinese Dementia Research Association
2010-	Board member, Israel Healthcare Foundation
2010-	Board of Advisors, Saks Institute for Mental Health Law, Policy and Ethics, University of Southern California

Grant Reviewer:

National Institute of Mental Health (ad hoc, including NIH Challenge Grants in Health and Science Research; member, College of Reviewers, Center for Scientific Review); National Science Foundation; Social Sciences and Humanities Research Council (Canada); Wellcome Trust (UK); Netherlands Organization for Scientific Research; Alzheimer's Association; Dana Foundation; Institute of Neurosciences, Mental Health and Addiction, Canadian Institutes of Health Research; National Institute of Health Research (UK); Netherlands Organization for Health Research and Development; John D. and Catherine T. MacArthur Foundation; Policy Research Program, Department of Health (UK).

Journal Referee:

American Journal of Psychiatry; Psychiatric Services (formerly Hospital and Community Psychiatry); Journal (formerly Bulletin) of the American Academy of Psychiatry and the Law; International Journal of Law and Psychiatry; Law and Human Behavior; Law and Society Review; General Hospital Psychiatry; Journal of Nervous and Mental Diseases; Journal of the American Medical Association; New England Journal of Medicine; Psychosomatics; Journal of Health Policy, Politics and Law; American Psychologist; Archives of General Psychiatry; Psychiatry; Qualitative Sociology; Journal of Intensive Care Medicine; Hastings Center Report; Journal of Clinical Medical Ethics; Behavioral Sciences & The Law; American Journal of Geriatric Psychiatry; Milbank Quarterly; Schizophrenia Bulletin; Journal of Clinical Psychiatry; Medical Principles and Practice; International Journal of Psychiatry in Medicine; Southern Medical Journal; Archives of Internal Medicine; Academic Psychiatry; Epidemiology; Psychology, Public Policy and Law; Journal of Practical Psychiatry & Behavioral Health; Journal of Law, Medicine & Ethics; Philosophy, Psychiatry and Psychology; Biological Psychiatry; Psychosomatic

Medicine; Journal of the American Academy of Dermatology; Journal of Public Health Policy; Israel Journal of Psychiatry; Neuropsychopharmacology; Journal of Clinical Oncology; Journal of Forensic Psychiatry; Journal of Forensic Psychology Practice; Kennedy Institute of Ethics Journal; International Journal of Neuropsychopharmacology; American Journal of Public Health; Lancet; Journal of Traumatic Stress; Health Affairs; Medical Anthropology Quarterly; Journal of Clinical Psychiatry; Theoretical Medicine & Bioethics; Journal of Affective Disorders; Behavior Research and Therapy; International Journal of Forensic Mental Health; Journal of Neuropsychiatry and Clinical Neuroscience; BioMed Central: Public Health; Harvard Review of Psychiatry; Community Mental Health Journal; BioMed Central: Psychiatry; Canadian Journal of Psychiatry; Administration and Policy in Mental Health and Mental Health Services Research; European Journal of Psychiatry; Journal of Social and Clinical Psychology; American Journal of Bioethics; BioMed Central: Medical Ethics; Psychological Medicine; Psychological Reports; Accountability in Research; Journal of the International Neuropsychological Society; Neurology; American Journal of Bioethics; Journal of Child Psychopharmacology; Current Psychiatry; Social Psychiatry and Psychiatric Epidemiology; Journal of the American Geriatrics Society; European Journal of Cognitive Psychology; International Psychogeriatrics; Acta Psychiatrica Scandinavica; IRB: Ethics & Human Research; Journal of Clinical Psychology; Jurimetrics; International Journal of Methods in Psychiatric Research; American Journal of Bioethics: Primary Research; Journal of Ethics in Mental Health.

Editorial Boards:

1981-	Contributing Editor (Law and Psychiatry), Psychiatric Services (prior to 1995, Hospital and Community Psychiatry)
1982-1986	Editorial Board, Contemporary Psychiatry
1982-1987	Editorial Advisory Board, Mental and Physical Disability Law Reporter (chairman, 1982-1987)
1983-1992	Editorial Board, Law, Medicine and Health Care
1983-1990	Associate Editor, Bulletin of the American Academy of Psychiatry and the Law
1984-1994	Editorial Board, International Journal of Law and Psychiatry
1984-	Editorial Advisory Board, Law and Human Behavior
1986-1993	Editorial Advisory Board, Law and Mental Health Professionals series, American Psychological Association
1989-1994	Editorial Board, Criminal Behavior and Mental Health
1990-1994	Associate Editor, American Journal of Psychiatry
1993-1996	Editorial Advisory Board, Clinical Psychiatry News
1993-	Editorial Advisory Board, Psychiatry
1995-	Consulting Editor, Ethics and Behavior
1995-2006	Editorial Board, Behavioral Sciences and the Law
1999-	Editorial Board, Journal of Forensic Psychiatry and Psychology (UK)
2005-	Editorial Board, Schizophrenia Bulletin
2004-	International Editorial Board, Journal of Ethics in Mental Health
2005-	Advisory Board, International Review of Psychiatry
2005-	Editorial Board, BioMed Central: Psychiatry

2008- Editorial Board, Psychiatry, Psychology and Law (Australia/NZ)

Bibliography

PEER REVIEWED ARTICLES:

1977

1. Shader RI, Jackson AH, Harmatz JS, Appelbaum PS: Patterns of violent behavior among schizophrenic inpatients. Diseases of the Nervous System 1977; 38:13-16

1979

2. *Appelbaum PS, Vasile RG, Orsulak PJ, Schildkraut JJ: Clinical utility of tricyclic antidepressant blood levels: a case report. American Journal of Psychiatry 1979; 136:339-341

3. *Appelbaum PS, Shader RI, Funkenstein HH, Hanson MA: Difficulties in the clinical diagnosis of lithium toxicity. American Journal of Psychiatry 1979; 136:1212-1213

4. *Appelbaum PS, Gutheil TG: Rotting with their rights on: constitutional theory and clinical reality in drug refusal by psychiatric patients. Bulletin of the American Academy of Psychiatry and the Law 1979; 7:308-317

1980

5. *Appelbaum PS, Gutheil TG: Drug refusal: a study of psychiatric inpatients. American Journal of Psychiatry 1980; 137:340-346

6. *Appelbaum PS: The therapeutic adversary: resolving the impasse. Journal of Psychiatric Treatment and Evaluation 1980; 2(2):95-96

7. *Appelbaum PS, Gutheil TG: The Boston State Hospital case: "involuntary mind control," the constitution, and the right to rot. American Journal of Psychiatry 1980; 137:720-723

8. *Appelbaum PS, Bateman AL: Competency to consent to voluntary psychiatric hospitalization: a theoretical approach. Bulletin of the American Academy of Psychiatry and the Law 1980; 7:390-399

9. Gutheil TG, Appelbaum PS: Substituted judgment and the physician's ethical dilemma: with special reference to the problem of the psychiatric patient. Journal of Clinical Psychiatry 1980; 41:303-305

10. *Appelbaum PS: The legal psychiatry consultation service: a new service model for "forensic" psychiatry. Bulletin of the American Academy of Psychiatry and the Law 1980; 8:233-239

1981

11. *Appelbaum PS, Mirkin SA, Bateman AL: Empirical assessment of competency to consent to psychiatric hospitalization. American Journal of Psychiatry 1981; 138:1170-1176

12. *Appelbaum PS, Roth LH: Clinical issues in the assessment of competency. American Journal of Psychiatry 1981; 138:1462-1467

13. *Appelbaum PS, Reiser SJ: Ethics rounds: a model for teaching ethics in the psychiatric setting. Hospital & Community Psychiatry 1981; 32:555-560

1982

14. *Appelbaum PS, Roth LH: Competency to consent to research: a psychiatric overview. Archives of General Psychiatry 1982; 39:951-958. Reprinted as Les aspects psychiatriques du consentement valable en recherche, in Wachter M, Roy DJ, Doucet H, et al., (eds.): Cahiers de Bioethique, 4: Medicine et Experimentation. Quebec, Les Presses de L'Universite Laval, 1982. Excerpted in Reisner R, Slobogin C. (1990) Law and the Mental Health System: Civil and Criminal Aspects, 2nd edition, West Publishing, St. Paul, MN.

15. *Appelbaum PS, Hamm R: Decision to seek commitment: psychiatric decision making in a legal context. Archives of General Psychiatry 1982; 39:555-560

16. Roth LH, Appelbaum PS, Sallee R, Reynolds C, Huber G: The dilemma of denial in the assessment of competency to refuse treatment. American Journal of Psychiatry 1982; 139:910-913

17. *Appelbaum PS, Kemp KN: The evolution of commitment law in the nineteenth century: a reinterpretation. Law and Human Behavior 1982; 6:343-354

18. Huber G, Roth LH, Appelbaum PS, Ore T: Hospitalization, arrest or discharge: important clinical and legal issues in the emergency evaluation of persons believed dangerous to others. Law and Contemporary Problems 1982; 45:501-525

19. *Appelbaum PS, Gutheil TG: Clinical aspects of treatment refusal. Comprehensive Psychiatry 1982; 23:560-566

20. *Appelbaum PS, Roth LH, Lidz C: The therapeutic misconception: informed consent in psychiatric research. International Journal of Law and Psychiatry 1982; 5:319-329

1983

21. *Appelbaum PS, Jackson AH, Shader RI: Psychiatrists' responses to violence: pharmacologic management of psychiatric inpatients. American Journal of Psychiatry 1983; 140:301-304. Letter and reply. American Journal of Psychiatry 1983; 140:1274-1275

22. McEvoy JP, Hatcher A, Appelbaum PS, Abernathy V: Chronic schizophrenic women's attitudes toward sex, pregnancy, birth control and childbearing. Hospital & Community Psychiatry 1983; 34:536-539

23. Schmid D, Appelbaum PS, Roth LH, Lidz C: Confidentiality in psychiatry: a study of the patient's view. Hospital & Community Psychiatry 1983; 34:353-355

24. Gutheil TG, Appelbaum PS: Substituted judgment: best interests in disguise. Hastings Center Report 1983; 13(3):8-11

25. *Appelbaum PS, Kapoor W: Imipramine-induced vasospasm. American Journal of Psychiatry 1983; 140:913-915

26. Gutheil TG, Appelbaum PS, Wexler DB: The inappropriateness of "least restrictive alternative" analysis for involuntary procedures with the institutionalized mentally ill. Journal of Psychiatry & Law 1983; 11:7-17

27. Gutheil TG, Appelbaum PS: "Mind control," "synthetic sanity," "artificial competence," and genuine confusion: legally-relevant effects of antipsychotic medication. Hofstra Law Review 1983; 9:77-120

28. *Appelbaum PS, Roth LH: The structure of informed consent in psychiatric research. Behavioral Sciences and the Law 1983; 1(4):9-19

1984

29. *Appelbaum PS, Roth LH: Patients who refuse treatment in medical hospitals. Journal of the American Medical Association 1983; 250:1296-1301. Letter and reply. Journal of the American Medical Association 1984; 251:2514-2515. Translated and reprinted in Journal of the American Medical Association's Japanese Edition, No. 54, May 5, 1984; Edition Francaise 1984; 9(#78):85-96; Flemish Edition No. 31 (1984) 31-41

30. *Appelbaum PS, Roth LH: Involuntary treatment in medicine and psychiatry. American Journal of Psychiatry 1984; 141:202-205

31. *Appelbaum PS: The Supreme Court looks at psychiatry. American Journal of Psychiatry 1984; 141:827-835

32. Schwartz HI, Appelbaum PS, Kaplan RD: Clinical judgments in the decision to commit: psychiatric discretion and the law. Archives of General Psychiatry 1984; 41:811-815

33. *Appelbaum PS: Hypotheticals, psychiatric testimony, and the death sentence. Bulletin of the American Academy of Psychiatry and the Law 1984; 12:169-177

34. *Appelbaum PS, Kapen G, Walters B, Lidz C, Roth LH: Confidentiality: an empirical test of the utilitarian perspective. Bulletin of the American Academy of Psychiatry and the Law 1984; 12:109-116

35. *Appelbaum PS: Informed consent, in Weisstub D (ed.): Law and Mental Health: International Perspectives. Pergamon Press, New York, NY. 1984; 1:45-83

36. *Appelbaum PS: Psychiatric ethics in the courtroom. Bulletin of the American Academy of Psychiatry and the Law 1984; 12:225-231

37. *Appelbaum PS: Is the need for treatment constitutionally acceptable as a basis for civil commitment? Law, Medicine, and Health Care 1984; 12:144-149

38. *Appelbaum PS: Hospitalization of the dangerous patient: legal pressures and clinical responses. Bulletin of the American Academy of Psychiatry and the Law 1984; 12:323-329

39. *Appelbaum PS, Roth LH, Detre T: Researchers' access to inpatient records: an analysis of the ethical problems. Clinical Research 1984; 32:399-403

40. *Appelbaum PS: Standards for civil commitment: a critical review of empirical research. International Journal of Law and Psychiatry 1984; 7:133-144

41. *Appelbaum PS: Confidentiality in the forensic evaluation. International Journal of Law and Psychiatry 1984; 7:67-82

1985

42. *Appelbaum PS: Tarasoff and the clinician: problems in fulfilling the duty to protect. American Journal of Psychiatry 1985; 142:425-429

43. Pleak R, Appelbaum PS: The clinician's role in protecting patients' rights in guardianship proceedings. Hospital & Community Psychiatry 1985; 36:77-79

44. Gutheil TG, Appelbaum PS: The substituted judgment approach: its difficulties and paradoxes in the mental health setting. Law, Medicine, and Health Care 1985; 13:61-64

45. *Appelbaum PS, Schaffner K, Meisel A: Responsibility and compensation for tardive dyskinesia. American Journal of Psychiatry 1985; 142:806-810

46. *Griffith JM, Miewald BK, Appelbaum PS: The chronic child patient: ensuring continuity of care. American Journal of Orthopsychiatry 1985; 55:434-438

47. *Appelbaum PS: Empirical assessment of innovation in the law of civil commitment: a critique. Law, Medicine and Health Care. 1985; 13:304-309

1986

48. *Appelbaum PS, Meisel A: Therapists' obligations to report their patients' criminal acts. Bulletin of the American Academy of Psychiatry and the Law 1986; 14:221-230

49. *Appelbaum PS, Hoge SK: The right to refuse treatment: what the research reveals. Behavioral Sciences and the Law 1986; 4:279-292

1987

50. *Appelbaum PS, Roth LH, Lidz CW, Benson P, Winslade W: False hopes and best data: Consent to research and the therapeutic misconception. Hastings Center Report 1987; 17(2):20-24; Letter and reply 17(6):41-42. Reprinted in Mappes TA, Zembaty JS (1991): Biomedical Ethics, 3rd ed., McGraw-Hill, New York, NY; in Bulger RE, Heitman E, and Reiser S (eds 1993): The Ethical Dimensions of the Biological Sciences. Cambridge University Press,

New York, NY; in Arras JD, Crouch RA, Emanuel EJ, Grady C, Moreno JD (eds 2003, and 2nd ed., in press): Ethical and Regulatory Aspects of Human Subjects Research. Johns Hopkins University Press Baltimore, MD, and in Pimple KD (ed. 2008): Research Ethics. Ashgate Publishing, Aldershot, UK. Excerpted in Coleman CH, Dubler NN, Goldner JA, Menikoff JA (eds. 2005): The Ethics and Regulation of Research with Human Subjects. Matthew Bender & Co., Newark, NJ.

51. *Appelbaum PS: In the wake of Ake: the ethics of expert testimony in an advocate's world. Bulletin of the American Academy of Psychiatry and the Law 1987; 15:15-25

1988

52. Roth LH, Appelbaum PS, Lidz CW, Benson P, Winslade WJ: Informed consent in psychiatric research. Rutgers Law Review 1987; 39:425-441. Reprinted in Personal Injury Review (1988) Matthew Bender, New York, NY

53. *Appelbaum PS: The right to refuse treatment with antipsychotic medications: retrospect and prospect. American Journal of Psychiatry 1988; 145:413-419. Excerpted in Miller SF, Fontaine KL, Cook JS: Essentials of Mental Health Nursing. Lexington, MA, Addison-Wesley, 1991.

54. *Appelbaum PS: The new preventive detention: psychiatry's problematic responsibility for the control of violence. American Journal of Psychiatry 1988; 145:779-785

55. *Appelbaum PS: The empirical jurisprudence of the U.S. Supreme Court. American Journal of Law & Medicine 1988; 13:335-349

56. Benson PR, Roth LH, Appelbaum PS, Lidz CW, Winslade WJ: Information disclosure, subject understanding, and informed consent in psychiatric research. Law & Human Behavior 1988; 12:455-475

57. *Appelbaum PS, Roth LH: Assessing the National Center for State Courts' Guidelines for Involuntary Civil Commitment from the clinician's point of view. Hospital & Community Psychiatry 1988; 39:406-410

58. Lidz CW, Appelbaum PS, Meisel A: Two models of implementing informed consent. Archives of Internal Medicine 1988; 148:1385-1389. Reprinted in Mappes T, Zembafy J (eds. 1991): Biomedical Ethics, 3rd ed. McGraw-Hill, New York, NY; and in Campion F (ed. 1990): Grand Rounds on Medical Malpractice. American Medical Association, Milwaukee, WI. Translated and reprinted as Dos modelos para la aplicacion del consentimiento informado, in Conceiro A (ed. 1999): Bioethica Para Clinicos. Editorial Triacastela, Madrid, Spain.

59. Hoge SK, Sachs G, Appelbaum PS, Greer A, Gordon C: Limitations on psychiatrists' discretionary civil commitment authority by the Stone and dangerousness criteria. Archives of General Psychiatry 1988; 45:764-769

60. *Appelbaum PS, Grisso T: Assessing patients' capacities to consent to treatment. New England Journal of Medicine 1988; 319:1635-1638

1989

61. Hoge SK, Appelbaum PS, Greer A: An empirical comparison of the Stone and dangerousness criteria for civil commitment. American Journal of Psychiatry 1989; 146:170-175

62. McEvoy J, Apperson LJ, Appelbaum PS, Ortlip P, Brecosky J, Hammill K, Geller JL, Roth LH: Insight in schizophrenia: its relationship to acute psychopathology. Journal of Nervous & Mental Disease 1989; 177:43-47

63. McEvoy JP, Appelbaum PS, Apperson LJ, Geller JL, Freter S: Why must some schizophrenic patients be involuntarily committed? The role of insight. Comprehensive Psychiatry 1989; 30:13-17

64. Lidz CW, Mulvey EP, Appelbaum PS, Cleveland S: Commitment: the consistency of clinicians and the use of legal standards. American Journal of Psychiatry 1989; 146:176-181

65. McEvoy JP, Freter S, Everett G, Geller JL, Appelbaum PS, Apperson LJ, Roth LH: Insight and the clinical outcome of schizophrenic patients. Journal of Nervous & Mental Disease 1989; 177:48-51

66. *Appelbaum PS, Rosenbaum A: Tarasoff and the researcher: does the duty to protect apply in the research setting? American Psychologist 1989; 44:885-894. Reprinted in Jensen RE (ed. 1992): Standards and Ethics in Clinical Psychology. Lanham, MD, University Press of America; and in Mindell JA (ed. 1993): Issues in Clinical Psychology. Brown & Benchmark, Dubuque, Iowa. Excerpted in Bersoff DN: Ethical Conflicts in Psychology. American Psychological Association, Washington, DC, 1995, and 2nd edition, 1999.

67. Cleveland S, Mulvey EP, Appelbaum PS, Lidz CW: Do dangerousness-oriented commitment laws restrict hospitalization of patients who need treatment? A test. Hospital & Community Psychiatry 1989; 40:266-271. Letter and response, 1989; 40:964-965

68. *Appelbaum PS, Zonana H, Bonnie R, Roth LH: Statutory approaches to limiting psychiatrists' liability for their patients' violent acts. American Journal of Psychiatry 1989; 146:821-828

1990

69. *Appelbaum PS: The parable of the forensic psychiatrist: ethics and the problem of doing harm. International Journal of Law and Psychiatry 1990; 13:249-259. Reprinted in Levine ML (ed. 2009): Mental Illness, Medicine, and Law. Aldershot (UK), Ashgate Publishing.

70. Cassens G, Inglis AK, Appelbaum PS, Gutheil TG: Neuroleptics: effects on neuropsychological function in chronic schizophrenics. Schizophrenia Bulletin 1990; 16:477-499

71. Hoge SK, Appelbaum PS, Lawlor T, Beck JC, Litman R, Greer A, Gutheil TG, Kaplan E: A prospective, multi-center study of patients' refusal of antipsychotic medication. Archives of General Psychiatry 1990; 47:949-956

1991

72. Grisso T, Appelbaum PS: Mentally ill and non-mentally ill patients' abilities to understand informed consent disclosures for medication: preliminary data. Law and Human Behavior 1991; 15:377-388

73. *Appelbaum KL, Appelbaum PS: A model hospital policy on prosecuting patients for presumptively criminal acts. Hospital & Community Psychiatry 1991; 42:1233-1237

74. *Appelbaum PS, Jorgenson L: Psychotherapist-patient sexual contact after termination of treatment: an analysis and a proposal. American Journal of Psychiatry 148:1466-1473, 1991. Letters and reply 1992; 149(7):979-989. Reprinted in Mindell JA (ed. 1993): Issues in Clinical Psychology. Brown & Benchmark, Dubuque, IA; and in Levine ML (ed. 2009): Mental Illness, Medicine, and Law. Aldershot (UK), Ashgate Publishing.

1992

75. *Appelbaum PS: Civil commitment from a systems perspective. Law and Human Behavior 1992; 16:61-74. Reprinted in Levine ML (ed. 2009): Mental Illness, Medicine, and Law. Aldershot (UK), Ashgate Publishing.

76. *Appelbaum PS, Schwartz WF: Minimizing the social cost of choosing treatment for the involuntarily hospitalized mentally ill patient: a new approach to defining the patient's role. Connecticut Law Review 1992; 24:433-485

77. Grisso T, Appelbaum PS: Is it unethical to offer predictions of future violence? Law and Human Behavior 1992; 16(6):621-633. Excerpted in Bersoff DN (ed. 1995): Ethical Conflicts in Psychology. American Psychological Association, Washington, DC. Reprinted in Edwards RB (ed. 1997): Ethics of Psychiatry: Insanity, Rational Autonomy and Mental Health Care. Prometheus Books, Amherst, NY

78. *Appelbaum PS: Forensic psychiatry: the need for self-regulation. Bulletin of the American Academy of Psychiatry and the Law 1992; 20:153-162

79. Rudegeair TJ, Appelbaum PS: On the duty to protect: an evolutionary perspective. Bulletin of the American Academy of Psychiatry and the Law 1992; 20:419-426

80. *Appelbaum PS: Legal aspects of clinical care for severely mentally ill, homeless persons. Bulletin of the American Academy of Psychiatry and the Law 1992; 20:455-473

81. *Council on Psychiatry and Law, American Psychiatric Association (Paul S. Appelbaum, chair and principal author): Peer review of psychiatric expert testimony. Bulletin of the American Academy of Psychiatry and the Law 1992; 20:343-352

1993

82. *Appelbaum PS, Jick RZ, Grisso T, Givelber D, Silver E, Steadman H: Use of posttraumatic stress disorder to support an insanity defense. American Journal of Psychiatry 1993; 150:229-234. Letter and reply 1994; 151:152-153

83. *Appelbaum PS: Legal liability and managed care. American Psychologist 1993; 48:251-257. Excerpted in Bersoff DN (ed.): Ethical Conflicts in Psychology. Washington, DC, American Psychological Association, 1995; 2nd edition, 1999; and 3rd edition, 2003.

84. Monahan J, Appelbaum PS, Mulvey EP, Robins PC, Lidz CW: Ethical and legal duties in conducting research on violence: lessons from the MacArthur Risk Assessment Study. Violence and Victims 1993; 8:387-396

1994

85. *Appelbaum PS, Appelbaum BC, Soderlund DL, Greer A: Economic impact of outpatient psychiatric services in a university medical center. Hospital & Community Psychiatry 1994; 45:376-378

86. *Appelbaum PS, Jorgenson LM, Sutherland PK: Sexual relationships between physicians and patients. Archives of Internal Medicine 1994; 154:2561-2565

87. Appelbaum K, Appelbaum PS: Criminal justice related competencies in defendants with mental retardation. Journal of Psychiatry & Law 1994; 22:483-503

1995

88. *Appelbaum PS, Grisso T: The MacArthur Treatment Competence Study, I: mental illness and competence to consent to treatment. Law and Human Behavior 1995; 19: 105-126; reprinted in Roesch R, McLachlan K (eds. 2007). Clinical Forensic Psychology and Law. Ashgate Publishers, Hampshire, UK.

89. Grisso T, Appelbaum PS, Mulvey E, Fletcher K: The MacArthur Treatment Competence Study, II: measures of abilities related to competence to consent to treatment. Law and Human Behavior 1995; 19:127-148

90. Grisso T, Appelbaum PS: The MacArthur Treatment Competence Study, III: abilities of patients to consent to psychiatric and medical treatments. Law and Human Behavior 1995; 19: 149-174; reprinted in Peay J (ed.): Seminal Issues in Mental Health Law. Aldershot (UK), Ashgate Publishing (2005)

91. Grisso T, Appelbaum PS: Comparison of standards for assessing patients' capacities to make treatment decisions. American Journal of Psychiatry 1995; 152:1033-1037

92. *Appelbaum PS: Consent and coercion: research with the involuntarily treated person with mental illness or substance abuse. Accountability in Research 1995; 4:69-79

93. Hundert EM, Appelbaum PS: Boundaries in psychotherapy: model guidelines. Psychiatry: Interpersonal and Biological Processes. 1995; 58:345-356

94. Commons, ML, Lee P, Gutheil TG, Goldman M, Rubin E, Appelbaum PS: Moral stage of reasoning & the misperceived "duty" to report past crimes (misprision). International Journal of Law and Psychiatry 1995; 18:415-424

95. *Appelbaum PS, Jick RZ: Psychotherapists' duties to third parties: Ramona and beyond. American Journal of Psychiatry 1995; 153:457-465

1996

96. *Appelbaum PS: Drug-free research in schizophrenia: an overview of the controversy. IRB: A Review of Human Subjects Research 1996; 18(1):1-5. Letter and reply. 1996; 18(5):8-10. Reprinted in Arras J, Steinbock B (eds. 1998): Ethical Issues in Modern Medicine, 5th ed. Mayfield Publishing, Mountain View, CA, in Steinbock B, Arras JD, London AJ (eds. 2002): Ethical Issues in Modern Medicine, 6th ed. McGraw Hill, , New York, NY; and in Arras JD, Crouch RA, Emanuel EJ, Grady C, Moreno JD (eds 2003, and 2nd ed., in press): Ethical and Regulatory Aspects of Human Subjects Research. Johns Hopkins University Press, Baltimore, MD.

97. *Appelbaum PS: Patients' competence to consent to neurobiological research. Accountability in Research 1996; 4:241-251. Reprinted in Shamoo AE (ed. 1997): Ethics in Neurobiological Research with Human Subjects: The Baltimore Conference on Ethics. Gordon and Breach, Amsterdam

98. Berg JW, Appelbaum PS, Grisso T: Constructing competence: formulating standards of legal competence to make medical decisions. Rutgers Law Review 1996; 48:345-396

99. Anfang SA, Appelbaum PS: Twenty years after Tarasoff: reviewing the duty to protect. Harvard Review of Psychiatry 1996; 4:67-76

1997

100. *Appelbaum PS, Grisso T: Capacities of hospitalized, medically ill patients to consent to treatment. Psychosomatics. 1997; 38:119-125

101. *Appelbaum PS: Almost a revolution: an international perspective on the law of involuntary commitment. Journal of the American Academy of Psychiatry and Law 1997; 25:135-148. Translated into Russian and reprinted in Sociolnaya E Klinicheskaya Psichiatria (Social and Clinical Psychiatry) 1999; 9:49-56

102. *Appelbaum PS: A theory of ethics for forensic psychiatry. Journal of the Academy of Psychiatry and Law. 1997; 25:233-247

103. Grisso T, Appelbaum PS, Hill-Fotouhi C: The MacCAT-T: A clinical tool to assess patients' capacities to make treatment decisions. Psychiatric Services 1997; 48:1415-1419. Translated and reprinted in Psychiatric Services Edizione Italiana 1998; 2(1):26-31

1998

104. Steadman HJ, Mulvey EP, Monahan J, Robbins PC, Appelbaum PS, Grisso T, Roth LH, Silver E: Violence by people discharged from acute psychiatric inpatient facilities and by others

in the same neighborhoods. Archives of General Psychiatry 1998; 55:393-401. Letter and response. 1999; 56:193-194

105. *Appelbaum PS, Rumpf T: Civil commitment of the anorexic patient. General Hospital Psychiatry 1998; 20:225-230

106. *Appelbaum B, Appelbaum PS, Grisso T: Competence to consent to voluntary hospitalization: a test of a standard proposed by APA. Psychiatric Services 1998; 49:1193-1196

107. Moreno J, Caplan AL, Wolpe PR and the members of the Project on Informed Consent, Human Research Ethics Group: Updating protections for human subjects involved in research. Journal of the American Medical Association 1998; 280:1951-1958

1999

108. *Appelbaum PS, Grisso T, Frank E, O'Donnell S, Kupfer D: Competence of depressed patients for consent to research. American Journal of Psychiatry 1999; 156:1380-1384

109. Frank L, Smyer M, Grisso T, Appelbaum PS: Measurement of advance directive and medical treatment decisionmaking capacity of older adults. Journal of Mental Health & Aging 1999; 5:257-274

110. *Appelbaum PS, Robbins PC, Roth LH: A dimensional approach to delusions: comparisons across delusion types and diagnoses. American Journal of Psychiatry 1999; 156:1938-1943

2000

111. Steadman HJ, Monahan J, Silver E, Appelbaum PS, Robbins PC, Mulvey EP, Grisso T, Roth LH, Banks S: A classification tree approach to the development of actuarial violence risk assessment tools. Law and Human Behavior 2000; 24:83-100

112. Monahan J, Steadman HJ, Appelbaum PS, Robbins PC, Mulvey EP, Silver E, Roth LH, Grisso T: Developing a clinically useful actuarial tool for assessing violence risk: results from the MacArthur Violence Risk Assessment Study. British Journal of Psychiatry 2000 ; 176 :312-319

113. Carpenter WT, Gold JM, Lahti AC, Queern CA, Conley RR, Bartko JJ, Kovnick J, Appelbaum PS: Decisional capacity for informed consent in schizophrenia research. Archives of General Psychiatry 2000; 57:533-538

114. *Appelbaum PS, Robbins PC, Monahan J: Violence and delusions: data from the MacArthur Violence Risk Assessment Study. American Journal of Psychiatry 2000; 157:566-572

115. Grisso T, Davis J, Vesselinov R, Appelbaum PS, Monahan J: Violent thoughts and violent behavior following hospitalization for mental disorder. Journal of Consulting & Clinical Psychology 2000; 68:388-398

116. *Pinals D, Appelbaum PS: The history and current status of competence and informed consent in psychiatric research. Israel Journal of Psychiatry. 2000; 37:82-94

117. Wisner K, Zarin D, Holmboe E, Appelbaum PS, Gelenberg AJ, Leonard H, Frank E: Risk-benefit decision making for treatment of depression during pregnancy. American Journal of Psychiatry 2000; 157:1933-1940

2001

118. *Appelbaum PS: Thinking carefully about outpatient commitment. Psychiatric Services 2001; 52:347-350. Letters and response, 2001; 52:1103-1104

119. Heinssen RK, Fenton WS, Perkins DO, Appelbaum PS: Informed consent in early psychosis research: NIMH workshop, November 15, 2000. Schizophrenia Bulletin 2001; 27:571-584

120. Monahan J, Bonnie R, Appelbaum PS, Hyde P, Steadman H, Swartz M: Mandated community treatment: beyond outpatient commitment. Psychiatric Services 2001; 52:1198-1205. Reprinted in Developments in Mental Health Law 2002; 21(1):1-18

2002

121. Thomsen Hall K, Appelbaum PS: The origins of commitment for substance abuse in the United States. Journal of the American Academy of Psychiatry and the Law 2002; 30:33-45

122. Palmer BW, Nayak GV, Dunn LB, Appelbaum PS, Jeste DV: Treatment-related decision making capacity in middle-aged and older patients with psychosis: a preliminary study using the MacCAT-T and HCAT. American Journal of Geriatric Psychiatry. 2002; 10:207-211

123. *Appelbaum PS: Privacy in psychiatric treatment: threats and responses. American Journal of Psychiatry 2002; 159:1809-1818. Letter and response. 2004; 161:583. Reprinted in Focus: The Journal of Lifelong Learning in Psychiatry 2003; 1:396-406; and in Levine ML (ed.): Mental Illness, Medicine, and Law. Aldershot (UK), Ashgate Publishing, 2009.

124. Moser DJ, Schultz SK, Arndt S, Benjamin ML, Fleming FW, Brems CS, Paulsen JS, Appelbaum PS, Andreasen NC: Capacity for research informed consent in schizophrenia and HIV. American Journal of Psychiatry 2002; 159:1201-1207

125. Lidz CW, Appelbaum PS: The therapeutic misconception: problems and solutions. Medical Care 2002; 40 (9, suppl.): V-55-V-63

126. Stroup S, Swartz M, Appelbaum PS: Concealed medicines for people with schizophrenia: a U.S. perspective. 2002; Schizophrenia Bulletin 28:537-542

2003

127. Carpenter W, Appelbaum PS, Levine R: The Declaration of Helsinki and clinical trials: a focus on placebo-controlled trials in schizophrenia. American Journal of Psychiatry 2003; 160:356-362

128. Pinals D, Appelbaum PS: Impact of the new legal framework for chemical restraints. Directions in Psychiatry 2003; 23:35-41

129. Stroup S, Appelbaum P: The subject advocate: protecting the interests of participants with fluctuating decisionmaking capacity. IRB: Ethics and Human Research 2003; 25(3):9-11

130. Lapid MI, Rummans TA, Poole KL, Pankratz VS, Maurer MS, Rasmussen KG, Philbrick KL, Appelbaum PS: Decisional capacity of severely depressed individuals requiring electroconvulsive therapy. Journal of Electroconvulsive Therapy 2003; 19:67-72

131. *Appelbaum PS: The "quiet" crisis in reimbursement and access for mental health services. Health Affairs 2003; 22(5):110-116. Letter and response. 2003; 22(6):281-283

132. Jeste D, Dunn L, Palmer BW, Saks E, Halpain M, Cook A, Appelbaum PS, Schneiderman L: A collaborative model for research on decisional capacity and informed consent in older patients with schizophrenia: bioethics units of a geriatric psychiatry intervention research center. Psychopharmacology 2003; 171:68-74

133. Kovnick J, Appelbaum PS, Hoge, SK, Leadbetter R: Competence to consent to research among long-stay inpatients with chronic schizophrenia. Psychiatric Services 2003; 54:1247-1252

2004

134. Palmer BW, Dunn LB, Appelbaum PS, Jeste DV: Correlates of treatment-related decision making capacity among middle-aged and older patients with schizophrenia. Archives of General Psychiatry 2004; 61:230-236

135. Lidz CW, Appelbaum PS, Grisso T, Renaud M: Therapeutic misconception and the appreciation of risks in clinical trials. Social Science and Medicine 2004; 58:1689-1697

136. Banks S, Robbins P, Silver E, Vesselinov R, Steadman H, Monahan J, Mulvey E, Appelbaum P, Grisso T, Roth L: A multiple models approach to violence risk assessment among people with mental disorder. Criminal Justice & Behavior 2004; 31:324-340

137. Kim SYH, Appelbaum PS, Jeste DV, Olin J: Proxy and surrogate consent in geriatric neuropsychiatric research: update and recommendations. American Journal of Psychiatry 2004; 161:797-806

138. Lapid MI, Rummans TA, Pankratz VS, Appelbaum PS: Decisional capacity of depressed elderly to consent to electroconvulsive therapy. J Geriatric Psychiatry Neurol 2004; 17:42-46

139. Srebnik D, Appelbaum PS, Russo J: Assessing competence to complete psychiatric advance directives with the Competency Assessment Tool for Psychiatric Advance Directives. Comprehensive Psychiatry 2004; 45:239-245

140. *Appelbaum PS, Robbins PC, Vesselinov R: Persistence and stability of delusions over time. Comprehensive Psychiatry 2004; 45:317-324

141. *Appelbaum PS, Lidz CW, Grisso T: Therapeutic misconception in clinical research: frequency and risk factors. IRB: Ethics and Human Research 2004; 26(2):1-8; correction and clarification, 2004; 26(5):18

142. Skeem J, Mulvey E, Appelbaum PS, Banks S, Grisso T, Silver E, Robbins PC: Identifying subtypes of civil psychiatric patients at high risk for violence. Criminal Justice and Behavior 2004; 31:392-437

143. Karlawish JH, Bonnie RJ, Appelbaum PS, Lyketsos C, James B, Kropman D, Patusky C, Kane RA, Karlan P: Addressing the ethical, legal, and social issues raised by voting by persons with dementia. JAMA 2004; 292:1345-1350

144. *Appelbaum PS: Ethical issues in psychiatric genetics. Journal of Psychiatric Practice 2004; 10:343-351

2005

145. Vermette H, Pinals DA, Appelbaum PS: Mental health training for law enforcement professionals. Journal of the Academy of Psychiatry and the Law 2005; 33:42-46

146. Monahan J, Redlich A, Swanson J, Robbins P, Appelbaum PS, Petrila J, Steadman H, Swartz M, Angell B, McNeil D: Use of leverage to improve adherence to psychiatric treatment in the community. Psychiatric Services 2005; 56:37-44

147. Palmer BW, Dunn LB, Appelbaum PS, Mudaliar S, Thal L, Henry R, Golshan S, Jeste DV: Assessment of capacity to consent to research among older persons with schizophrenia, Alzheimer disease, or diabetes mellitus: comparison of a 3-item questionnaire with a comprehensive standardized capacity instrument. Archives of General Psychiatry 2005; 62:726-733

148. Geller JL, Shore H, Grudzinskas AJ, Appelbaum PS: Against the grain: a reasoned argument for not closing a state hospital. Psychiatric Quarterly 2005; 76:177-194

149. Monahan J, Steadman HJ, Robbins PC, Appelbaum PS, Banks S, Grisso T, Heilbrun K, Mulvey EP, Roth LH: An actuarial model of violence risk assessment for people with mental disorder. Psychiatric Services 2005; 56:810-815

150. *Appelbaum PS, Bonnie R, Karlawish J: The capacity to vote of persons with Alzheimers disease. American Journal of Psychiatry 2005;162:2094-2100. Excerpted in Vellas B, Winblad B, Grundman M, Fitten LJ, Feldman H, Giacobini E, Kurz A (eds.), Research and Practice in Alzheimer's Disease, Vol 12. Paris, Serdi Publishers, 2007.

151. Mohamed M, Punwani M, Clay M, Appelbaum PS: Protecting the residency training environment: a resident's perspective on the ethical boundaries in the faculty-resident relationship. Academic Psychiatry 2005;29:368-373.

152. Stroup S, Appelbaum PS, Swartz M, Patel M, Davis S, Jeste D, Kim S, Keefe R, Manshreck T, McEvoy J, Lieberman J: Decision-making capacity for research participation among individuals in the CATIE Schizophrenia Trial. Schizophrenia Research 2005;80:1-8.

2006

153. *Appelbaum PS: Decisional capacity of patients with schizophrenia to consent to research: taking stock. Schizophrenia Bulletin 2006;32:22-25.

154. Candilis PJ, Geppert CMA, Fletcher KE, Lidz CW, Appelbaum PS: Willingness of subjects with thought disorder to participate in research. Schizophrenia Bulletin 2006;32:159-165.

155. Stroup S, Appelbaum PS: Evaluation of "subject advocate" procedures in the Clinical Antipsychotic Trials of Intervention Effectiveness (CATIE) Schizophrenia Study. Schizophrenia Bulletin 2006;32:147-152.

156. Jones P, Appelbaum PS, Siegel D for the Massachusetts Work Group on Law Enforcement Access to Hospital Patients: Law enforcement interviews of hospital patients: a conundrum for clinicians. JAMA 2006;295:822-825.

157. Dunn LB, Palmer BW, Keehan M, Jeste DV, Appelbaum PS: Assessment of therapeutic misconception in older schizophrenia patients using a brief instrument. American Journal of Psychiatry 2006;163:500-506.

158. Kim S, Appelbaum P: The capacity to appoint a proxy and the possibility of concurrent proxy directives. Behavioral Sciences and the Law 2006; 24:469-478.

159. *Appelbaum PS, Redlich A: Use of leverage over patients' money to promote adherence to treatment. Journal of Nervous & Mental Disease 2006;194:294-302.

160. *Appelbaum PS, Redlich A: Impact of decisional capacity on the use of leverage to encourage treatment adherence. Community Mental Health Journal 2006;42:121-130.

161. Sattar SP, Pinals DA, Din AU, Appelbaum PS: To commit or not to commit: the psychiatry resident as a variable in involuntary commitment decisions. Academic Psychiatry 2006;30:191-195.

162. Kim SYH, Caine ED, Swan JG, Appelbaum PS: Do clinicians follow a risk-sensitive model of capacity determination? An experimental video survey. Psychosomatics 2006;47:325-329.

163. Monahan J, Steadman HJ, Appelbaum PS, Grisso T, Mulvey EP, Roth LH, Robbins PC, Banks S, Silver E: The classification of violence risk. Behavioral Sciences and the Law 2006;24:721-730

164. Skeem JL, Silver E, Appelbaum PS, Tiemann J: Suicide-related behavior after psychiatric hospital discharge: implications for risk assessment and management. Behavioral Sciences and the Law 2006;24:731-746.

165. *Anfang SA, Appelbaum PS: Civil commitment—the American experience. Israel Journal of Psychiatry and Related Sciences 2006;43:209-218.

2007

166. Arikan R, Appelbaum PS, Sercan M, Turkcan S, Satmis N, Polat A: Civil commitment in Turkey: reflections on a bill drafted by psychiatrists. International Journal of Law and Psychiatry 2007;30:29-35.

167. Christopher P, Foti ME, Roy-Bujnowski K, Appelbaum PS: Consent form readability and educational levels of potential participants in mental health research. Psychiatric Services 2007;58:227-232.

168. Dunn LB, Palmer BW, Appelbaum PS, Saks E, Aarons GA, Jeste D: Prevalence and correlates of adequate performance on a measure of abilities related to decisional capacity: differences among three standards for the MacCAT-CR in patients with schizophrenia. Schizophrenia Research 2007;89:110-118.

169. LeBourgeois HW, Pinals DA, Williams V, Appelbaum PS: Hindsight bias among psychiatrists. Journal of the American Academy of Psychiatry and the Law 2007;35:67-73.

170. Pincus HA, Page AEK, Druss B, Appelbaum PS, Gottlieb G, England MJ: Can psychiatry cross the quality chasm? Improving the quality of health care for mental and substance-use conditions. American Journal of Psychiatry 2007; 164:712-719.

171. White-Bateman SR, Schumacher HC, Sacco RL, Appelbaum PS: Consent for thromobolysis in acute stroke: review and future directions. Archives of Neurology 2007; 64:785-792.

172. Kim SYH, Appelbaum PS, Swan J, Stroup TS, McEvoy JP, Goff DC, Jeste DV, Lamberti JS, Leibovici A, Caine ED: Determining when impairment constitutes incapacity for informed consent in schizophrenia research. British Journal of Psychiatry 2007;191:38-43.

173. Elbogen EB, Swanson JW, Appelbaum PS, Swartz MS, Ferron J, Van Dorn RA, Wagner HR: Competence to complete psychiatric advance directives: effects of facilitated decision making. Law and Human Behavior 2007;31:275-289.

174. Jeste DV, Palmer BW, Appelbaum PS, Golshan S, Glorioso D, Dunn LB, Kim K, Meeks T, Kraemer HC: A new brief instrument for assessing decisional capacity for clinical research. Archives of General Psychiatry 2007;64:966-974.

175. *Appelbaum PS: Assessment of patients' competence to consent to treatment. New England Journal of Medicine 2007;357:1834-40; letter and reply, 2008;358:644.

176. Klitzman R, Siragusa J, Albala I, Nelson K, Appelbaum PS: The reporting of monetary compensation in research articles. Journal of Empirical Research on Human Research Ethics 2007;2(4):61-67.

177. Hurme S, Appelbaum PS: Defining and assessing capacity to vote: the effect of mental impairment on the rights of voters. McGeorge Law Review 2007;38:931-1014.

178. Prentice K, Appelbaum PS, Conley R, Carpenter W. Maintaining informed consent validity during lengthy research protocols. IRB: Ethics and Human Research 2007;29(6):1-6.

2008

179. Karlawish J, Bonnie RJ, Appelbaum PS, Kane R, Lyketsos C, Karlan P, James B, Sabatino C, Lawrence T, Knopman D: Identifying the barriers and challenges to voting by residents in nursing homes and assisted living settings. Journal of Aging and Social Policy 2008;20:65-79.

180. Klitzman R, Albala I, Siragusa J, Patel J, Appelbaum PS: Disclosure of information to potential subjects on research recruitment websites. IRB: Ethics and Human Research 2008;30(1):16-20.

181. Klitzman R, Appelbaum PS, Chung W, Sauer MV: Anticipating issues related to increasing preimplantation genetic diagnosis use: a research agenda. Reproductive Biomedicine Online 2008;17(Suppl. 1):33-42 (http://www.rbmonline.com/Article/3517)

182. Candilis PJ, Fletcher KE, Geppert CMA, Lidz CW, Appelbaum PS: A direct comparison of research decision-making capacity: schizophrenia/schizoaffective, medically ill, and non-ill subjects. Schizophrenia Research 2008;99:350-358.

183. Szmuckler G, Appelbaum PS: Treatment pressures, leverage, coercion, and compulsion in mental health care. Journal of Mental Health (UK) 2008;17:233-244.

184. *Appelbaum PS: Ethics and forensic psychiatry: translating principles into practice. Journal of the American Academy of Psychiatry and the Law 2008;36:195-200.

185. Schwartz V, *Appelbaum PS. Monitoring the informed consent process: Improving the quality of informed consent to research. IRB: Ethics and Human Research 2008; 30(5):19-20.

186. *Appelbaum PS, Le Melle S: Techniques used by assertive community treatment (ACT) teams to encourage adherence: patient and staff perceptions. Community Mental Health Journal 2008; 44:459-464.

2009

187. *Appelbaum PS, Lidz CW, Klitzman R: Voluntariness of consent to research: a conceptual model. Hastings Center Report 2009; 39(1):30-39.

188. Kim SYH, Kim HM, Langa KM, Karlawish JHT, Knopman DS, Appelbaum PS: Surrogate consent for dementia research: a national survey of older Americans. Neurology 2009; 72:149-155.

189. Luber B, Fisher C, Appelbaum PS, Ploesser M, Lisanby SH: Non-invasive brain stimulation in the detection of deception: scientific challenges and ethical consequences. Behavioral Sciences and the Law 2009; 27:191–208.

190. Raad R, Karlawish J, *Appelbaum PS: The capacity to vote of persons with serious mental illness. Psychiatric Services 2009;60:624-628.

191. Weisner C, Lu Y, Hinman A, Bonnie RJ, Moore C, Chi FW, Monahan J, Appelbaum PS: Workplace mandates to enter chemical dependency treatment: substance use, psychiatric severity, and employment outcomes. Psychiatric Services 2009;60:646-54.

192. Lui VWC, Lam LCW, Luk DNY, Wong LHL, Tam CWC, Chiu HFK, Appelbaum PS: Capacity to make treatment decisions in Chinese older persons with very mild dementia and mild Alzheimer's disease. American Journal of Geriatric Psychiatry 2009;17:428-436.

193. Jeste DV, Palmer BW, Golshan S,.Eyler LT, Dunn LB, Meeks T, Glorioso D, Fellows I, Kraemer H, Appelbaum PS: Multimedia consent for research in people with schizophrenia and normal subjects: a randomized controlled trial. Schizophrenia Bulletin 2009;35:719-729.

194. Yu FOT, Lui VWC, Lam LCW, Chiu HFK, Karlawish JHT, Appelbaum PS: Assessment of capacity to make financial decisions in Chinese psychogeriatric patients: a pilot study. Hong Kong J Psychiatry 2009;19:82-86.

195. Lidz CW, Appelbaum PS, Joffe S, Albert K, Rosenbaum J, Simon L: Competing commitments in clinical trials. IRB: Ethics and Human Research 2009;31(5):1-6.

196. Klitzman R, Zolovska B, Folberth W, Sauer MV, Chung W, Appelbaum P. Preimplantation genetic diagnosis (PGD) on in-vitro fertilization (IVF) websites: presentations of risks, benefits and other information. Fertility and Sterility 2009;92: 1276-1283.

197. Wisner KL, Appelbaum PS, Uhl K, Goldkind SF: Pharmacotherapy for depressed pregnant women: overcoming obstacles to optimize treatment. Clinical Pharmacology and Therapeutics 2009;86:362-365. doi:10.1038/clpt.2009.160.

198. *Appelbaum PS, Lidz CW, Klitzman R: Voluntariness of consent to research: a preliminary empirical investigation. IRB: Ethics and Human Research 2009;30(6):10-14.

2010

199. Kim SYH, Uhlmann R, Appelbaum PS, Knopman DS, Kim HM, Damschroder L, Struble L, DeVries R: Deliberative assessment of surrogate consent in dementia research. Alzheimer's & Dementia doi: 10.1016/j.jalz.2009.06.001.

200. Albala I, Doyle M, Appelbaum PS*: The evolution of informed consent forms for research: an evaluation of changes over a quarter century. IRB: Ethics and Human Research 2010;32(3):7-11.

201. Fisher CE, Appelbaum PS: Diagnosing consciousness: legal and ethical implications of neuroimaging for disorders of consciousness. Journal of Law, Medicine, and Ethics 2010;38:374-385.

In press

202. Appelbaum PS*, Gold A: Psychiatrists' relationships with industry: the principal-agent problem. Harvard Review of Psychiatry (in press).

203. Gold A, Appelbaum PS: Unconscious conflict of interest – a Jewish perspective. Journal of Medical Ethics (in press).

204. Berenson J, Appelbaum PS: A geospatial analysis of the impact of sex offender residency restrictions in two New York counties. Law and Human Behavior (in press).

CHAPTERS AND BOOKS:

1982

1. Gutheil TG, Appelbaum PS. (1982) Clinical Handbook of Psychiatry and the Law. McGraw-Hill, New York, NY.

2. Roth LH, Appelbaum PS. (1982) What we do and do not know about treatment refusals in mental institutions, in Doudera A, Swazey JT (eds.): Refusing Treatment in Mental Institutions: Values in Conflict. AUPHA Press, Ann Arbor, MI.

3. *Appelbaum PS. (1982) Confidentiality in psychiatric treatment, in Grinspoon L (ed.): Psychiatry. The American Psychiatric Annual Review. American Psychiatric Press, Washington, DC.

4. *Appelbaum PS, Roth LH. (1982) Treatment refusal in medical hospitals, in Making Health Care Decisions, Volume 2: Appendix. President's Commission for the Study of Ethical Problems in Medicine and Biomedical & Behavioral Research. Washington, DC.

1983

5. *Appelbaum PS. (1982) Legal considerations in the prevention and treatment of assault, in Lion JR, Reid WH (eds.): Assaults in Psychiatric Facilities. Grune and Stratton, New York, NY.

6. Roth LH, Appelbaum PS. (1983) Obtaining informed consent for research with psychiatric patients - the controversy continues, in Sadoff R (ed.): "Forensic Psychiatry," Psychiatric Clinics of North America. W.B. Saunders, Philadelphia, PA.

1984

7. *Appelbaum PS. (1984) Legal and ethical aspects of psychopharmacologic practice, in Bernstein JG (ed): Clinical Psychopharmacology. PSG Publishing Co., Littleton, MA.

8. *Appelbaum PS. (1984) Legal issues in the care of the chronic mental patient, in Talbott JA (ed.): The Chronic Mental Patient - Five Years Later. Grune and Stratton, New York, NY.

9. *Appelbaum PS. (1984) Informed consent: always full disclosure? in Sieber JE (ed.): NIH Readings on the Protection of Human Subjects in Behavioral and Social Sciences Research:

Conference Proceedings and Background Papers. University Publications of America, Frederick, MD.

10. *Appelbaum PS. (1984) Informed consent and the therapeutic misconception, in Sieber JE (ed.): NIH Readings on the Protection of Human Subjects in Behavioral and Social Science Research: Conference Proceedings and Background Papers. University Publications of America, Frederick, Maryland, MD.

11. Halleck SL, Appelbaum PS, Rappeport J, Dix GE. (1984) Psychiatry in the sentencing process: Report of the Task Force on the Role of Psychiatry in the Sentencing Process, in Issues in Forensic Psychiatry. American Psychiatric Press, Washington, DC.

12. *Appelbaum PS. (1984) Legal issues, in Weiner M, Guggenheim F (eds.): Manual of Psychiatric Consultation and Emergency Care. Jason Aronson, New York, NY.

1985

13. *Appelbaum PS. (1995) Depressive disorders, in Kuper A, Kuper J (eds.): The Social Science Encyclopedia, Routledge and Kegan Paul, London, England; revised with A. Stone for 2nd ed., 1994.

14. *Appelbaum PS. (1985) Civil commitment, in Michels R, et al. (eds.): Psychiatry. Vol. 3, Epidemiology, Legal, and Social Psychiatry. J.B. Lippincott, Philadelphia, PA and Basic Books, New York, NY. Excerpted, in Reisner R (ed.): Law and the Mental Health System: Civil and Criminal Aspects. St. Paul, West Publishing Co., 1985; revised with SA Anfang, 1996.

15. *Appelbaum PS. (1985) Implications of Tarasoff for clinical practice, in Beck J (ed.): The Potentially Violent Patient and the Tarasoff Decision in Psychiatric Practice. American Psychiatric Press, Washington, DC.

16. *Appelbaum PS. (1985) Rethinking the duty to protect, in Beck J (ed.): The Potentially Violent Patient and the Tarasoff Decision in Psychiatric Practice. American Psychiatric Press, Washington, DC.

17. Appelbaum PS (Section editor; with Roth LH thru 1994): Legal psychiatry section of Psychiatry, Vol. 3, Epidemiology, Legal and Social Psychiatry. Michels R, et al. (eds.) J.B. Lippincott Co., Philadelphia, PA, revised yearly through 1998; Basic Books, New York, NY 1985; also published as Klerman GL, Weissman MM, Appelbaum PS, Roth LH (eds). (1986) Psychiatry, Vol. 5, Social, Epidemiologic and Legal Psychiatry. Basic Books, New York, NY J.B. Lippincott, Philadelphia, PA.

1986

18. *Appelbaum PS, Hoge SK. (1986) Empirical research on the effects of legal policy on the right to refuse treatment, in Parry J (ed.): The Right to Refuse Antipsychotic Medication. American Bar Association, Washington, DC.

1987

19. *Appelbaum PS, Lidz CW, Meisel A. (1987) Informed Consent: Legal Theory and Clinical Practice. Oxford University Press, New York, NY; Japanese edition. Bunkodo Co., Tokyo, Japan.

20. Benson PR, Roth LH, Appelbaum PS, Lidz CW, Winslade WW. (1987) Informed consent and the regulation of psychiatric research, in Miller JL, Lewis M (eds.): Research in Social Problems and Public Policy, Volume 4. JAI Press, Greenwich, CT.

21. *Appelbaum PS. (1987) Legal aspects of violence by psychiatric patients, in Hales RE, Frances AJ (eds.): American Psychiatric Association Annual Review, Volume 6, American Psychiatric Press, Washington, DC.

22. Reiser SJ, Bursztajn H, Appelbaum PS, Gutheil TG. (1987) Divided Staffs, Divided Selves: A Case Approach to Mental Health Ethics. Cambridge University Press, New York, NY.

1989

23. *Appelbaum PS (Section editor). (1989) Law and psychiatry section of American Psychiatric Press Review of Psychiatry, Volume 8, American Psychiatric Press, Washington, DC.

24. *Appelbaum PS. (1989) Paul Appelbaum on Law & Psychiatry: Collected Articles from Hospital and Community Psychiatry. American Psychiatric Association, Washington, DC.

25. Hoge SK, Appelbaum PS. (1989) Legal issues in outpatient psychiatry, in Lazare A (ed.): Outpatient Psychiatry, 2nd edition. Williams & Wilkins, Baltimore, MD.

26. Hoge SK, Appelbaum PS, Geller JL. (1989) Involuntary treatment, in Tasman A, Hales R, Frances AJ (eds.): American Psychiatric Press Review of Psychiatry, Volume 8. American Psychiatric Press, Washington, DC.

1990

27. Appelbaum K, Appelbaum PS. (1990) The HIV-positive patient, in Beck J (ed.): Confidentiality Versus the Duty to Protect: Foreseeable Harm in the Practice of Psychiatry. , American Psychiatric Press, Washington, DC.

1991

28. *Appelbaum PS, Gutheil TG. (1991) Clinical Handbook of Psychiatry and the Law, 2nd edition. Williams and Wilkins, Baltimore, MD.

29. Weiden PJ, Dixon L, Frances A, Appelbaum PS, Haas G, Rapkin . (1991) Neuroleptic noncompliance in schizophrenia, in Tamminga CA, Schulz SC (eds.): Advances in Neuropsychiatry and Psychopharmacology, Volume 1: Schizophrenia Research. Raven Press, New York, NY.

1993

30. Hoge SK, Appelbaum PS. (1993) The role of informed consent in psychopharmacology, in Lieberman J, Kane J (eds.): Adverse Effects of Psychotropic Drugs. Guilford Press, New York, NY.

31. Steadman HJ, Monahan J, Robbins PC, Appelbaum PS, Grisso T, Klassen D, Mulvey E, Roth LH. (1993) From dangerousness to risk assessment: implications for appropriate research strategies, in Hodgins S (ed.): Crime and Mental Disorder. Sage Publications, Newbury Park, CA.

1994

32. *Appelbaum PS. (1994) Almost a Revolution: Mental Health Law and the Limits of Change. Oxford University Press, New York, NY.

33. Steadman HJ, Monahan J, Appelbaum PS, Grisso T, Mulvey EP, Roth LH, Robbins PC, Klassen D. (1994) Designing a new generation of risk assessment research, in Steadman HJ, Monahan J (eds.): Violence and Mental Disorder: Developments in Risk Assessment. University of Chicago Press, Chicago, IL.

34. Appelbaum KL, Appelbaum PS. (1994) Forensic psychiatry, in Goldman HH (ed.):Review of General Psychiatry (4th ed.). Appleton and Lange, Greenwich, CT; revised for 5th ed., 2000.

1995

35. Appelbaum K, Appelbaum PS. (1995) Prosecution as a response to violence by psychiatric patients, in Eichelman BS, Hartwig AC (eds.): Patient Violence and the Clinician. American Psychiatric Press, Washington, DC.

1997

36. *Appelbaum PS, Uyehara L, Elin M (eds.). (1997) Trauma & Memory: Clinical & Legal Controversies. Oxford University Press, New York, NY.

37. * Appelbaum PS. (1997) Reflections on trauma and memory, in Appelbaum PS, Uyehara L, Elin M (eds.), Trauma and Memory: Clinical and Legal Controversies. Oxford University Press, New York, NY.

1998

38. *Appelbaum PS. (1998) Psychopathology, crime and law, in Skodol AE (ed.), Psychopathology and Violent Crime. American Psychiatric Press, Washington, DC.

39. Grisso T, Appelbaum PS. (1998) Assessing Competence To Consent To Treatment: A Guide for Physicians and Other Health Professionals. Oxford University Press, New York, NY; Japanese edition (2000) Nippon-Hyoron-sha, Tokyo, Japan; Italian edition (2000) Il Conseno Alle Cure: Guida Alla Valutazione Per Medici e Altri Pperatori Sanitari, Centro Scientifico Editore, Torino.

40. Grisso T, Appelbaum PS (1998) MacArthur Competence Assessment Tool for Treatment (MacCAT-T). Professional Resource Press, Sarasota, FL

1999

41. Berg J, Appelbaum PS. (1999) Subjects' capacity to consent to neurobiological research, in Pincus H, Lieberman JA, Ferris S (eds.), Ethics in Psychiatric Research: A Resource Manual for

Human Subjects Protection. American Psychiatric Press, Washington, DC. Reprinted in Appelbaum PS, Grisso TG. (2001) The MacArthur Competence Assessment Tool for Clinical Research (MacCAT-CR). Professional Resource Press, Sarasota, FL.

2000

42. Gutheil TG, Appelbaum PS. (2000) Clinical Handbook of Psychiatry and the Law, 3rd edition, Lippincott/Williams & Wilkins, Philadelphia.

43. * Appelbaum PS. (2000) Voluntary and involuntary hospitalization, in Kazdin AE (ed.), Encyclopedia of Psychology. American Psychological Association and Oxford University Press, Washington, DC.

2001

44. Monahan J, Steadman H, Silver E, Appelbaum PS, Robbins PC, Mulvey EP, Roth LH, Grisso T, Banks S. (2001) Rethinking Risk Assessment: The MacArthur Study of Mental Disorder and Violence. Oxford University Press, New York, NY.

45. Berg JW, Appelbaum PS, Lidz CW, Parker L. (2001) Informed Consent: Legal Theory and Clinical Practice, 2nd edition. Oxford University Press, New York, NY.

46. *Appelbaum PS. (2001) Informed and implied consent of research subjects, in Smelser NJ, Baltes PB (eds.), International Encyclopedia of the Social and Behavioral Sciences. Pergamon, Amsterdam, Netherlands; Oxford, pp 13246-13250, 2001.

47. Monahan J, Appelbaum PS. (2001) Reducing violence risk: diagnostically based clues from the MacArthur Violence Risk Assessment Study, in Hodgins S (ed.): Effective Prevention of Crime and Violence Among the Mentally Ill. Kluwer Academic Publishers, Dordrecht, Netherlands.

48. Szmukler G, Appelbaum PS. (2001) Treatment pressures, coercion, and compulsion, in Thornicroft G, Szmukler G (eds.), Textbook of Community Psychiatry. Oxford University Press, Oxford, United Kingdom; revised for 2nd ed. (in press).

49. *Appelbaum PS, Grisso T. (2001) The MacArthur Competence Assessment Tool for Clinical Research (MacCAT-CR). Professional Resource Press, Sarasota, FL

2002

50. Pinals DA, Appelbaum PS. (2002) Ethical aspects of neuropsychiatric research with human subjects, in Davis KL, Charney D, Coyle JT, Nemeroff C (eds.): Neuropsychopharmacology: The 5th Generation of Progress. An official publication of The American College of Neuropsychopharmacology. Lippincott Williams & Wilkins, Philadelphia, PA.

2004

51. Anfang SA, Appelbaum PS. (2004) Involuntary psychiatric hospitalization (civil commitment): adult and child, in Koocher GP, Norcross JC, Hill SS (eds.): Psychologist's Desk Reference, Oxford University Press, New York, NY 1998; and 2nd ed., 2004.

2005

52. Monahan J, Steadman HJ, Appelbaum PS, Grisso T, Mulvey EP, Roth LH, Robbins PC, Banks S, Silver E. (2005) Classification of Violence Risk (COVR): Professional Manual and Software. Psychological Assessment Resources, Inc., Lutz, FL.

53. Institute of Medicine, Committee on Crossing the Quality Chasm: Adaptation to Mental Health and Addictive Disorders (Appelbaum PS, member) (2005): Improving the Quality of Health Care for Mental Health and Substance Use Conditions. National Academies Press, Washington, DC.

2006

54. Anfang SA, Appelbaum PS (2006): Forensic evaluation of the older patient, in Agronin ME, Maletta GJ (eds.), Geriatric Psychiatry: Evaluation and Management. Philadelphia, Lippincott/Williams & Wilkins.

2007

55. *Appelbaum PS, Gutheil TG (2007): Clinical Handbook of Psychiatry and the Law, 4th ed. Philadelphia, Lippincott/Williams & Wilkins.

2008

56. Hoge SK, Appelbaum PS (2008): Ethical, legal, and social implications of psychiatric genetics and genetic counseling, in Tsuang MT, Smoller JW, Rosen-Sheidley B (eds.): Psychiatric Genetics: Applications in Clinical Practice. American Psychiatric Publishing, Arlington, VA.

57. *Appelbaum PS, Lidz, C (2008): The therapeutic misconception, in Emanuel EJ, Grady C, Crouch RA, Lie RK, Miller FG, Wendler D (eds.), The Oxford Textbook of Clinical Research Ethics. New York, Oxford University Press.

58.*Appelbaum PS (2008): MacArthur Competence Assessment Tool—Clinical Research (MacCAT-CR), in Cutler BL (ed.), Encyclopedia of Psychology and Law. Thousand Oaks, CA, Sage Publishing.

2009

59. *Appelbaum PS (2009): Adolescent bereavement and Amelia Gutierrez: an ethical dilemma, in Barnhill JW (ed.), Approach to the Psychiatric Patient: Case-Based Essays. Washington, DC, American Psychiatric Publishing.

2010

60. Stroup TS, Appelbaum PS (2010): Human subjects considerations, in Stroup TS, Lieberman JA (eds.), Antipsychotic Trials in Schizophrenia: The CATIE Project. New York, Cambridge University Press.

In press

61. *Appelbaum PS: Reference guide to mental health evidence, in Reference Manual on Scientific Evidence, 3rd ed. Washington, DC, National Academy of Sciences and Federal Judicial Center (in press).

62. *Appelbaum PS, Lidz CW, Klitzman R: Coercion and undue influence in psychiatric research, in Kallert T, Mezzich J, Monahan J (eds.), Coercive Treatment in Psychiatry. Oxford, Wiley-Blackwell (in press).

NON PEER-REVIEWED ARTICLES

1979

1. *Appelbaum PS, Gutheil TG: Drugging a defendant: arm-chair ethics? (ltr.). Hastings Center Report 1979; 9(5):4

2. *Appelbaum PS: Michigan's sensible "living will" (ltr.). New England Journal of Medicine 1979; 301:788

1980

3. Gutheil TG, Appelbaum PS: The patient always pays: reflections on the Boston State case and the right to rot. Man and Medicine 1980; 5:3-11

4. *Appelbaum PS: Least restrictive alternative: some comments, amplification. Hospital & Community Psychiatry 1980; 31:420

5. Orsulak PJ, Appelbaum PS: Monitoring imipramine concentrations in the plasma of elderly patients: a case study. Therapeutic Drug Monitoring Continuing Education Program, American Association for Clinical Chemistry. June, 1980; Washington, DC

1981

6. *Appelbaum PS: Review of Mental Health Law: Major Issues, by D Wexler. Arizona Law Review 1981; 23:601-610

7. *Appelbaum PS: Tarasoff: an update on the duty to warn. Hospital & Community Psychiatry 1981; 32:14-15

8. *Appelbaum PS: A.E. & R.R.: Utah's compromise on the right to refuse treatment. Hospital & Community Psychiatry 1981; 32:167-168

9. *Appelbaum PS: Civil rights litigation and mental health: section 1983. Hospital & Community Psychiatry 1981; 32:305-306

10. *Appelbaum PS, Gutheil TG: The right to refuse treatment: the real issue is quality of care. Bulletin of the American Academy of Psychiatry and the Law 1981; 9:199-202

11. *Appelbaum PS, Roth LH: In the matter of PAAR: rape counseling and problems of confidentiality. Hospital & Community Psychiatry 1981; 32:461-462

12. *Appelbaum PS: Law and psychiatry, Soviet style. Hospital & Community Psychiatry 1981; 32:601-602

13. *Appelbaum PS: Psychiatrists' role in the death penalty. Hospital & Community Psychiatry 1981; 32:761-762

1982

14. *Appelbaum PS: Insanity defense: new calls for reform. Hospital & Community Psychiatry 1982; 33:13-14

15. *Appelbaum PS: Dyskinesia and unipolar depression (ltr.). American Journal of Psychiatry 1982; 139:140-141. Correction 1982; 139:387

16. *Appelbaum PS: Limitations on guardianship of the mentally disabled. Hospital & Community Psychiatry 1982; 33:183-184

17. *Appelbaum PS: Do the mentally disabled have the right to be physicians? Hospital & Community Psychiatry 1982; 33:351-352

18. Orsulak PJ, Appelbaum PS, Vasile RG: Tricyclic antidepressants: imipramine. Clinical Psychopharmacology 1982 ; 3(3):CP 82-83. 1-9

19. *Appelbaum PS: The issue of sterilization and the mentally retarded. Hospital & Community Psychiatry 1982; 33:523-524

20. *Appelbaum PS: Civil commitment: is the pendulum changing direction? Hospital & Community Psychiatry 1982; 33:703-704

21. *Appelbaum PS: The cautious advance on the right to treatment. Hospital & Community Psychiatry 1982; 33:895-896

22. Appelbaum PS: Can a subject consent to a "Ulysses' contract?" Commentary. Hastings Center Report 1982; 12(4):27-28. Reprinted in Levine C, Veatch RM (eds. 1984): Cases in Bioethics (revised edition). The Hastings Center, Hastings-on-Hudson, NY

1983

23. *Appelbaum PS: Can mental patients say no to drugs? New York Times Magazine, March 21, 1982; 46-59. Reprinted in Kelleher M, MacMurray B, Shapiro T (eds. 1983): Drugs and Society: A Critical Reader. Kendall-Hunt Publishing, Dubuque, IA

24. *Appelbaum PS: Refusing treatment: the uncertainty continues. Hospital & Community Psychiatry 1983; 34:11-12

25. *Appelbaum PS: Review of Legal Issues in the Care of Psychiatric Patients by RL Sadoff. American Journal of Psychiatry 1983; 140:806

26. *Appelbaum PS, Roth LH, Lidz CW: Ethics of the randomized clinical trial (ltr.). New England Journal of Medicine 1983; 308:344

27. *Appelbaum PS: Paternalism and the role of the mental health lawyer. Hospital & Community Psychiatry 1983; 34:211-212. Letter and Reply, Hospital & Community Psychiatry 1983; 34:853-854. Reprinted in Wexler D (ed. 1990): Therapeutic Jurisprudence. Carolina Academic Press, Durham, NC

28. *Appelbaum PS: The zoning out of the mentally disabled. Hospital & Community Psychiatry 1983; 34:399-400

29. *Appelbaum PS: The rights of children. Review of Children's Competence to Consent, by G Melton, G Koocher, M Saks (eds.). Contemporary Psychiatry 1983; 2:275-277

30. Rachlin S, Appelbaum PS: The limits of confidentiality. Hospital & Community Psychiatry 1983; 34:589-590

31. *Appelbaum PS: The disability system in disarray. Hospital & Community Psychiatry 1983; 34:783-784

32. *Appelbaum PS: Death, the expert witness, and the dangers of going Barefoot. Hospital & Community Psychiatry 1983; 34:1003-1004

1984

33. *Appelbaum PS: The most difficult patients. Review of Current Perspectives on Personality Disorders, by J Frosch (ed.). Contemporary Psychiatry 1984; 3:147-148

34. *Appelbaum PS: Commentary on "What patients don't tell their therapists." Integrative Psychiatry 1984; 2(1):35-36

35. *Appelbaum PS: The expansion of liability for patients' violent acts. Hospital & Community Psychiatry 1984; 35:13-14

36. Gutheil TG, Appelbaum PS: Book reviewers and gender (ltr.). Hospital & Community Psychiatry 1984; 35:387-388

37. *Appelbaum PS: Hypnosis in the courtroom. Hospital & Community Psychiatry 1984; 35:657-658

38. Wettstein RM, Appelbaum PS: Legal liability for tardive dyskinesia. Hospital and Community Psychiatry 1984; 35:992-994.

1985

39. *Appelbaum PS: Psychiatry in British courts. Review of Murder into Manslaughter: The Diminished Responsibility Defense in Practice by Susan Dell. Contemporary Psychiatry 1985; 5:29-30

40. *Appelbaum PS: Introduction to the special section on APA's Model Commitment Law. Hospital & Community Psychiatry 1985; 36:966-968

41. Geller JL, Appelbaum PS: Competency to stand trial: neuroleptic medication and demeanor in court. Hospital & Community Psychiatry 1985; 36:6-7. Reprinted in Rucker WB, Rucker ME (eds. 1987): Annual Editions: Drugs, Society and Behavior 87/88. Dushkin Publishing Group, Guilford, CT

42. *Appelbaum PS: Review of Mentally Abnormal Offenders, by M Craft, A Craft. New England Journal of Medicine 1985; 312:561-562

43. *Appelbaum PS: Informed consent: the unfinished revolution. Columbia College Today 1985-86; 13(1):18-20

44. *Appelbaum PS: Forum: The insanity defense. Harvard Medical School Mental Health Letter 1985; 1(12):8

45. *Appelbaum PS: England's new commitment law. Hospital & Community Psychiatry 1985; 36:705-706, 713

46. *Appelbaum PS: Question the experts: must chronic schizophrenic patients who have been stabilized on antipsychotic medication be told of the risk of tardive dyskinesia? Journal of Clinical Psychopharmacology 1985; 5:364-365

47. *Appelbaum PS: The role of the mental health professional in court. Hospital & Community Psychiatry 1985; 36:1043-1044

1986

48. *Appelbaum PS: The rising tide of patients' rights advocacy. Hospital & Community Psychiatry 1986; 37:9-10

49. *Appelbaum PS: Confidentiality: winning one for a change. Hospital & Community Psychiatry 1986; 37:334-335

50. *Appelbaum PS: Forum: what are recent changes in civil commitment laws and how will they affect mental health professionals? Harvard Medical School Mental Health Letter 1986; 2(12):8

51. *Appelbaum PS: Q & A: Physician's legal obligation to report a patient's crime. Medical Aspects of Human Sexuality 1986; 20(8):15, 18

52. *Appelbaum PS, Klein J: Therefore choose death? Commentary 81(4):23-29, 1986. Letters and response 1986; 82(1):2-4. Reprinted in Human Life Review 1986; 12(4):100-112; and in Death/Dying (Opposing Viewpoints Sources 1986 Annual). Greenhaven Press, St. Paul, MN.

53. *Appelbaum PS: Pondering the liability crisis. Review of Total Justice, by LM Friedman. Contemporary Psychiatry 1986; 5:209-210

54. *Appelbaum PS: Competence to be executed: another conundrum for mental health professionals. Hospital & Community Psychiatry 1986; 37:682-684

55. *Appelbaum PS: Outpatient commitment: the problems and the promise (editorial). American Journal of Psychiatry 1986; 143:1270-1272

56. *Appelbaum PS: DRGs and mental health law: a glimpse of the future. Hospital & Community Psychiatry 1986; 37:997-998

57. Hoge SK, Appelbaum PS: The right to refuse treatment: a clinical bibliography, in Parry J (ed.): The Right to Refuse Antipsychotic Medication. American Bar Association, Washington, DC.

58. Hoge SK, Appelbaum PS: Psychiatry and confidentiality. Massachusetts Medicine 1986; 1(6):48-49

1987

59. *Appelbaum PS: Allen v. Illinois: The Fifth Amendment and the sexually dangerous person. Hospital & Community Psychiatry 1987; 38:25-26

60. *Appelbaum PS, Bonnie RJ, Dietz PE, Thorup OA: The death penalty: dilemmas for physicians and society. Pharos 1987; 50(3):23-27

61. Miller RD, Rachlin S, Appelbaum PS: Patients' rights: The action moves to state courts. Hospital & Community Psychiatry 1987; 38:343-344

62. *Appelbaum PS: Commentary on "Neuropsychiatric and neurobiological aspects of homicide, reflecting on normal action." Integrative Psychiatry 1987; 5(2)

63. Roth LH, Appelbaum PS, Malmquist CP: The patient's right to refuse treatment. American College of Psychiatrists' Psychiatric Update (audiotape and transcript). 1987; 7(3)

64. *Appelbaum PS: Crazy in the streets. Commentary 83(5):34-39, 1987. Letters and response 1987; 84(3):14-18. Reprinted in Current No. 296, 4-10, October 1987; in Ramage J, Bean JC (eds. 1985): Writing Arguments: A Rhetoric with Readings, 3rd edition. Allyn and Bacon; Boston, MA; in Edwards RB (ed. 1997): Ethics of Psychiatry: Insanity, Rational Autonomy and Mental Health Care. Prometheus Books, Amherst, NY; and in Lammers SE, Verhey A (eds. 1998) Moral Medicine: Theological Perspectives in Medical Ethics. W.B. Erdmanns Publishing, Grand Rapids, MI

65. *Appelbaum PS: Resurrecting the right to treatment. Hospital & Community Psychiatry 1987; 38:703-704, 721

66. *Appelbaum PS: Mental illness: no longer a myth. The World and I 1987; 2(11):607-615

1988

67. *Appelbaum PS: Forum: the meaning of competence in mental health law. Harvard Medical School Mental Health Letter 1988; 5(1):8

68. *Appelbaum PS: AIDS, psychiatry and the law. Hospital & Community Psychiatry 1988; 39:13-14. Letter and response 1988; 39:671

69. *Appelbaum PS: Housing for the mentally ill: an unexpected outcome of a class-action suit against SSA. Hospital & Community Psychiatry 1988; 39:479-480

70. *Appelbaum PS: Romeo misunderstood. Developments in Mental Health Law 1988; 8(1):3, 16

71. *Appelbaum PS: Commentary on the duty to protect in forensic mental health. Expert Opinion 1988; 1(2):11

72. Fisher W, Pierce G, Appelbaum PS: How flexible are our civil commitment laws? Hospital & Community Psychiatry 1988; 39:711-712

73. *Appelbaum PS: Ask the experts: Treatment refusal. Newsletter of the American Academy of Psychiatry and the Law 1988; 13(2):12-13

74. *Appelbaum PS: Comment on "Suicide attempts and resuscitation dilemmas." General Hospital Psychiatry 1988; 10:428-430

75. *Appelbaum PS, Perry S: Point/Counterpoint: Does the duty to warn take precedence over HIV patients' confidentiality? Physician's Weekly 1988; 5(36)

76. *Appelbaum PS: Commentary on competence to file suit. Expert Opinion 1988; 2(1):8-9

77. Benedek E, Appelbaum PS, Stotland N: Undue familiarity. American College of Psychiatrists' Psychiatric Update (audiotape and transcript) 1988; 8(12)

1989

78. *Appelbaum PS: Telling secrets about confidentiality. Review of The Psychotherapist-Patient Privilege: A Critical Examination, by D Shuman and M Weiner. Contemporary Psychology 1989; 34:375-377

79. *Appelbaum PS: Foreword and Afterword, in Law and Psychiatry, in Appelbaum PS (ed. 1989), in The American Psychiatric Press Review of Psychiatry: Volume 8. Tasman A, Hales R, Frances (eds.). American Psychiatric Press, Washington, DC

80. *Appelbaum PS: Forum: what rights do patients have to refuse treatment? Harvard Medical School Mental Health Letter 1989; 5(7):8, 1989

81. *Appelbaum PS: Protecting child witnesses in sexual abuse cases. Hospital & Community Psychiatry 1989; 40:13-14

82. *Appelbaum PS: Fear of psychiatry: legacy of the 1960s. The World and I 1989; 4(7):576-585 July

83. *Appelbaum PS: Admitting children to psychiatric hospitals: a controversy revived. Hospital & Community Psychiatry 1989; 40:334-335

84. *Appelbaum PS: Harper v. State: Treatment refusal in a penal setting. Newsletter of the American Academy of Psychiatry and the Law 1989; 14(1):6-8

85. *Appelbaum PS: "Titicut Follies": Patients' rights and institutional reform. Hospital & Community Psychiatry 1989; 40:679-680

86. *Appelbaum PS: Litigating insurance coverage for mental disorders. Hospital & Community Psychiatry 1989; 40:993-994

87. *Appelbaum PS: Forum: What are the prospects for insurance coverage of mental disorders? Harvard Medical School Mental Health Letter 1989; 7(6):8

88. Adelman RM, Appelbaum PS, Rudovsky R, Morse SJ: How to establish the criminal insanity defense. (videotape) CLE-TV: The Lawyer's Video Magazine 1989; 2(8), December

1990

89. *Appelbaum PS: Forum: How does the law view alcoholism? Harvard Medical School Mental Health Letter 1989; 6(3):8; reprinted in Harvard Medical School Mental Health Review: Alcohol Abuse and Dependence. Boston, MA

90. *Appelbaum PS: Statutes regulating patient-therapist sex. Hospital & Community Psychiatry 1990; 41:15-16

91. *Appelbaum PS: Washington v. Harper: prisoners' rights to refuse antipsychotic medication. Hospital & Community Psychiatry 1990; 41:731-732

92. *Appelbaum PS: Voluntary hospitalization and due process: the dilemma of Zinermon v. Burch. Hospital & Community Psychiatry 1990; 41:1059-1060

1991

93. *Appelbaum PS: Forum: what are the current standards for involuntary commitment to a mental hospital? Harvard Medical School Mental Health Letter 1991; 7(11):8

94. *Appelbaum PS: Barring the state hospital door. Hospital & Community Psychiatry 1991; 42:351-352

95. *Appelbaum PS, Rudegeair T: The limits of beneficence: a case analysis. Ethics and Behavior 1991; 1:209-212

96. *Appelbaum PS: General guidelines for psychiatrists who prescribe medication for patients treated by non-medical psychotherapists. Hospital & Community Psychiatry 1991; 42:281-282

97. Jorgenson L, Appelbaum PS: For whom the statute tolls: extending the time during which patients can sue. Hospital & Community Psychiatry 1991; 42:683-684

98. *Appelbaum PS: Advance directives for psychiatric treatment. Hospital & Community Psychiatry 1991; 42:983-984

99. *Appelbaum PS: Involuntary outpatient commitment: therapeutic and ethical issues. Relapse: Issues in the Management of Chronic Psychosis 1991; 1(3):4,11

1992

100. *Appelbaum PS: Controlling prescription of benzodiazepines. Hospital & Community Psychiatry 1992; 43:12-13

101. *Appelbaum PS: Practice guidelines in psychiatry: malpractice implications. Hospital & Community Psychiatry 1992; 43:341-342

102. *Appelbaum PS: Memories and murder. Hospital & Community Psychiatry 1992; 43:679-680

103. *Appelbaum PS: Ask the experts: Duty to protect when patient has a violent plan but denies intent. Newsletter of the American Academy of Psychiatry and the Law 1992; 17(1):19

104. *Appelbaum PS: Psychiatry and access to abortions. Hospital & Community Psychiatry 1992; 43:967-968

1993

105. Gabbard GO, Appelbaum PS: Point/Counterpoint: Should all sexual contact between psychotherapists and former patients be prohibited? Physician's Weekly 1992; 9(21). Reprinted as Should therapists be banned from sex with ex-patients? Washington Post (Health Section), January 5, 1993.

106. *Appelbaum PS: Foucha v. Louisiana: When must the state release insanity acquittees? Hospital & Community Psychiatry 1993; 44:9-10

107. *Appelbaum PS, Greer A: Confidentiality in group therapy. Hospital & Community Psychiatry 1993; 44:311-312

108. *Appelbaum PS: Modifying the impact of managed care. Hospital & Community Psychiatry 1993; 44:525-527

109. Greer A, Appelbaum PS: Civil liability of mentally ill persons. Hospital & Community Psychiatry 1993; 44:617-618

110. Cohen LS, Greer A, Appelbaum PS: Abortion, pregnancy, and mental illness: Treatment, legal competence, and therapeutic interventions. Harvard Review of Psychiatry 1993; 1(2):118-122

111. *Appelbaum PS: Godinez v. Moran: The U.S. Supreme Court addresses competence to stand trial. Hospital & Community Psychiatry 1993; 44:929-930

112. Grisso T, Appelbaum PS: Structuring the debate about ethical predictions of future violence. Law and Human Behavior 1993; 17:482-485

113. * Appelbaum PS: Must we forego informed consent to control health care costs? Milbank Quarterly 1993; 71:669-676. Reprinted in Arras J, Steinbock B (eds. 1998): Ethical Issues in Modern Medicine, 5th ed., Mayfield Publishing, Mountain View, CA

1994

114. *Appelbaum PS: Evaluating the admissibility of expert testimony. Hospital & Community Psychiatry 1994; 45:9-10

115. Geller JL, Appelbaum PS: Samuel B. Woodward's remarks on feigned insanity. Hospital & Community Psychiatry 1994; 45:318-319, 328

116. *Appelbaum PS: Forum: What are the limits of confidentiality in mental health treatment? Harvard Medical School Mental Health Letter 1994; 11(3): 8

117. *Appelbaum PS: Mental health law and ethics in transition: report from Japan. Hospital & Community Psychiatry 1994; 45:635-636,644. Reprinted in Levine ML (ed.): Mental Illness, Medicine, and Law. Aldershot (UK), Ashgate Publishing, 2009.

118. *Appelbaum PS: New approaches to the assessment of dangerousness of the mentally ill. Japanese Journal of Psychiatry and Neurology 1994; 48(Supp): 77-83

119. *Appelbaum PS, Greer A: Who's on trial? Multiple personalities and the insanity defense. Hospital & Community Psychiatry 1994; 45:965-966

120. *Appelbaum PS, Hoge SK: Death row dilemma: restoring competence. Psychiatric Times 1994; 11(11):37-39

1995

121. *Appelbaum PS: Civil commitment and liability for violating patients' rights. Psychiatric Services 1995; 46:17-18

122. *Appelbaum PS, Dimieri R: Protecting staff from assaults by patients: OSHA steps in. Psychiatric Services 1995; 46:333-334, 338

123. *Appelbaum PS: Do hospitalized patients have a right to smoke? Psychiatric Services 1995; 46:653-654, 660

124. *Appelbaum PS, Hoge SK: Psychiatrists and capital punishment: evaluation and restoration of competence to be executed. Newsletter of the American Academy of Psychiatry and the Law 1995; 20(1):14-15

125. Grisso T, Appelbaum PS: MacArthur Treatment Competence Study. Journal of the American Psychiatric Nurses Association 1995; 1:125-127

1996

126. Jick RZ, Appelbaum PS: Forum: Can therapists be sued for "recovered memories"? Harvard Medical School Mental Health Letter 1996; 12(10):8

127. *Appelbaum PS: Managed care & the next generation of mental health law. Psychiatric Services 1996; 47:27-28, 34; Letter and response 1996; 47:765. Reprinted in Shore M (ed. 1996): Managed Care, the Private Sector, and Medicaid Mental Health and Substance Abuse Services. New Directions for Mental Health Services, No. 72. San Francisco, Jossey-Bass; and in Managed Care and Mental Health Services (1997) American Psychiatric Association, Washington, DC

128. *Appelbaum PS: Review of Psychiatry and Criminal Culpability, by Ralph Slovenko. American Journal of Psychiatry 1996; 153:284; letters and reply, 1997; 154:295-296

129. *Appelbaum PS: Who is responsible when a patient's insurance runs out? Psychiatric Services 1996; 47:361-362; reprinted in Managed Care and Mental Health Services. 1997; American Psychiatric Association, Washington, DC

130. Candilis P, Appelbaum PS: A confession of murder: the psychiatrist's dilemma. Loyola Law Review 1996; 1691-1698

131. *Appelbaum PS: Suits against clinicians for warning of patients' violence. Psychiatric Services 1996; 47:683-684

132. *Appelbaum PS: Examining the ethics of human subjects research. Kennedy Institute of Ethics Journal 1996; 6:283-288

133. Grisso T, Appelbaum PS: Values and limits of the MacArthur Treatment Competence Study. Psychology, Public Policy, and Law 1996; 2:167-181

134. *Appelbaum PS: Jaffe v. Redmond: Psychotherapist-patient privilege in the federal courts. Psychiatric Services 1996; 47:1033-1034

135. *Appelbaum PS: Civil mental health law: twenty years of history and a look at the future. Mental and Physical Disability Law Reporter 1996; 20:599-604

1997

136. *Appelbaum PS: Rethinking the conduct of psychiatric research. Archives of General Psychiatry 1997; 54:117-120

137. *Appelbaum PS: Can the police assist in detaining persons for involuntary commitment? Psychiatric Services 1997; 48:17-18; letter and reply, 1997; 48:543

138. *Appelbaum PS: Ethics in evolution: the incompatibility of clinical and forensic functions (editorial). American Journal of Psychiatry 1997; 154:445-446

139. *Appelbaum PS: Informed consent for psychotherapy: recent developments. Psychiatric Services 1997; 48:445-446

140. *Appelbaum PS: Psychiatric research and the incompetent subject. Psychiatric Services 1997; 48:873-874, 882

141. *Appelbaum PS: Confining sex offenders: The Supreme Court takes a dangerous path. Psychiatric Services 1997; 48:1265-1267

142. *Appelbaum PS: Ask the ethicist: Let my wife bleed to death. Medical Ethics Newsletter (Lahey Hitchcock Clinic) Fall 1997, pp. 3,7. Reprinted in Steinberg D (ed.), Medical Ethics: A Multidisciplinary Approach to Moral Issues in Medicine and Biology. Lebanon, NH, University Press of New England, 2007.

143. *Appelbaum PS: A generation of mental health law reform: taking stock. Strecker Monograph Series, No. 34. November, 1997; Pennsylvania Hospital, Philadelphia, PA

1998

144. *Appelbaum PS: Foreword to Steinberg M, Youngner S (eds. 1998), End of Life Decisions: A Psychosocial Perspective. American Psychiatric Press, Washington, DC

145. *Appelbaum PS: A "health information infrastructure" and the threat to the confidentiality of health records. Psychiatric Services 1998; 49:27-28,33

146. *Appelbaum PS: Managed care's responsibility for decisions to deny benefits: the ERISA obstacle. Psychiatric Services 1998; 49(4):461-462, 472

147. *Appelbaum PS, Hartmann L: Is it ethical for psychiatrists to participate in competency-to-be-executed evaluations? Psychiatric Times 1998; 15(1):28-29

148. *Appelbaum PS: Death in denial: commentary. Hastings Center Report 1998; 27(6):24-25

149. Candilis PJ, Appelbaum PS: Role responsibilities in the conflict of clinic and courtroom. Ethics & Behavior 1998; 7:382-385

150. *Appelbaum PS: Discrimination in psychiatric disability coverage and the ADA. Psychiatric Services 1998; 49:875-6, 881

151. *Appelbaum PS: Why denial of physical illness is not a "diagnosis." International Journal of Psychiatry in Medicine 1998; 28:519-522

152. *Appelbaum PS: Present at the creation: mental health law in Eastern Europe and the former Soviet Union. Psychiatric Services 1998; 1299-1300, 1998. Translated and reprinted in Ukrainian Psychiatric Association Bulletin, 2002; No. 1-2(24-25):113-119

153. *Appelbaum PS: Missing the boat: competence and consent in psychiatric research (editorial). American Journal of Psychiatry 1998; 155:1486-1488

154. *Appelbaum PS: The medicalization of judicial decisionmaking. Adviser: Notes from the Mental Health Legal Advisors Committee. 1998; No. 48, pp.16-20; reprinted in the Elder Law Report, February, 1999; 10(7):1-5. Excerpted in Gallanis TP, Dayton AK, Wood MM: Elder Law: Readings, Cases and Materials. Anderson Publishing, Cincinnati, OH, 2000; and in 2nd ed., 2003.

1999

155. *Appelbaum PS: Review of Insight and Psychosis by A David, X Amador (eds.). Psychiatric Services 1999; 50:706-707

156. *Appelbaum PS: Ought we to require emotional capacity as part of decisional competence? Kennedy Institute of Ethics Journal 1999; 8:377-387

157. *Appelbaum PS: Child abuse reporting laws: time for reform? Psychiatric Services 1999; 50:27-29

158. *Appelbaum PS: Seclusion and restraint: Congress reacts to reports of abuse. Psychiatric Services 1999; 50:881-882, 885

159. Lemmens TM, Appelbaum PS, Carpenter W, McCarthy C, Petersen C, Streiner D, Weijer C: Placebo-controlled studies in schizophrenia: ethical and scientific perspectives (panel discussion). Schizophrenia Research 1999; 35:227-236

160. *Appelbaum PS: Review of Efficacy and Cost-Effectiveness of Psychotherapy, by D Spiegel (ed.). New England Journal of Medicine 1999; 341:1088-1089

161. *Appelbaum PS: Least restrictive alternative revisited: Olmstead's uncertain mandate for community-based care. Psychiatric Services 1999; 50:1271-1272, 1280

2000

162. *Appelbaum PS: Patients' responsibility for their suicidal behavior. Psychiatric Services 2000; 51:15-16

163. *Appelbaum PS: The Draft Act Governing Hospitalization of the Mentally Ill: its genesis and its legacy. Psychiatric Services 2000; 51:190-194

164. *Appelbaum PS, Gershon ES: Voluntary disclosure of genetic information: facing difficult choices in the genomic age. Psychiatric Times 2000; pp.44-47, November

165. *Appelbaum PS: Threats to the confidentiality of medical records: no place to hide (editorial). JAMA 2000; 283:795-797

166. *Appelbaum PS: "I vote. I count": mental disability and the right to vote. Psychiatric Services 2000; 51:849-850, 863

167. *Appelbaum PS, Mester R: Challenges confronting forensic psychiatry in Israel (editorial). Israel Journal of Psychiatry 2000; 37:79-81

168. *Appelbaum PS: Pegram v. Herdrich: The Supreme Court passes the buck on managed care. Psychiatric Services 2000; 51:1225-1226, 1238

169. *Appelbaum PS, Mester R (guest editors): Special issue in forensic psychiatry. Israel J Psychiatry 2000; 37:79-153

170. *Appelbaum PS: Protecting privacy while facilitating research (editorial). American Journal of Psychiatry 2000; 157:1725-1726

171. *Appelbaum PS: Review of Codes of Professional Responsibility: Ethics Standards in Business, Health, and Law, 4th Ed. Psychiatric Services 2000; 51:1326

2001

172. *Appelbaum PS: Preface, in Pinard G-F, Pagani L (eds. 2001): Clinical Assessment of Dangerousness: Empirical Contributions. Cambridge University Press, New York, NY

173. *Appelbaum PS: Third party suits against therapists in recovered memory cases. Psychiatric Services 2001; 52:27-28

174. *Appelbaum PS: Liability for forensic evaluations: a word of caution. Psychiatric Services 2001; 52:885-886

175. *Appelbaum PS: Abuses of law & psychiatry in China. Psychiatric Services 2001; 52:1297-1298. Reprinted in Levine ML (ed. 2009): Mental Illness, Medicine, and Law. Aldershot (UK), Ashgate Publishing.

176. Usdin G, Appelbaum PS, Sprehe DJ: The psychiatrist's participation in court. Psychiatric Update (audiotape and transcript) 2001; 22(7)

2002

177. *Appelbaum PS: Competence and consent to research: a critique of the recommendations of The National Bioethics Advisory Commission, in Shamoo A (ed. 2002): Research and Decisional Capacity – Responding to the National Bioethics Advisory Commission. Taylor & Francis, New York, NY. Reprinted in Bio Law and in Accountability in Research 1999; 7:265-276

178. *Appelbaum PS: Involving decisionally impaired subjects in research: the need for legislation (editorial). American Journal of Geriatric Psychiatry 2002; 10:120-124

179. *Appelbaum PS: Can a psychiatrist be held responsible when a patient commits murder? Psychiatric Services 2002; 53:27-28

180. *Appelbaum PS: Policing expert testimony: the role of professional organizations. Psychiatric Services 2002; 53:389-390, 399

181. Moser D, Benjamin M, Paulsen J, Schultz S, Ardt S, Fleming F, Brems C, Appelbaum PS, Andreasen N: Decisional capacity and informed consent in schizophrenia and HIV research (abstract). Journal of the International Neuropsychological Society 2002 ; 8(2):188

182. *Appelbaum PS: Clarifying the ethics of clinical research: a path toward avoiding the therapeutic misconception. American Journal of Bioethics 2002; 2:22-23

183. *Appelbaum PS: Dealing with the new legal framework for chemical restraints, in Hughes DH (ed. 2002), Chemical restraints: clinical research and ethical implications. (APA Clinical Highlights Program). American Psychiatric Association, Washington, DC, April

184. *Appelbaum PS: The mental health care crisis in America: a leading psychiatrist speaks out. The Record (Institute of Living, Hartford, CT), 2002; Summer

185. *Appelbaum PS, Sarkar SP: An American perspective: Paul S. Appelbaum. Psychiatric Bulletin (UK) 2002; 26:305-309

186. *Appelbaum PS: Review of Forensic Psychiatry in Islamic Jurisprudence, by K Chaleby. Journal of the Academy of Psychiatry and the Law 2002; 30:462-463

187. *Appelbaum PS: Starving in the midst of plenty: the mental health crisis in America. Psychiatric Services 2002; 53:1247-1248

188. *Appelbaum PS: Response to the presidential address—The systematic defunding of psychiatric care: a crisis at our doorstep. American Journal of Psychiatry 2002; 159:1638-1640

189. *Appelbaum PS: The mind of the murderer. Washington Post, October 15, 2002; p.A19

2003

190. *Appelbaum PS: Ambivalence codified: California's new outpatient commitment statute. Psychiatric Services 2003; 54:26-28

191. *Appelbaum PS: Dangerous persons, moral panic, and the uses of psychiatry. Psychiatric Services 2003; 54:441-442

192. *Appelbaum PS: Review of Boundaries of Privacy: Dialectics of Disclosure, by S Petronio. New England Journal of Medicine 2003; 348:1505-1506

193. *Appelbaum PS: Foreword to Fulford B, Morris K, Sadler J, Stanghelling G: Nature and Narrative: An Introduction to a New Philosophy of Psychiatry. 2003; Oxford University Press, Oxford, England

194. *Appelbaum PS: Presidential Address: Re-envisioning a mental health system for the United States. American Journal of Psychiatry 2003; 160:1758-1762

195. *Levine RJ, Carpenter WJ, Appelbaum PS: Clarifying standards for using placebos (ltr.) Science 2003; 300:1658-1659

196. *Appelbaum PS: Treating incompetent defendants: the Supreme Court's decision is a tough Sell. Psychiatric Services 2003; 54:1335-1336, 1341

2004

197. *Appelbaum PS: Foreword to Radden J (ed. 2004): The Philosophy of Psychiatry: A Companion. Oxford University Press, New York, NY

198. *Appelbaum PS: Commentary: Willingness and competence of depressed and schizophrenic inpatients to consent to research. Journal of the American Academy of Psychiatry and the Law 2004; 32:144-147

199. *Appelbaum PS: Legalism, post-modernism and the vicissitudes of teaching ethics. Academic Psychiatry 2004; 28:164-167

200. *Appelbaum PS: Psychiatric advance directives and the treatment of committed patients. Psychiatric Services 2004; 55:751-2, 763; letter and response 2004; 55:1067-8

201. *Appelbaum PS: "One madman keeping loaded guns": misconceptions of mental illness and their legal consequences. Psychiatric Services 2004; 55:1105-1106

202. *Appelbaum PS: Commentary, in Pollack DA (ed. 2004): Moving From Coercion to Collaboration in Mental Health Services. DHHS Publication No. (SMA) 04-3869. Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, Rockville, MD

2005

203. *Appelbaum PS: Behavioral genetics and the punishment of crime. Psychiatric Services 2005; 56:25-27

204. *Appelbaum PS: Dangerous severe personality disorders: England's experiment in using psychiatry for public protection. Psychiatric Services 2005; 56:397-399; letters and reply 2005; 56:872-874

205. *Appelbaum PS: Taking Issue: Advance directives: stigma strikes again. Psychiatric Services 2005; 56:515; letter and reply, 2005; 56:874-875

206. *Appelbaum PS: Assessing Kendra's Law: five years of outpatient commitment in New York. Psychiatric Services 2005; 56:791-792

207. *Appelbaum PS: Psychopharmacology and the power of narrative. American Journal of Bioethics 2005;5:48-49

208. Arikan R, Appelbaum PS: A day in the life of a psychiatrist-in-the-making. Academic Psychiatry 2005;29:383-384.

209. *Appelbaum PS: Review of Doctors From Hell: The Horrific Account of Nazi Experiments on Human Subjects by V. Spitz. New England Journal of Medicine 2005;353:1187-1188.

210. *Appelbaum PS: Obstacles to reform of mental health systems: funding, fragmentation, and fanaticism. Israel Journal of Psychiatry 2005;42:211-213.

2006

211. *Appelbaum PS: Twenty-five years of law and psychiatry. Psychiatric Services 2006;57:18-20.

212. *Appelbaum PS: Review of Paranoia: The Psychology of Persecutory Delusions, by D Freeman, PA Garety. Psychiatric Services 2006;57:281-282.

213. *Appelbaum PS, Roberts LW: Introduction: Report of the APA's Task Force on Research Ethics. Psychiatric Services 2006;57:550-551.

214. *Appelbaum PS: History of civil commitment and related reforms: lessons for today. Developments in Mental Health Law 2006;25(1):13-22.

215. *Appelbaum PS: "Depressed? Get out!": dealing with suicidal students on college campuses. Psychiatric Services 2006;57:914-916.

216. * Appelbaum PS: Violence and mental disorders: data and public policy (editorial). American Journal of Psychiatry 2006;163:1319-1321.

217. *Appelbaum PS, Lidz CW: Clinical ethics versus clinical research. American Journal of Bioethics 2006;6:53-55.

218. Karlawish JH, Bonnie RJ, Appelbaum PS, Karlan PS, McConnell SR: Policy statement on voting by persons with dementia residing in long-term care facilities. Alzheimer's and Dementia 2006;2:243-245.

219. *Appelbaum PS: Insanity, guilty minds, and psychiatric testimony. Psychiatric Services 2006;57:1370-1372.

220. *Appelbaum PS: Psychiatric advance directives at a crossroads—When can PADs be overridden? Journal of the American Academy of Psychiatry and the Law 2006;34:395-397.

221. *Appelbaum PS, Lidz CW: Re-evaluating the therapeutic misconception: Response to Miller and Joffe. Kennedy Institute Ethics Journal 2006;16:367-373.

2007

222. Appelbaum DM, Appelbaum PS: The gene wars: should science determine sovereignty? Azure 2007;No.27:51-79. Translated into Hebrew and published in Techelet 2007; No. 28:19-43.

223. *Appelbaum PS: Foreword, in Candilis PJ, Weinstock R, Martinez R (2007), Ethics and the Courtroom Expert: A New Look at Forensic Ethics. New York: Kluwer Academic Publishers.

224. *Appelbaum PS: The new lie detectors: neuroscience, deception and the courts. Psychiatric Services 2007;58:460-462.

225. Grisso T, Appelbaum PS: Appreciating anorexia: decisional capacity and the role of values. Philosophy, Psychology and Psychiatry 2007;13:293-297.

226. *Appelbaum PS: Whistle-blowers and the First Amendment: protecting public employees in psychiatric facilities. Psychiatric Services 2007;58:900-902.

227. Freedman R, Ross R, Michels R, Appelbaum P, Siever L, Binder R, Carpenter W, Friedman SH, Resnick P, Rosenbaum J: Psychiatrists, mental illness, and violence. American Journal of Psychiatry 2007;164:1315-1317.

228. *Appelbaum PS: Death row delusions: when is a prisoner competent to be executed? Psychiatric Services 2007;58:1258-1260.

229. *Appelbaum PS: Comment on the case of Mr. A.B. Journal of Clinical Ethics 2008;18:402-403.

2008

230. *Appelbaum PS: Introductory comments, in Roberts LW, Hoop JG (2008), Professionalism and Ethics: Q & A Self-Study Guide for Mental Health Professionals. Arlington, VA: American Psychiatric Publishing.

231. Kendler KS, Appelbaum PS, Bell CC, Fulford KWM, Ghaemi SN, Schaffner KF, Waterman GS, First MB, Sadler JZ: DSM-V should include a conceptual issues work group. American Journal of Psychiatry 2008;165:174-175.

232. Torrey EF, Stanley J, Monahan J, Steadman H, and the MacArthur Group: The MacArthur Violence Risk Assessment Study revisited: two views 10 years after its initial publication. Psychiatric Services 2008;59:147-152.

233. *Appelbaum PS: Sex offenders in the community: are current approaches counterproductive? Psychiatric Services 2008;59:352-354.

234. *Appelbaum PS: Foreword, in Simon RI, Tardiff K (2008): Textbook of Violence Assessment and Management. Arlington, VA: American Psychiatric Publishing.

235. *Appelbaum PS: Privilege in the federal courts: should there be a “dangerous patient exception”? Psychiatric Services 2008;59:714-716.

236. *Appelbaum PS: Review of The Insanity Offense: How America's Failure to Treat the Seriously Mentally Ill Endangers Its Citizens, by E. Fuller Torrey. American Journal of Psychiatry 2008; 165:1493-1494.

237. *Appelbaum PS: "A fool for a client?" Mental illness and the right of self-representation. Psychiatric Services 2008;59:1096-1098.

2009

238. *Appelbaum PS: Through a glass darkly: functional neuroimaging evidence enters the courtroom. Psychiatric Services 2009;60:21-23.

239. *Appelbaum PS: Decisional vs. performative capacities: not exactly a new idea. American Journal of Bioethics 2009;9(2):31-32.

240.*Appelbaum PS: Deception, coercion, and the limits of interrogation. Psychiatric Services 2009;60:422-424; letter and response 2009;60:850.

241.*Appelbaum PS: Foreword, in Saleh F, Grudzinskas A, Bradford J, Brodsky D (eds.), Sex Offenders: Identification, Risk Assessment, Treatment, and Legal Issues. New York: Oxford University Press, 2009.

242. *Appelbaum PS Schopp RF: The mental health challenge: treating patients and protecting society. Grand Rapids, MI: Richard and Helen DeVos Foundation, 2009.

243. *Appelbaum PS: Mental retardation and the death penalty: After *Atkins*. Psychiatric Services 2009;60:1295-1297.

2010

244. *Appelbaum PS: Contact with pharmaceutical representatives: where does prudence lead? American Journal of Bioethics 2010;10(1):11-13.

245. *Appelbaum PS: Recommendations for relationships between psychiatry and industry. Carlat Psychiatry Report 2010;8(3):4-5.

246. *Appelbaum PS: Genetic discrimination in mental disorders: the impact of GINA. Psychiatric Services 2010;61:338-340; letter and response 2010;61:634.

247. *Appelbaum PS, Albert SM: Intimate-partner violence in Gaza and the West Bank (letter). Lancet 2010;375:1252.

248. *Appelbaum PS: Harnessing the power of fusion? A valiant but flawed effort to obviate the need for a distinct mental health law. Journal of Mental Health Law (UK) 2010;No. 20:25-33.

249. *Appelbaum PS: Understanding "understanding": an important step toward improving informed consent to research. American Journal of Bioethics (Primary Research) 2010;1(2):1-3.

250. *Appelbaum PS: Foreword, in Simon RI, Gold LH (eds.) (2010), American Psychiatric Publishing Textbook of Forensic Psychiatry. Arlington, VA, American Psychiatric Publishing.

In press

251. *Appelbaum PS: Consent in impaired populations. Current Neurology and Neuroscience Reports (in press).

252. *Appelbaum PS: Commentary: Avoiding premature judgments about the duty to protect. Ethics & Behavior (in press).

253. *Appelbaum PS, Swanson J: Gun laws and mental illness: how sensible are the current restrictions? Psychiatric Services (in press).

254. *Appelbaum PS: Foreword, in Buchanan A, Norko M (eds.) (in press), The Psychiatric Report: Principles and Practices of Forensic Writing. Cambridge, UK, Cambridge University Press.

Exhibit 4

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PLANNED PARENTHOOD OF THE HEARTLAND, Plaintiff, v. DAVE HEINEMAN, Governor of Nebraska, in his official capacity; JON BRUNING, Attorney General of Nebraska; in his official capacity; KERRY WINTERER, Chief Executive Officer, and DR. JOANN SCHAEFER, Director of the Division of Public Health, Nebraska Department of Health and Human Services, in their official capacities; and CRYSTAL HIGGINS, President, Nebraska Board of Nursing, and BRENDA BERGMAN-EVANS, President, Nebraska Board of Advanced Practice Registered Nurses, in their official capacities; Defendants.	)	Case No. _____

DARLA EISENHAUER, M.D., declares and states as follows:

1. I am over 18 years of age and competent to make this declaration.

2. I am a board-certified obstetrician and gynecologist in private practice in Lincoln, Nebraska. I am a fellow of the American College of Obstetricians and Gynecologists ("ACOG") and a member of the Nebraska Medical Association and the Lancaster County Medical Society. I attended medical school at the University of Nebraska Medical Center, and did my residency in obstetrics and gynecology at the University of Missouri in Kansas City.

3. In my practice I provide general gynecological care; prenatal services, including both low risk and high risk pregnancy management; and labor and delivery services. Procedures I perform include hysterectomies, caesarian sections, diagnostic laparoscopies, miscarriage management, endometrial ablation, vaginal repairs, suburethral sling procedures, and others.

4. I have been made aware of Legislative Bill 594, the proposed new law that would govern informed consent for abortion in Nebraska ("the Act"). I submit this declaration in support of Plaintiff's Motion for a Preliminary Injunction and for a Temporary Restraining Order preventing the Act from taking effect.

5. As I understand it, the Act would require Nebraska healthcare providers, as part of the process of informed consent for abortion, to screen the patient for the presence of any "risk factor associated with abortion" (as defined in the Act) that has been published in any peer-reviewed journal indexed in PubMed or MedLine or listed on the Thomson Reuters Master Journal list as being associated with any "complication associated with abortion" (again, as defined in the Act). If the patient has a particular "risk factor," the healthcare provider would have to inform her of each "complication" associated with it.

6. I cannot imagine how any Nebraska healthcare provider could fully comply with these requirements (if taken literally), either for abortion or for any other medical service; certainly, I could not. Further, these requirements bear little or no resemblance to the way that I provide informed consent in my practice, and I am aware of no doctor, in Nebraska or elsewhere, who undertakes anything remotely resembling this process in providing informed consent for their patients.

7. First, it simply would not be possible to do a full literature survey for a given medical service, including every risk factor (very broadly defined) and associated complication

(also very broadly defined) relating to that service that has ever been published, in any peer-reviewed journal encompassed by the Act, in any language, in any year. I have never, in my years of training and practice, attempted to do a literature survey this exhaustive, and if I did, it is clear to me that I would never be able to accomplish it, in the sense that any survey I attempted would necessarily exclude some articles that would be responsive under the Act (if taken literally).

8. Even if I somehow were able to perform this comprehensive search and obtain all of the hundreds or thousands or tens of thousands of responsive articles, that would only be the first step – I would then have to read and understand all of the articles, which would be an impossibly monumental task in and of itself.

9. Turning to what this would mean in terms of my interactions with patients, I would then have to evaluate every patient for a huge number of potential risk factors, and inform the patient of the associated complications, even in instances where (for any of a variety of reasons, as discussed below) it would be bad medicine for me to discuss the particular potential risk factor or complication with my patients. This would be an extremely time-consuming process for both me and my patients, and confusing and potentially frightening for my patients.

10. While I look to the literature to stay informed about medical developments and to research any questions that come up in my practice, I would never attempt to read every article ever published on a procedure or treatment that I provide. Rather, I routinely review the key journals in my area of practice, such as the *American Journal of Obstetrics and Gynecology* and ACOG's publication *Obstetrics & Gynecology*; I rely on practice bulletins and committee opinions from professional organizations such as ACOG, which include summaries and analysis of key publications; and I attend continuing medical education and other professional meetings,

at which experts present condensed information and analysis that allows me and other practitioners to stay up to date on the most relevant developments in the literature. I also review the *Journal of the American Medical Association*, though fewer of these articles are relevant to my practice. And finally, I discuss developments with my colleagues and partners in Nebraska. These methods allow me to stay up to date while focusing my time and energy on treating patients. They also allow me to rely appropriately on the judgment of experts (including experts on study methodology and statistical analysis, which are not areas in which I or many other practitioners have particular expertise) as to what developments are worthy of note, and what studies and findings are reliable and likely to be applicable to my patients.

11. These methods of staying up to date on developments in medical knowledge are standard practice; they are what I do, what my partners and colleagues in Nebraska do, and what doctors are taught to do in medical school and residency.

12. Nor do the Act's requirements about evaluating patients for risk factors and disclosing associated complications bear any resemblance to how I or my colleagues in Nebraska provide informed consent. I do not screen patients for every conceivable risk factor of which I am aware (much less that was ever published in a peer-reviewed journal encompassed by the Act), or disclose every associated complication. Rather, I disclose complications to patients if the information is likely to be material to their medical decision-making, based largely on whether the complication is reasonably common and on how severe it is. Similarly, I screen patients for risk factors if the presence of the risk factor would change the informed consent information I would want to give that patient, or would cause me to change my treatment of that patient.

13. The decision of what complications to disclose to patients requires medical judgment and discretion. It is important to be somewhat selective in deciding what information to provide, as otherwise the patient will be overwhelmed with information. In practice, there is only a certain amount of information that a given patient will process and understand, and healthcare providers must prioritize the information that is most important. Further, it can be counter-productive to give patients information about risks that are extremely unlikely, as patients tend to latch onto this information and become overly concerned about these unlikely risks, and to overestimate the chances that they will experience them. Once this happens, it is very difficult or impossible to change. And finally, I think it is human nature for patients to gauge the dangerousness of a procedure or treatment by the length of the informed consent conversation, or of the printed materials they are looking at; accordingly, it would be misleading and frightening to patients to spend too much time going through a list of risks that are extremely unlikely or only marginally relevant.

14. The medical literature contains many articles that don't reflect the current state of medical knowledge, have been disproven, draw inappropriate conclusions based on studies with poor methodologies, or don't apply to my patients for any of a variety of reasons. I would never give disclosures to my patients based on information I think is out of date, wrong, or inapplicable; this would be a violation of my ethical duty to my patients. And yet this is what the Act appears to require.

15. Ultimately, the goal of the informed consent process is to allow patients to make meaningfully-informed decisions about their care. Requiring doctors to give patients information on every potential complication or risk factor, based on a single publication in the

medical literature, would only get in the way of informed decision-making. This is true because it exposes patients to information that is out-of-date, untrue, or misleading; forces them to try to digest medical details that are unlikely to be relevant to the decisions they are making; and distracts them from any information that is actually material to their decision-making.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 24, 2010, in Lincoln, Nebraska.

By: Darla Eisenhauer MD.
DARLA EISENHAUER, M.D.

Exhibit 5

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PLANNED PARENTHOOD OF THE HEARTLAND, Plaintiff, v. DAVE HEINEMAN, Governor of Nebraska, in his official capacity; JON BRUNING, Attorney General of Nebraska; in his official capacity; KERRY WINTERER, Chief Executive Officer, and DR. JOANN SCHAEFER, Director of the Division of Public Health, Nebraska Department of Health and Human Services, in their official capacities; and CRYSTAL HIGGINS, President, Nebraska Board of Nursing, and BRENDA BERGMAN-EVANS, President, Nebraska Board of Advanced Practice Registered Nurses, in their official capacities; Defendants.	)	Case No. _____

DECLARATION OF KELLY BLANCHARD

KELLY BLANCHARD declares and states as follows:

1. I am over 18 years of age and competent to make this declaration.

2. I hold a Masters of Science in Population and International Health from the Harvard School of Public Health and a Bachelor's degree in Social Studies from Harvard University. I am currently the President of Ibis Reproductive Health, an organization directed at improving women's reproductive autonomy, choices, and health worldwide through, above all,

engaging in original clinical and social science research and leveraging existing research. I also teach in the Global Health and Population Department at the Harvard School of Public Health.

3. My most recent research has focused on contraception, medical and surgical abortion, microbicides, and cervical barriers for HIV/STI prevention. I have authored or co-authored over forty articles published in peer-reviewed journals on reproductive health topics in developed and developing countries and am currently the principal investigator or co-principal investigator on a number of research projects related to abortion and reproductive health.

4. I serve as a reviewer for a number of peer-reviewed journals related to medicine and reproductive health, including the New England Journal of Medicine, and the BJOG: An International Journal of Obstetrics and Gynaecology.

5. In 2009, I received the Guttmacher Institute's Darroch Award for Excellence in Sexual and Reproductive Health Research. In 2006, I won the Outstanding Young Professional Award from the American Public Health Association's Population, Family Planning and Reproductive Health Section. A copy of my Curriculum Vitae is attached as Exhibit A to this declaration.

6. I have reviewed Nebraska LB 594 ("Act") and submit this declaration in support of Plaintiffs' Motion for Preliminary Injunction and Temporary Restraining Order preventing the Act from taking effect. I make this declaration as an expert in medical and social science research, particularly in the area of reproductive health.

7. In my expert opinion, it would be impossible to fully comply with the requirements of the Act. I base this opinion not only on my extensive experience conducting medical and social science literature searches, but also on the extensive work that my research associate and I did over the past few months, at the request of Plaintiffs' attorneys, to determine

as precisely as possible what it would take, from a research perspective, to meet the requirements of the Act. As part of this work, my research associate and I not only reviewed detailed information available through PubMed/MEDLINE and Thomson Reuters, but we also consulted with colleagues, research librarians, and customer service contacts at PubMed (U.S. National Library of Medicine) and Thomson Reuters.

The Act's Requirements

8. The Act states that abortion providers must "[e]valuate[] the pregnant woman to identify the presence of any risk factors associated with abortion" prior to performing the abortion.

9. The Act further provides that "[i]f any risk factors associated with abortion were identified" the pregnant woman must be informed of "[e]ach complication associated with each identified risk factor" and "[a]ny quantifiable risk rates whenever such relevant data exists."

10. "Risk factor associated with abortion" is defined as "any factor, including any physical, psychological, emotional, demographic, or situational factor, for which there is a statistical association with one or more complications associated with abortion such that there is less than a five percent probability ($P < .05$) that such statistical association is due to chance." The Act specifies that "[s]uch information on risk factors shall have been published in any peer-reviewed journals indexed by the United States National Library of Medicine's search services (PubMed or MEDLINE) or in any journal included in the Thomson Reuters Scientific Master Journal List not less than twelve months prior to the day preabortion screening was provided."

11. "Complications associated with abortion" is defined as "any adverse physical, psychological, or emotional reaction that is reported in a peer-reviewed journal to be statistically

associated with abortion such that there is less than a five percent probability ($P < .05$) that the result is due to chance."

What are "PubMed," "MEDLINE," and the "Thomson Reuters Scientific Master Journal List?

12. PubMed is an online, searchable database of biomedical journal article citations and abstracts (*i.e.*, summaries) maintained by the National Center for Biotechnology Information at the U.S. National Library of Medicine. It comprises approximately 20 million citations for articles in the biomedical literature from MEDLINE, life science journals, and online books. MEDLINE is the largest component of PubMed and contains over 18 million article citations from approximately 5,400 worldwide journals in approximately 40 different languages. (Hereafter, I will refer only to "PubMed" as it includes MEDLINE.)

13. The Thomson Reuters Scientific Master Journal List (which is actually called the Thomson Reuters "Master Journal List") ("MJL") is a list of journal titles created and maintained by Thomson Reuters. The MJL includes approximately 16,500 journals from the natural sciences, social sciences, and arts and humanities in different languages. Thomson Reuters has a proprietary search engine called "Web of Science" that is designed to allow users to search electronically for some of the article citations published in the journals included in the MJL. Web of Science is marketed to large universities and institutions (as opposed to the general public) and Thomson Reuters charges an annual fee in the tens of thousands of dollars to use this service.

14. While there is some overlap between the journals included on PubMed and the MJL, there are many differences. Likewise, there are many differences between the articles that can be searched electronically through PubMed and Web of Science.

Limitations on Searching PubMed and the MJL

15. The Act covers information on risk factors published in "any peer-reviewed journals indexed by [PubMed]" or in "any journal included in the [MJL]." In other words, one must search every article ever published in any of the journals included in PubMed or the MJL for information required by the Act. But it is impossible to conduct this search using PubMed or Web of Science because both PubMed and the MJL include journals for which not every article published in those journals is included on PubMed or Web of Science. For example, PubMed and the MJL include the "International Journal of Qualitative Studies on Health and Well-Being." That journal has been published since 2006, but only articles since 2009 can be searched using PubMed or Web of Science. Another example is "Psychology, Health & Medicine," which was first published in 1996, but which can only be searched from 2006 on PubMed (with the exception of one article appearing from 2002) and from 2009 on Web of Science. Even a medical journal as well-known as "The Lancet" cannot be searched electronically in its entirety through either PubMed or Web of Science. I understand that, with respect to PubMed at least, it is up to each journal whether to include articles from volumes published before the journal was added to the database.

16. Thus, to access all the articles published in every journal included on PubMed or the MJL, one would not only have to figure out which journals are not fully searchable on PubMed or Web of Science (that is, which journals have some but not all of the articles ever published in those journals on PubMed or Web of Science), but then also find some other means to access and search those journals and articles. I am not aware of any other electronic database that would allow such a search to be carried out in a comprehensive manner; thus, one may have

to search each of the individual journals either online, if available, or through a library or the publisher.

17. In addition, neither PubMed nor Web of Science searches the full text of articles. PubMed searches a series of fields, including article title, abstract, author, and "MeSH" terms ("MeSH" stands for "Medical Subject Headings").

18. MeSH is the U.S. National Library of Medicine's controlled vocabulary thesaurus of terms used to describe the subject content of an article on MEDLINE. The purpose of MeSH is to facilitate search retrieval by eliminating the use of different terminology by different authors for the same concept. There are more then 25,000 descriptors (or terms) in MeSH. "Abortion, Induced," for example, is a MeSH term that is defined as the "[i]ntentional removal of a fetus from the uterus by any of a number of techniques." The subject content of an article is determined by a team of professionals at the National Library of Medicine, by reading the title and the introduction; scanning the body of the article, the abstract, the author's own keywords, and the bibliographic references; and reading the summary or conclusions of the author. MeSH terms are used only for those subjects that are substantially discussed as opposed to those subjects merely mentioned in an article.

19. Some journal articles appearing on PubMed are not assigned MeSH terms, including articles on PubMed that are not on MEDLINE (only MEDLINE articles are assigned MeSH terms) and articles that have been recently added to MEDLINE but have not yet been assigned MeSH terms. Also, if a journal is in its fourth year or more when it is added, assigning MeSH terms will begin with the current year (in other words, articles in earlier volumes may be included in the database but will not be assigned MeSH terms).

20. Likewise, Web of Science searches a series of fields, including title, abstract, author-assigned keywords, and "KeyWords Plus®," which are "index terms created by Thomson Reuters from significant, frequently occurring words in the titles of an article's cited references." Therefore, in either PubMed or Web of Science, unless the article contains the relevant search term or terms in one of the search fields, it would not turn up in a search.

21. To illustrate, take, for example, a search for the term "abortion." PubMed automatically expands a search for the term "abortion" to include a search for the MeSH term "abortion, induced" as well as a search for [abortion and induced] and "induced abortion"—and yields more than 66,000 results dating as far back as the early 1900s. A similar search on Web of Science yields more than 30,000 results, dating back to the year 1900. But even using this incredibly broad search, one cannot guarantee that one would be able to retrieve every responsive article included in journals included in PubMed or the MJL. For example, of the articles that are not assigned MeSH terms on PubMed, an article that discusses induced abortion in the text (and contains information that would be responsive under the Act), but does not contain the search terms in the title or abstract (if an abstract is available), would likely be missed. Of the articles that are assigned MeSH terms, an article that is focused on miscarriage or labor and delivery, for example, but that mentions induced abortion (and contains responsive information), would also likely be missed because, as explained above, MeSH terms are used only for subjects that are substantially discussed in an article. And, on Web of Science, unless the term "abortion" is an author-assigned keyword or a "KeyWords Plus®" assigned by Thomson Reuters, an article containing responsive information could very well not turn up even in such a broad search if "abortion" is not used in its title or abstract. Of course, even if you ignore the fact that some responsive articles will be missed in a search for the term "abortion," it

would be impossible for anyone to review the more than 66,000 and 30,000 articles that such a search yields on PubMed and the Web of Science, respectively, even accounting for overlap between the two sets of articles.

Limitations on Crafting a Comprehensive Search that Efficiently Retrieves Responsive Articles

22. Even if the above limitations on searching article citations and content on PubMed and the MJL did not exist, it would be impossible to craft a search that is both comprehensive and efficiently retrieves responsive articles. For example, even if we (1) narrow the search from "abortion" to "induced abortion" (including the MeSH term "abortion, induced" and one synonym sometimes used to described induced abortions, "elective abortion") and (2) limit the results further by using "risk factors" or "complications," or potential synonyms of those terms, or other terms that may capture responsive information (including "counseling" or "informed consent"),[1] we still get more than 19,000 results, dating back to 1950, on PubMed alone.

23. Taking these more than 19,000 results, we generated a random sample of 100 articles using the statistical software program SPSS. (We only generated one sample, and the following discussion is based on that sample.) Looking only at the titles and abstracts (where available; it appeared abstracts were not available for 43 out of the 100 articles), my research associate and I independently reached a conservative estimate that approximately 35-40 of the

[1] Specifically, the terms we included in this aspect of the search were: factor(s), predictor(s), antecedent(s), predictive, predicting, pre-existing, pre-abortion, post abortion, counseling, counselling, counselor, counselor, "informed consent", crisis, risk, risks, complication, complications, reaction, reactions, sequela, sequelae, consequence, consequences, syndrome, syndromes, characteristics, demographic, demographics, peri-abortion, "risk factor", risk factor [MESH], "pregnancy complication", pregnancy complication [MESH], or informed consent [MESH].

100 articles may contain responsive information. This total includes examples that seem fairly likely to contain responsive information, such as:

- Y. Sun., et al., *Induced abortion and risk of subsequent miscarriage*, 32 Int. J. Epidemiology 449 (2003);
- J.E. Darroch, et al., *A history of induced abortion in relation to substance abuse during subsequent pregnancies carried to term*, 189 Am. J. Obstetrics & Gynecology 617 (2003) (no abstract);
- B. Major, et al., *Psychological responses of women after first-trimester abortion*, 57 Archives Gen. Psychiatry 777 (2000); and
- H. Houston H. & L. Jacobson, *Overdose and termination of pregnancy: an important association?* 46 Brit. J. Gen. Prac. 737 (1996).

It also includes examples that I am less certain will contain responsive information, but that, in my opinion, would need to be retrieved and reviewed before a final determination could be made, such as:

- S. Gamanagatti, et al., *Acute abdomen after termination of pregnancy*, 81 Brit. J. Radiology 758 (2008) (no abstract);
- U. Mahadevan, et al., *Pregnancy outcomes in women with inflammatory bowel disease: a large community-based study from Northern California*, 133 Gastroenterology 1106 (2007)
- P.I. Carter & J.S. St. Lawrence, *Adolescents' competency to make informed birth control and pregnancy decisions: an interface for psychology and the law*, 3 Behav. Sci. L., 309 (1985) (no abstract);
- F.J. Shoeneck, F.J., *Fatalities Associated With Abortions*, N.Y. St. J. Med. 1216 (1964) (no abstract); and
- O. Kolarova, *Complications after artificial interruption of pregnancy*, 25 Ceská Gynekologie [Czech. Rep.] 694 (1960) (no abstract).

Thus—not including additional results from the Web of Science—this means one would have to retrieve, read, and analyze, at a minimum, close to 7,000 articles (35 percent of 19,000) to determine if they contain information that would trigger an obligation under the Act.

24. And, of course, even this search would not be comprehensive. Searching only for "induced abortion" (as opposed to "abortion") eliminates some potentially responsive results, including articles that use the phrase "termination of pregnancy" instead of abortion, which is common. In addition, because "risk factors" and "complications" are defined so broadly in the Act, they include matters that would not necessarily be identified in medical and scientific articles using these terms or their synonyms. Moreover, there are other synonyms for "risk factors" or "complications" and other terms that could capture additional responsive material under the Act that we missed. Indeed, an article could easily discuss a particular condition or risk factor—such as age, for example—without using the general description "risk factor." In my opinion, it would be impossible to craft a search that would both efficiently retrieve responsive articles and assure providers that all responsive articles have been captured.

Additional Limitations Related to Searching PubMed and the MJL

25. There are also a number of other hurdles to searching PubMed and the MJL. Journals are added and deleted from the MJL as often as every few weeks, but users can not easily access information about which journals have been recently added or deleted. Journals that are added may include ones that have been in publication for more than a year, and, thus, under the Act, could contain articles that would immediately trigger obligations under the Act. Therefore, one would constantly have to search the MJL to determine if articles containing potentially relevant information have been added. If they have, and if those articles cannot be retrieved online, it could take days or in some cases even weeks to access those articles through a library (especially if the article needs to be retrieved through an inter-library loan) or through the publisher.

26. In addition, many of the articles on PubMed, including articles that may be responsive under the Act, are in one of approximately forty different foreign languages. Only the title and sometimes the abstract (where an abstract is available, which, again, is not always the case) are translated into English. For example, our research revealed a Chinese-language article entitled: D.S. Zhang & C.F. Zhang, *Postabortion complications and recovery of ovarian function in nulliparous women*, 24 Zhonghua Fu Chan Ke Za Zhi 159 (1989). The abstract of the article suggests that nulliparous women (or women who have never given birth) are at risk for complications following abortion, and thus it appears the article would likely be responsive under the Act. But without being able to read and analyze the article itself, it is impossible to determine whether it is responsive and, if it is, what information in the article should be disclosed. Web of Science also covers many journals that publish only their bibliographic information in English with full text in another language.

27. Also, there are many hurdles to accessing the articles that one finds through PubMed or the Web of Science. Neither PubMed's nor Web of Science's search results includes an electronic copy of the journal article, and only some of PubMed's records are linked to full-text on publishers' web sites (and these may require a registration, fee and/or subscription to access). The articles that are not available online would need to be sought from a library, the publisher, or through some other source, in some cases for a fee. Moreover, of the articles that are available online, many are not available for free and typically cost $25 or $30 per article. In addition, Web of Science is marketed to large universities and institutions (as opposed to the general public) and Thomson Reuters charges an annual fee in the tens of thousands of dollars to use this service. Thus, merely retrieving the articles that may contain responsive information could cost providers an exorbitant amount of money.

Examples of Potentially Responsive Articles and Additional Hurdles

28. Even a cursory review of a handful of articles that are potentially responsive under the Act reveals a number of additional factors that would further complicate any attempt to comply with the Act. First, many studies do not address precisely the same risk factor or use the same approach to measure a particular risk factor. For example, a number of studies address risk factors that could be characterized broadly as falling under the heading "ambivalence." Closer scrutiny of even a few of these studies, however, reveals that they address different risk factors using different methods and timing. In one study, the relevant risk factor was "moderate to severe" directly expressed ambivalence toward abortion as determined by a psychiatrist following a psychiatric evaluation of the patient before the abortion was scheduled. Edmund C. Payne, et al., *Outcome Following Therapeutic Abortion*, 33 Archives Gen. Psychiatry 725 (1976). In another study, patients were deemed to be ambivalent if they reported (at a post-abortion interview) that they had not decided on abortion as soon as they discovered they were pregnant. Hanna Söderberg, et al., *Emotional distress following induced abortion: A study of its incidence and determinants among abortees in Malmö, Sweden*, 79 Eur. J. Obstetrics & Gynecology 173 (1998). In a third study, the risk factor was based on a woman's reported "satisfaction with the decision to end the pregnancy" based on a "four-point scale" in an interview conducted immediately prior to the procedure. Lisa Rose Shusterman, *Predicting the Psychological Consequences of Abortion*, 13A Soc. Sci. & Med. 683 (1979).

29. In addition, each risk factor in each study is associated with a different "complication" (or complications) occurring within different time frames: In the first study, the risk factor related to ambivalence appeared to be associated with "depression" and "guilt"—"with a particularly sharp peak for guilt at six weeks" post-abortion but with "a trend toward

resolution for both affects" at six months; in the second study, with "some kind of emotional distress" reported approximately one year after the abortion; and in the third study, with "unfavourable emotional reactions," including feeling unhappy, guilty, and resentful, at two to three weeks post-abortion.

30. Moreover, other articles treat as a "risk factor" a cluster of characteristics (as opposed to one characteristic) associated with a set of complications. For example, one study concludes that "[a]mong the abortion patients, low self-esteem, low contraceptive knowledge, high alienation and delay in seeking the abortion were related to long recovery times, psychopathology (as indicated by the MMPI [Minnesota Multiphasic Personality Inventory]), and a large number of unpleasant body symptoms (*e.g.*, headaches, dizziness, nausea) after abortion." Robert Athanasiou, et al., *Psychiatric Sequelae to Term Birth and Induced Early and Late Abortion: A Longitudinal Study*, 5 Fam. Plan. Persp. 227 (1973).

31. In my opinion, it would be impossible for providers to evaluate every patient for the wide range of related but non-identical risk factors relating broadly to one topic as well as the potentially many different clusters of characteristics that make up a single risk factor reported in the literature.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 25, 2010, in Cambridge, Massachusetts.

By: _____
KELLY BLANCHARD

Exhibit A

Kelly Blanchard

Ibis Reproductive Health, 17 Dunster Street, Suite 201, Cambridge, Massachusetts 02138, USA
Telephone: 617-349-0040; Fax: 617-349-0041; Email: kblanchard@ibisreproductivehealth.org

Education

Harvard School of Public Health
MSc in Population and International Health, June 1997.
Master's thesis: "Health Workers' Opinions of the Public Health Service in South Africa: Implications for Quality of Care." Awards: Pforzheimer Fellowship for Public Service 1996, 1997. GPA-3.90.

Harvard/Radcliffe College
AB Magna Cum Laude in Social Studies, June 1992.
Undergraduate thesis: "Islamic Reform in Context: Understanding the Maitatsine Rebellion in Northern Nigeria." Analyzed the economic, historical, and political context of an Islamic movement in Northern Nigeria. Awards: John Harvard Scholarship, Elizabeth Cary Agassiz Certificate of Merit. Focus on African history, politics, and culture.

Research and Development Experience

Ibis Reproductive Health **Cambridge, MA**
President, November 2004-present (Acting President, March-November 2004)
Provide conceptual, managerial, and financial leadership for an organization of roughly twenty staff in three offices worldwide, with an annual operating budget of $2 million. Thematic areas of research include contraception, medical and surgical abortion, and STI/HIV prevention. Lead organizational fundraising and oversee program development and implementation both domestically and internationally.

Ibis Reproductive Health **Johannesburg, South Africa**
Associate, June 2003-March 2004
Managed development and operations of South Africa office, including managing clinical and social science research projects on reproductive health. Participated as member of Ibis management team, including supervising local and international staff, fundraising, and program development.

Population Council **Johannesburg, South Africa**
Program Associate, January 2000-May 2003
Managed a growing program of work on reproductive health in South Africa and the Southern African region, including quantitative and qualitative research on emergency contraception, medical and surgical abortion, and microbicides. Major projects included management of a phase II trial of a novel vaginal microbicide and development of clinical trial sites and patient and provider materials for mifepristone medical abortion. Responsible for fundraising, program and protocol development, staff supervision, study monitoring, data analysis, and manuscript preparation.

Population Council **New York, NY**
Staff Program Associate, December 1998-December 1999, Program Manager, July 1997-December 1998
Designed, implemented, analyzed data and reported results from clinical and social science research projects on microbicides, medical and surgical abortion, emergency contraception, and maternal health. Managed site development for microbicides expanded safety trials in South Africa and Thailand and monitored implementation of a large emergency contraception trial in the US and UK.

Alumnae Health Study **Boston, MA**
HSPH/Department of Population and International Health
Project Manager, September 1996-June 1997
Responsible for data management in survey of over 5,000 women college graduates investigating the relationship of athletic activity to health outcomes later in life. Served as a liaison to a data entry organization, supervised two administrative staff, and assisted in development of analysis plan.

Population Council **New York, NY**
Consultant, January-March 1997
With Anrudh Jain, collected data from DHS reports and calculated an index of gender disparity based on female and male educational attainment by age group.

Women's Health Project **Johannesburg, South Africa**
Research Assistant, June-September 1996
Managed and analyzed data from a situation analysis of reproductive health services in Northern, Northwest, and Northern Cape provinces. Produced written reports and visual presentations for district, regional, and provincial government officials. Led discussion among officials in small group sessions during dissemination workshops in each province to present data and get feedback. Trained local staff in data management and analysis and use of EpiInfo and Excel computer software.

Fulbright Scholarship **Accra, Ghana**
Visiting Scholar, University of Legon, October 1992-September 1993
Designed and conducted a study exploring the resurgence of African Traditional Religion in Ghana. Interviewed and surveyed members of a modern religious movement to determine socio-economic status and motivation for joining the group. Developed character profile of founder, and documented economic, historic, and cultural context of this movement.

Voluntary Workcamps Associations of Nigeria and Ghana **Lagos, Nigeria; Accra, Ghana**
Volunteer, July-August 1991
Nigeria: provided organizational assistance to local governments to set up future work camps. Ghana: participated in short-term development project assisting in the construction of a medical center in the Ashanti Region.

Harvard University/Department of Government **Cambridge, MA**
Research Assistant to Assistant Professor Jennifer Widner, June-September 1990
Analyzed the social and economic impact of World Bank and IMF economic reform measures in West and Central Africa.

Professional Awards and Memberships

Instructor, Global Health and Population Department, Harvard School of Public Health

Guttmacher Institute 2009 Darroch Award for excellence in research to advance sexual and reproductive health

American Public Health Association PFPRH Section 2006 Outstanding Young Professional

American Public Health Association, member
Population Association of America, member
Association of Reproductive Health Professionals, member
National Abortion Federation, member
International AIDS Society, member
Society for Family Planning, member

Studies in Family Planning, reviewer
Reproductive Health Matters, reviewer
AIDS and Behavior, reviewer
Sexually Transmitted Infections, reviewer
International Family Planning Perspectives, reviewer
New England Journal of Medicine, reviewer
British Journal of Obstetrics and Gynaecology, reviewer

Other Experience

HSPH/Department of Population and International Health
Teaching Assistant for Professor Allan Hill, Assessing the Impact of Health Interventions in Developing Countries, March-June 1997
Teaching Assistant for Assistant Professor Omar Rahman, Population and Health, September-November 1996
Teaching Assistant for Associate Professor Rachel Snow and Lecturer Iain Aitken, Topics in Reproductive Health, January-May 1996

EF Educational Tours
Tour Consultant, January 1994-September 1995

Skills

- **Computer Applications and Data Analysis:** Extensive experience performing quantitative and qualitative data analysis. Fluent in following computer applications: Word processing programs, Microsoft PowerPoint, Excel, SPSS, SAS, STATA, EpiInfo, nQuery.

- **Languages:** Spanish: intermediate; French: beginner

Publications

Blanchard K. Improving women's access to emergency contraception: Innovative information and service delivery strategies. *JAMWA* 1998;53(5):238-41.

Blanchard K, Winikoff B, Ellertson C. Use of misoprostol during pregnancy and Möbius' syndrome in infants [letter]. *NEJM* 1998;339(21):1553-4.

Blanchard K. Putting control in women's hands: Microbicide research. *Women's Health News* 1998;25:11-12.

Ellertson C, Blanchard K, Webb A, Bigrigg A, Haskell S. Emergency contraception [letter]. *Lancet* 1998;352:1477.

Blanchard K, Winikoff B, Ellertson C. Misoprostol used alone for the termination of early pregnancy: A review of the evidence. *Contraception* 1999;59:209-217.

Blanchard K, Elul B, RamaRao S. Reproductive Health Indicators: Moving Forward. New York: Population Council, Robert H. Ebert Program on Critical Issues in Reproductive Health. 1999.

Blanchard K, Winikoff B, Coyaji K, Ngoc NTN. Misoprostol-alone—A new method of medical abortion? *JAMWA* 2000;55:189-190.

Coggins C, Blanchard K, Friedland B. Men's attitudes toward a potential vaginal microbicide in Zimbabwe, Mexico and the USA. *Reproductive Health Matters* 2000;8(15):132-141.

Coggins C, Blanchard K, Alvarez F, Brache V, Weisberg E, Kilmarx PH, Lacarra M, Massai R, Mishell D Jr., Salvatierra A, Witwatwongwana P, Elias C, Ellertson C. Preliminary safety and acceptability of a carrageenan gel for possible use as a vaginal microbicide. *Sex Transm Inf* 2000;76:480-483.

Ellertson C, Shochet T, Blanchard K, Trussell J. Emergency contraception: A review of the programmatic and social science literature. *Contraception* 2000;61:145-186.

Van de Wijgert J, Elias C, Ellertson C, McGrory E, Blanchard K, Friedland B, Winikoff B, Brown G. Condom promotion in microbicides trials [letter]. *AJPH* 2000;90(7):1153.

Coetzee N, Blanchard K, Ellertson C, Hoosen A, Friedland B. Acceptability and feasibility of Micralax® applicators and of methyl cellulose gel placebo for large-scale trials of vaginal microbicides. *AIDS* 2001;15:1837-42.

Ellertson C, Ambardekar S, Hedley A, Coyaji K, Trussell J, Blanchard K. Emergency contraception: Randomized comparison of advance provision and information only. *Obstet Gynecol* 2001;98:570-5.

Tharawan K, Manopaiboon C, Ellertson C, Limpakarnjanarat K, Chaikummao S, Kilmarx P, Blanchard K, Coggins C, Mastro T, Elias C. Women's willingness to participate in microbicide trials, northern Thailand. *JAIDS* 2001;28:180-6.

Blanchard K, Clark S, Winikoff B, Gaines G, Kabani G, Shannon C. Misoprostol for women's health: A review. *Obstet Gynecol* 2002;99:316-32.

Blanchard K, Elias C. Non-HIV STIs and the epidemiology of success. In *The Science of Microbicides: Accelerating Development*. New York: Rockefeller Foundation, 2002. 47-52.

Blanchard K, Haskell S, Ferden S, Johnstone K, Spears A, Evans M, Leadbetter C, Carlson S, Meehan A, Abuabara K, Ellertson C. Differences between emergency contraception users in the US and the UK. *JAMWA* 2002;57:200-3.

Clark S, Blum J, Blanchard K, Galvao L, Fletcher H, Winikoff B. Misoprostol use in obstetrics and gynecology in Brazil, Jamaica and the United States. *Int J Gyn Obstet* 2002;76:65-74.

Esu-Williams E, Blanchard K. Female condoms and microbicides. In Essex M et al. (eds.), *AIDS in Africa*, 2nd ed. New York: Kluwer Academic/Plenum Publishers, 2002. 506-13.

Muia E, Blanchard K, Lukhando M, Olenja J, Liambila W. Evaluation of an EC introduction project in Kenya. *Contraception* 2002;66:255-60.

Blanchard K, Bungay H, Furedi A, Sanders L. Evaluation of an EC advanced provision service. *Contraception* 2003;67:343-8.

Blanchard K. Life without menstruation. *The Obstetrician & Gynaecologist* 2003;5:34-7.

Blanchard K. To menstruate or not? [review article]. *Gynecol Forum* 2003;8(2):13-15.

Blanchard K, Fonn S, Xaba M. Abortion law in South Africa: Passage of a progressive law and challenges for implementation. *Gac Méd Méx* 2003;139(1):S109-14.

Ellertson C, Webb A, Blanchard K, *et al*. Modifying the Yuzpe regimen of emergency contraception: A multicenter randomized controlled trial. *Obstet Gynecol* 2003;101:1160-7.

Abuabara K, Becker D, Ellertson C, Blanchard K, Schiavon R, Garcia SG. As often as needed: Appropriate use of emergency contraceptive pills. *Contraception* 2004;69:339-42.

Blanchard K, Taneepanichskul S, Kiriwat O, Sirimai K, Svirirojana N, Mavimbela N, Winikoff B. Two regimens of misoprostol for treatment of incomplete abortion. *Obstet Gynecol* 2004;103:860-5.

Miller K, Blumenthal P, Blanchard K. Oral contraceptive and cervical cancer: Critique of a recent review. *Contraception* 2004;69:347-51.

Shochet T, Blanchard K, King H, Henchcliffe B, Hunt J, McCaig C, Weaver K, Stirling A, Glasier A, Webb A, Ellertson C. Side effects of the Yuzpe regimen of emergency contraception and two modifications. *Contraception* 2004;69:301-7.

Blanchard K, Polis C. Emergency contraception: Ensuring access. *Gynecology Forum* 2005;10(3):10-12.

Blanchard K, Shochet T, Coyaji K, Ngoc NTN, Winikoff B. Misoprostol alone for early abortion: An evaluation of seven potential regimens. *Contraception* 2005;72:91-97.

Blanchard K, Harrison T, Sello M. Pharmacists' knowledge and perceptions of emergency contraception pills in Soweto and Johannesburg Central Business District, South Africa. *Int Fam Plann Perspect* 2005;31(4):172-178.

Cooper D, Dickson K, Blanchard K, Cullingworth L, Mavimbela N, von Mollendorf C, van Bogaert L, Winikoff B. Medical abortion: The possibilities for introduction in the public sector in South Africa. *Reproductive Health Matters* 2005;13(26):35-43.

Grossman D, Ellertson C, Abuabara K, Blanchard K, Rivas F. Do product labeling and norms deter contraceptive use? *AJPH* 2006;96(5):791-799.

Westley E, Bigrigg A, Webb A, Haskell S, Blanchard K, Loftus-Granberg B, Sorhaindo A, Johnston K, Spiers A, Abuabara K, Ellertson C. Risk of pregnancy and external validity in clinical trials of emergency contraception. *J Fam Plann Reprod Health Care* 2006;32(3):165-169.

Kilmarx P, van de Wijgert J, Chaikummao S, Jones HE, Limpakarnjanarat K, Friedland BA, Karon JM, Manopaiboon C, Srivirojana N; Yanpaisarn S, Young NL, Mock PA, Blanchard K, Mastro T. Safety and acceptability of the candidate microbicide Carraguard in Thai women: Findings from a Phase II clinical trial. *JAIDS* 2006; 43(3):327-334.

Whitehead SJ, Kilmarx PH, Blanchard K, et al. Acceptability of Carraguard vaginal use among Thai couples. *AIDS* 2006;20(17):2141-2148.

Blanchard K, Schaffer K, McLeod S, Winikoff B. Medication abortion in the private sector in South Africa. *European Journal of Contraception and Reproductive Health Care* 2006;11(4):285-290.

Blanchard K, Brown H, Cooper D, Dickson K, Cullingworth L, Mavimbela N, von Mollingdorf C, van Bogaert LJ, Winikoff B. A comparison of women's, providers' and ultrasound assessments of pregnancy duration among termination of pregnancy clients in South Africa. *BJOG An International Journal of Obstetrics and Gynaecology* 2007;114(5):569-575.

Polis CB, Schaffer K, Blanchard K, Glasier A, Harper CC, Grimes DA. Advance provision of emergency contraception for pregnancy prevention (full review). *The Cochrane Library* 2007;2:1-25.

Harper CC, Blanchard K, Grossman D, Henderson JT, Darney PD. Reducing maternal mortality due to elective abortion: Potential impact of misoprostol in low-resource settings. *International Journal of Gynecology and Obstetrics* 2007;98:66-69.

Padian NS, van der Straten A, Ramjee G, Chipato T, de Bruyn G, Blanchard K, Shiboski S, Montgomery ET, Fancher H, Cheng H, Rosenblum M, van der Laan M, Jewell N, McIntyre J, the MIRA Team. Diaphragm and lubricant gel for prevention of HIV acquisition in southern African women: A randomized controlled trial. *Lancet* 2007;370(9583):251-61.

Polis CB, Schaffer K, Blanchard K, Glasier A, Harper CC, Grimes DA. Advance provision of emergency contraception for pregnancy prevention: A meta-analysis. *Obstetrics and Gynecology* 2007 Dec;110(6):1379-1388.

Bollen LJM, Blanchard K, Kilmarx PH, Chaikummao S, Connolly C, Wasinrapee P, Srivirojana N, Achalapong J, Tappero JW, McNicholl JM. No increase in cervicovaginal proinflammatory cytokines after Carraguard use in a placebo-controlled randomized clinical trial. *JAIDS* 2008 Feb;47(2):253-257.

Kilmarx PH, Blanchard K, Chaikummao S, Friedland B, Srivirojana N, Connolly C, Witwatwongwana P, Supawitkul S, Mock P, Chaowanachan T, Tappero J. A randomized, placebo controlled trial to assess the safety and acceptability of Carraguard vaginal gel among heterosexual couples in Thailand. *Sexually Transmitted Diseases* 2008;35(3):226-232.

Grossman D, Blanchard K, Blumenthal P. Complications after Second Trimester Surgical and Medical Abortion *Reproductive Health Matters* May 2008; 16(Supplement 1):173-182.

Kawonga M, Blanchard K, Cooper D, Cullingworth L, et al. Integrating medical abortion into safe abortion services: experience from three pilot sites in South Africa *Journal of Family Planning and Reproductive Health Care* September 2008; 34(3).

Ramjee G, van der Straten A, Chipato T, de Bruyn G, Blanchard K, et al. The Diaphragm and Lubricant Gel for Prevention of Cervical Sexually Transmitted Infections: Results of a Randomized Controlled Trial *Plos One* October 2008; 3(10):e3488.

Turner AN, De Kock AE, Meehan-Ritter A, Blanchard K, et al. Many vaginal microbicide trial participants acknowledged they had misreported sensitive sexual behavior in face-to-face interviews *Journal of Clinical Epidemiology* November 2008.

Van der Straten A, Cheng H, Moore J, Kacanek D, Blanchard K, et al. The Use of the Diaphragm Instead of Condoms in a Phase III Diaphragm Trial. *AIDS Behavior* December 2008.

Dennis A, Henshaw SK, Joyce TJ, Finer LB, Blanchard K. The Impact of Laws Requiring Parental Involvement for Abortion: A Literature Review. *Guttmacher Institute.* March 2009.

Hu D, Grossman D, Levin C, Blanchard K, Goldie SJ. Cost-effectiveness analysis of alternative first-trimester pregnancy termination strategies in Mexico City. *BJOG.* May 2009; 116:768-779.

Joyce TJ, Henshaw SK, Dennis A, Finer LB, and Blanchard K. The Impact of State Mandatory Counseling and Waiting Period Laws on Abortion: A Literature Review. *Guttmacher Institute.* May 2009.

Blanchard K. Technology, Reproductive Health, and the Cairo Consensus. *Reproductive Health and Human Rights: The Way Forward.* June 2009; 140-151.

Jones RK, Fennell J, Higgins JA, and Blanchard K. Better than nothing or savvy risk-reduction practice? The importance of withdrawal. *Contraception.* June 2009; 79:407-410.

Henshaw SK, Joyce TJ, Dennis A, Finer LB, Blanchard K. Restrictions on Medicaid Funding for Abortions: A Literature Review. *Guttmacher Institute.* July 2009.

Montgomery ET, Blanchard K, Cheng H, Chipato T, Bruyn G, Ramjee G, Padian N, van der Straten A. Diaphragm and lubricant gel acceptance, skills and patterns of use among women in an effectiveness trial in Southern Africa. *The European Journal of Contraception & Reproductive Health Care.* December 2009; 14(6):410-419.

Polis CB, Schaffer K, Blanchard K, Glasier A, Harper CC, Grimes DA. Advance provision of emergency contraception for pregnancy prevention (full review) (New search for studies and content updated (no change to conclusions)). *The Cochrane Library*. 2010: Issue 3.

Select Current Research Projects

Co-Principal Investigator. Introducing medication abortion into on-line surgical abortion services in KwaZulu-Natal Province, South Africa. Operations research to evaluate introduction strategies and impact of introduction of mifepriston-misoprostol medication abortion in public sector services in South Africa.

Principal Investigator. Availability of public funding for abortions under the Hyde amendment: Providers' experiences. Qualitative and quantitative research to document abortion provider experiences with Medicaid funding for cases that qualify as Hyde Amendment exceptions.

Co-Principal Investigator. Abortion self-induction among Latina women in the San Francisco Bay Area, Boston and New York. Survey of women attending clinics that serve predominantly low-income women on their knowledge and experience with abortion and family planning services, and

history of self induction of abortion; women who have self-induced participate in additional in-depth interviews.

Co-Principal Investigator. Methods for Improving Reproductive Health in Africa (MIRA). Randomized trial of the diaphragm and lubricant gel for HIV prevention.

Principal Investigator. Provider perceptions of the diaphragm in the United States and Southern Africa.

Exhibit 6

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PLANNED PARENTHOOD OF THE HEARTLAND, Plaintiff, v. DAVE HEINEMAN, Governor of Nebraska, in his official capacity; JON BRUNING, Attorney General of Nebraska; in his official capacity; KERRY WINTERER, Chief Executive Officer, and DR. JOANN SCHAEFER, Director of the Division of Public Health, Nebraska Department of Health and Human Services, in their official capacities; and CRYSTAL HIGGINS, President, Nebraska Board of Nursing, and BRENDA BERGMAN-EVANS, President, Nebraska Board of Advanced Practice Registered Nurses, in their official capacities; Defendants.	)	Case No. _____

JILL L. MEADOWS, M.D., declares and states as follows:

1. I am over 18 years of age and competent to make this declaration.

2. As of July 1, 2010, I will be the Medical Director of Planned Parenthood of the Heartland, Inc. ("Planned Parenthood"). I submit this declaration in support of Plaintiff's Motion for a Preliminary Injunction and for a Temporary Restraining Order, preventing Legislative Bill 594 ("the Act") from taking effect.

3. I am a board-certified obstetrician and gynecologist and a Fellow of the American College of Obstetricians and Gynecologists. I have been a Clinical Associate Professor of

Obstetrics and Gynecology at the University of Iowa College of Medicine for five years, and before that was an Assistant Professor of Clinical Obstetrics and Gynecology for six years, also at the University of Iowa College of Medicine; I will continue as an adjunct professor when my position at Planned Parenthood begins. As a Clinical Associate Professor, I have lectured extensively on a variety of obstetric and gynecological issues. I received my medical degree from the University of Iowa College of Medicine in 1995, and was a resident in obstetrics and gynecology at the Beth Israel Medical Center in New York from 1995 to 1999. A copy of my CV is attached as Exhibit A.

4. I have been practicing as an obstetrician and gynecologist, including as an abortion provider, since 1999. Throughout that time, in addition to my didactic and clinical teaching, I have provided a full range of obstetrical and gynecological services, including treating women with high-risk pregnancies, labor and delivery services, cesarean-sections, gynecological surgeries, a variety of in-office procedures, and abortion services. In addition to my duties as Medical Director, at Planned Parenthood I will continue to provide medical services, including some abortion services in Nebraska. I am currently licensed to practice medicine in Iowa, and my licensing application to practice medicine in Nebraska is complete and pending.

5. Both medication abortion and surgical abortion are very safe services. At the gestational ages at which Planned Parenthood provides abortions in Nebraska, they are safer than carrying a pregnancy to term.

6. As Planned Parenthood's Medical Director, I will have oversight responsibility for the medical services that Planned Parenthood provides; this includes responsibility for the

quality assurance of those medical services, as well as responsibility for the medical protocols pursuant to which those services are provided.

7. As Medical Director my responsibilities will include working with Planned Parenthood's legal, operational, and clinical staff to ensure that Planned Parenthood provides medical services in a way that complies with our legal and professional obligations.

8. I have reviewed the new so-called "informed consent" requirements at issue in this lawsuit, and I do not understand what they require.

9. If the Act is read literally, it seems to me to be impossible to comply with. Among other reasons, which I understand are being developed more fully in another affidavit, it would be impossible to do an exhaustive literature search for every article, in any language, from any year, in any journal covered by the Act, that addresses any potential risk factor (as broadly defined in the Act) that has been associated with any complication (again, as broadly defined in the Act). And even if we could somehow identify and obtain every potentially responsive article, and then read and understand them – a task that would take an impossible number of hours – the task of evaluating every patient for every resulting claimed risk factor, and disclosing the associated complications (including risk factors and complications that are not applicable to our patients, have been disproven, or are otherwise bad medicine) would also take so long as to be impossible.

10. On the other hand, if reasonable limitations may be read into the Act, I do not know how to determine what they are. For example, is it permissible to read in some restrictions on the materials that must be searched, such as by eliminating articles that are too old to be reasonably likely to be relevant, or that have not been translated into English? Is it permissible to limit our searches to articles published only in journals of obstetrics and gynecology, or

alternately, only in medical journals? Is it permissible to search only articles we are reasonably able to access and retrieve, such as those that can be both searched and retrieved electronically?

11. Similarly, is it permissible under the Act to exercise medical judgment, and not make disclosures that the Act on its face appears to require, if they would be medically inappropriate? For example, if a so-called risk factor or complication has been disproven, am I still obligated to disclose it to my patients even though doing so would be misleading and unethical? What if the study that finds a particular risk factor or complication is so poor in methodology that no conclusion can reasonably be drawn from it? What if the claimed risk factor or complication has been rejected by the mainstream medical community? What if the claimed risk factor or complication appears in a study done in a developing country, where medical services and context are very different from those found in Nebraska? What if a study is based on out-of-date medical practice, and its findings would not apply to contemporary abortion services as Planned Parenthood provides them? As will be discussed further below, some of the studies that would trigger obligations under the Act, if read literally, fall into each of these categories.

12. Further, what if a patient who has one or more supposed risk factors would be equally, or even more, likely to experience an adverse reaction if she carried the pregnancy to term? As will be discussed further below, this also is true of some of the risk factors that would trigger obligations under the Act, if read literally.

13. And similarly, what if the risk factor and/or complication is negligible, and in my medical judgment it would be contrary to the patient's best interests and ultimately harmful to her ability to make an informed decision to disclose it to her, for example, because it would only

distract her from more material information?

Taken Literally, the Act Would Require Disclosure of False and Misleading Information

14. Both as a physician and as the incoming Medical Director responsible for overseeing the provision of medical services at Planned Parenthood, I am very concerned that the Act would require me and other Planned Parenthood physicians to provide information to our patients that is false and/or misleading.

15. Nothing on the face of the Act appears to allow physicians to exercise medical judgment to avoid disclosing information to patients if it is not true, or is misleading; rather, on its face the Act appears to trigger disclosures based solely on the presence of a risk factor associated with a complication anywhere in the published literature covered by the Act. This ignores the fact that there is no doubt that the published literature contains many supposed risk factors and complications that have subsequently been disproven, are out of date, are found in studies that are too methodologically flawed to be reliable, or for other reasons are inapplicable to Planned Parenthood's patients.

(a) breast cancer

16. For example, the literature covered by the Act includes articles that find an association between abortion and breast cancer, for patients with certain risk factors. *See, e.g.*, M.C. Pike et al., *Oral Contraceptive Use and Early Abortion as Risk Factors For Breast Cancer in Young Women*, 43 Brit. J. Cancer 72 (1981). The Pike article finds that for women without a prior full-term pregnancy having an abortion in the first trimester of pregnancy, the risk of breast cancer goes up nearly two-and-a-half times. It reached these conclusions with a p-value of .004. *Id*. at 75.

17. I am concerned that under the Act, this means every patient in her first trimester of pregnancy (which is the gestational age at which the vast majority of our abortion services are provided) without a prior full-term pregnancy would have to be told that, according to this article, having an abortion would increase her risk of breast cancer by nearly two-and-a-half times.

18. This would be extremely misleading information for Planned Parenthood providers to be forced to give patients, because as the medicine in this field has developed, a consensus has been reached among the national professional organizations with specialized expertise in cancer and reproductive health, and throughout the mainstream medical community, that having an abortion does *not* increase patients' risk of breast cancer. The National Cancer Institute ("NCI"), the American Cancer Society ("ACS"), and the American College of Obstetricians and Gynecologists ("ACOG") have all reached this conclusion. *See* NCI, Summary Report: Early Reproductive Events and Breast Cancer Workshop, http://www.cancer.gov/cancertopics/ere-workshop-report (last visited Jun. 23, 2010) ("Induced abortion is not associated with an increase in breast cancer risk."); ACS, Is Abortion Linked to Breast Cancer?, http://www.cancer.org/docroot/CRI/CRI_2_5x.asp?dt=5 (follow "Is Abortion Linked to Breast Cancer?" hyperlink) (last visited Jun. 23, 2010) ("At this time, the scientific evidence does not support the notion that abortion of any kind raises the risk of breast cancer."); ACOG Committee on Gynecologic Practice, *ACOG Committee Opinion No. 434: Induced Abortion and Breast Cancer Risk*, 113 Obstetrics & Gynecology 1417 (2009) ("Early studies of the relationship between prior induced abortion and breast cancer risk were methodologically flawed. More rigorous recent studies demonstrate no causal relationship between induced abortion and a subsequent increase in breast cancer risk.").

19. As these leading professional groups have recognized, the methodology used in the Pike article and other early studies of abortion and breast cancer is flawed and unreliable. These early studies used a methodology known as case-control, in which women diagnosed with breast cancer are asked about their abortion history, and then compared to a control group of women who have not been diagnosed with breast cancer and are asked about their abortion history. This methodology is flawed because it is established that "healthy women are less likely to report that they have had induced abortions. In contrast, women with breast cancer are more likely to accurately report their reproductive histories. This may be because they are looking for anything that may be linked to the cancer." ACS, *supra*; *see also* ACOG Committee on Gynecologic Practice, *supra*, at 1417. This is a form of recall bias, and (as the national professional groups have recognized) makes the conclusions in such studies unreliable.

20. The preferred methodology is to use a prospective design, which is less prone to bias. In this methodology a group of women who do not have cancer are asked about their abortion history, and then are watched over a period of time to see whether a cancer occurs. In this type of study recall bias is not an issue, because all of the women are cancer-free at the time they give their abortion history. Or alternately, another preferred methodology is to study populations in which objective information is available about abortion history, such as by studying populations in countries that have strong national health databases that include both breast cancer and abortion history information. The national professional organizations' conclusion that abortion is not associated with an increased risk of breast cancer is based on studies using these stronger methodologies. *See* ACS, *supra*; ACOG Committee on Gynecologic Practice, *supra*, at 1417; *see also* NCI, *supra*.

21. It would be highly misleading, and frightening, to have to inform some of our patients that they are at a two-and-a-half times increased risk of breast cancer if they have an abortion, based on a study with flawed methodology whose results have been rejected by the mainstream medical community and by expert medical consensus, including by the national professional organizations with specialized expertise in cancer and reproductive health. If the Act allows me to exercise medical judgment, I would never use such an article as the basis for providing informed consent information to my patients. I would consider providing such information to be a violation of my ethical obligation toward patients.

(b) studies from developing countries

22. Another example of misleading information that the Act, if read literally, would require Planned Parenthood to disclose to its patients comes from studies done on abortion in developing countries.

23. The literature covered by the Act includes an article that studied abortion services in Nigeria and concluded (among other things) that if a woman is less than twenty years old at the time of the abortion she has an increased risk of complications, including a 31.2% risk of heavy bleeding (described as "so much bleeding you thought you might die") within a day of the procedure. Tisha M. Mitsunaga et al., *Risk Factors for Complications of Induced Abortions in Nigeria*, 14 J. Women's Health 515, 522 (2005). It reached this conclusion with a p-value of .001. It also concluded that if a woman is Protestant, she has a 29.7% risk of heavy bleeding, and if Catholic, 24.7%; whereas if a woman is a member of certain other religious groups it concluded that her risk of these complications would be far lower. It reached these conclusions with a p-value of .009. *Id.* at 523.

24. It would be extremely misleading – and frightening – to have to disclose these complication rates to patients who are less than twenty and/or Protestant or Catholic. For example, I would have to tell every 19-year-old patient that she has a 31.2% chance of hemorrhage (the more precise term for the bleeding described in the study), when in actuality her risk of hemorrhage is far, far less.

25. For many reasons it would be medically unreasonable to apply this article's findings to patients in Nebraska, and if the Act allows me to exercise my medical judgment, I would never use this article as the basis for informed consent disclosures to Planned Parenthood's patients. Among other reasons, the article indicates that abortion is largely illegal in Nigeria, and there is no indication that the abortions at issue were provided under sanitary conditions by providers with appropriate technique, training, and equipment – as are the abortion services Planned Parenthood provides. Further, the article states that the association between membership in certain religions and the increased complication rate is likely because in Nigeria membership in these religions is a proxy for some unobserved variable, such as socioeconomic status or lack of support in finding a safe abortion provider. The social context of being Protestant or Catholic is very different in Nebraska, and clearly members of these religions are not at a heightened risk for hemorrhage. And yet, nothing in the Act indicates that I am permitted to exercise medical judgment and not make these misleading and frightening disclosures to Planned Parenthood patients (or direct other Planned Parenthood healthcare providers to make them).

(c) out-of-date medical information and techniques

26. The literature covered by the Act also includes studies based on out-of-date medical information and techniques. For example, one study of abortions in the early 1970s

concluded that if a woman has an abortion after the first trimester, she has an 8.3% risk of cervical laceration, hemorrhage, repeat curettage, or other complications. David T.Y. Liu et al., *Comparative Morbidity after Vaginal Termination with regard to Parity and Gestational Stage*, 28 Brit. J. Clinical Prac. 170, 170 (1974). It makes this finding with a p-value of less than .01.

27. It would be misleading and untrue to provide this complication rate to a patient today who seeks an abortion after the first trimester, as that patient's actual risk of such complications would be far lower.

28. Again, if the Act allows me to exercise my medical judgment I would never use this article as a basis for providing patients with informed consent information, as abortion services have changed significantly since the 1970s. In particular, for abortions past 14 weeks we now know that it is important to use agents such as laminaria and misoprostol to gradually dilate the cervix in advance of the procedure, which has significantly improved the cervical injury rate. Providers also now routinely use prophylactic antibiotics, which has reduced infection rates. And sharp curettage is no longer used routinely in conjunction with suction curettage, which has reduced the risks of perforation and uterine injury.

29. Another article examined abortions in Yugoslavia in the early 1970s, and found that having carried a pregnancy to term is a risk factor for complications from abortion, resulting in a 5.5% chance of a complication requiring hospital admission. Mark Cheng et al., *Complications Following Induced Abortion by Vacuum Aspiration*, 8 Studies Fam. Plan. 125, 127 (1977). It made this finding with a p-value of less than .01. The article also found that being at 11 or 12 weeks gestational age at the time of the abortion increased a patient's risk of complications to 13%, and that a prior miscarriage increased complication rates to 20.3%. It made these findings with p-values of less than .01 and .005, respectively. *Id*. at 127-28.

30. Again, it would be untrue and misleading to tell patients in Nebraska in 2010 that they would incur these complication rates as a result of an abortion if they have carried a pregnancy to term, are at 11 or 12 weeks gestational age, or have had a prior miscarriage; these complication rates are extremely high, and bear no resemblance to current complication rates in the United States.

(d) articles the American Psychological Association has found unreliable

31. The literature covered by the Act also includes articles finding associations between various risk factors and negative psychological experiences after abortion that have been identified by the American Psychological Association Task Force on Mental Health and Abortion ("APA Task Force") as having serious methodological problems that make it inappropriate to rely on their results.

32. More specifically, the APA Task Force, which in addition to its obvious expertise in psychological issues also has expertise in study design and methodology, concluded that studies that employ a retrospective design "have serious methodological problems that negate their ability to answer questions about psychological experiences following abortion" – the very questions these studies purport to answer. Brenda Major et al., Report of the APA Task Force on Mental Health and Abortion 74 (2008), *available at* http://www.apa.org/pi/women/programs/abortion/mental-health.pdf. The retrospective design criticized by the APA Task Force means that potential risk factors were assessed only after the abortion, at the same time that psychological experiences after the abortion were assessed – and in the case of these studies, these assessments often took place many years after the abortion. *Id.* As the APA further commented, "[m]ost of the half dozen retrospective studies of abortion samples had serious

methodological flaws and do not warrant further discussion except as examples of poor study designs." *Id*. at 87.

33. For example, one article criticized by the APA Task Force examined multiple psycho-social risk factors and concluded, among other things, that not being employed full time, more years of education, or a history of divorce were variously associated with higher rates after abortion of symptoms of post-traumatic stress disorder, disruption in cognitive schemas, and/or self-reported stress. Vincent M. Rue et al., *Induced Abortion and Traumatic Stress*, 10 Med. Sci. Monitor SR5, SR14 (2004). These findings were reported with p-values ranging from .029 to .05. The study examined only women who had abortions, an average of 10.6 years after the abortion, and asked these women to fill out questionnaires about their history at the time of the abortion and their subsequent mental health – which as the APA recognized, is not a reliable methodology. *Id*. at SR15; Major, *supra*, at 74, 83.

34. It would be untrue, and very misleading, to have to disclose to every Planned Parenthood patient who is divorced, or educated, or not employed full-time, that these factors put her at higher risk of symptoms of post-traumatic stress disorder, disruption in cognitive schemas, and/or stress if she chooses to have an abortion, based on a study that has obvious methodological flaws, and which the APA Task Force has rejected as unreliable.

35. Another article rejected as unreliable by the APA Task Force based on its use of the retrospective methodology concluded, among other things, that if a woman has consulted with her sexual partner and he supports her abortion decision, this factor is associated with less favorable long-term adjustment after the abortion. In this study, risk factors and complications were assessed based on questionnaires the women filled out an average of nine years after the abortion—which again, as the APA Task Force recognized, is not a reliable methodology.

Jeanne Parr Lemkau, *Post-Abortion Adjustment of Health Care Professionals in Training*, 61 Am. J. Orthopsychiatry 92, 95 (1991); Major, *supra*, at 74, 83, 87.

36. Again, it would be false and misleading for Planned Parenthood providers to have to disclose this information to every patient who has consulted with her partner about her abortion decision and received his support, based on this methodologically flawed article. If anything, having a partner's support in her abortion decision is generally understood to be helpful to a woman, not harmful.

37. Finally, it is worth noting that even with regard to those studies of risk factors for negative psychological experiences after abortion that had far sounder methodologies than the studies discussed above, the APA Task Force concluded that "many of the same factors shown to be associated with more negative post-abortion psychological experiences also predict more negative reactions to other types of stressful life events, including child-birth . . . For instance, low perceived social support and low self-esteem are risk factors for postpartum depression. Most risk factors are not uniquely predictive of psychological experiences following abortion. Women characterized by one or more such risk factors might be equally (or more) likely to experience negative psychological reactions if they pursued an alternative course of action (motherhood or adoption)." Major, *supra*, at 92 (citations omitted).

38. Thus even in the absence of specific methodological problems that make a study's findings unreliable, it would be misleading to inform a patient that, because she has a particular risk factor (such as low self-esteem), if she has an abortion she will be at an increased risk of a negative psychological reaction. If this type of information is given in the context of an informed consent conversation, patients will naturally understand that they can avoid this risk by choosing not to have an abortion. After all, this is the whole purpose of informed consent: to

enable patients to make informed medical decisions. And yet, as the APA Task Force recognizes, women with this type of "risk factor" can*not* avoid this risk by choosing not to have the abortion; carrying to term is likely to expose them to the same or greater risk of a negative psychological reaction as having the abortion. For this additional reason, the Act, if taken literally, would require Planned Parenthood to disclose misleading information to its patients.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 25, 2010, in Iowa City, Iowa.

By: _____
JILL L. MEADOWS, M.D.

Exhibit A

Jill Lynelle Meadows, MD
Medical Director
Planned Parenthood of the Heartland
July 1, 2010

EDUCATIONAL AND PROFESSIONAL HISTORY

Undergraduate Education:

1991	B.S., Macalester College, St. Paul, MN
1995	M.D.,The University of Iowa College of Medicine, Iowa City, IA

Postgraduate Education:

1995-99	Resident, Obstetrics and Gynecology, Beth Israel Medical Center, New York, NY

Certification:

January 2002	American Board of Obstetrics and Gynecology

Licensure:

July 1999	Iowa, Permanent

Academic Positions:

July 1999-2005	Assistant Professor of Clinical Ob/Gyn	Univ. of Iowa College of Medicine
July 2005-2010	Clinical Associate Professor Ob/Gyn	Univ. of Iowa College of Medicine

Professional Affiliations:

1991-1995	American Medical Student Association/Chapter President, 1992-1993
1995-present	American College of Obstetricians and Gynecologists, Junior Fellow/Fellow (2002)
1996-present	National Abortion Federation
2002-2003	Iowa Medical Society
2004-2008	Physicians for Social Responsibility
2005-present	American Medical Women's Association
2005-2009	American Association of Gynecologic Laparoscopists
2007-present	Association of Reproductive Health Professionals

Awards

2005	The University of Iowa Jean Y. Jew Woman's Rights Award

2005	Emma Goldman Clinic Golden Speculum Award
1998	The Elliot Blumenthal Award for best resident research project/presentation

TEACHING AT THE UNIVERSITY OF IOWA

Classroom Teaching:

1999-2001	Formal lectures to third-year medical students, “First Trimester Bleeding” (every six weeks)
2000	Lecture to residents and medical students, “Ectopic Pregnancy”, 4/25/00
2000-2002	Lecture to residents and medical students, “Evaluation and Treatment of Abnormal Bleeding in Perimenopausal Patient”, 5/16/00, 6/16/02
2000	Lecture to residents and medical students, “Chronic Pelvic Pain”, 10/31/00
2000-2009	Obstetrics and Gynecology case studies
2000-2001	Lecture to Internal Med. residents, ”Abnormal Uterine Bleeding”, 9/28/00, 10/5/00, 1/4/01, 4/5/01
2001-2006	Formal lectures to 3rd year medical students, “Normal and Abnormal Uterine Bleeding” (every six weeks)
2006-2010	Formal lecture to 3rd year medical students, “Abortion and Women’s Health” (every six weeks)
2002-2005	Clinician mentor to 2nd year medical students for Foundations of Clinical Practice, Spring 2002, 2003, 2004, 2005
2002	Lecture to residents and medical students, “Induced Abortion”, 10/15/02
2003	Lecture to residents and medical students, "Dysmenorrhea", 5/27/03
2003	Lecture to residents and medical students, "Misoprostol in Obstetrics", 11/4/04
2004	Lecture to residents and medical students, "Spontaneous Miscarriage, Evaluation and Treatment", 2/10/04
2007	Lecture to residents and medical students, “Management of Miscarriage,” 2/13/07
2008	Lecture to residents and medical students, “Abortion Overview,” 7/8/08
2008	Lecture to residents and medical students, “Dysmenorrhea,” 10/21/08
2005-2008	Medical Consultant, Female Breast and Pelvic Exam Program Teaching Video and Simulated Patient Gynecologic Exam Program
2005-2006	Faculty Facilitator, Foundations of Clinical Practice Personal and Professional Development
2009	Clinical Skills Workshop for third year medical students using papayas (every six weeks) and for residents 1/13/09, and annually during orientation
2008	Lecture to residents and medical students, “Induced Abortion,” 7/8/08
2008	Lecture to second year medical students (FCP). “Spontaneous and Induced Abortion Overview,” 11/7/08
2008	Lecture to reproductive epidemiology students, “Fibroids” and “Spontaneous and Induced Abortion Overview,” 12/4/08
2009	Lecture to residents and medical students, “Ryan Program Overview,” 1/13/09
2009	Lecture to residents and medical students, “Mifepristone/Misoprostol for Second Trimester Medical Abortion,” 2/16/09
2009	Lecture to residents and medical students, “DMPA for Contraception,” 3/10/09
2009	Lecture to residents and medical students, “First Trimester Medical Abortion,” 6/9/09
2009	Lecture to residents and medical students, “OCPs-The Basics,” 8/11/09
2009	Lecture to residents and medical students, “Primary Reproductive Health and the Law,” 10/13/09

2009	Journal Club with residents and medical students: "Rates of Serious Infection after Changes in Regimens for Medical Abortion," NEJM, 12/09

Clinical Teaching (inpatient ward, clinic and operating room):

1995-1999	Teaching of medical students and residents, Beth Israel Medical Center
1999-2010	Teaching of medical students and residents, UIHC
2000-2008	Premedical student shadowing
1999-2010	Medical student shadow/AMWA mentor
2005-2010	Medical student advisor
1999-2010	Staff resident COC clinics
1999-2010	Staff Labor and Delivery
1999-2010	Staff Colposcopy/LEEP Clinic
1999-2010	Staff ASC and main OR
1999-2010	Staff Emma Goldman Clinic
1999-2009	Staff VAMC gynecology clinic
2003-2010	Staff Fibroid Clinic
2009-2010	Staff Procedure Clinic

SCHOLARSHIP

Publications

"Medication for Medical Abortion", Currents, Vol. 4, #4, pp. 9-10, Fall 2003

Offices Held

1999-2010	Liaison to Emma Goldman Clinic
1999-2002	Clinical Consultant, Family Practice gynecology e-mail
1999-2004	Departmental IPR "super-user"
2002-2008	Medical Director, Family Planning Council of Iowa Medical Review Committee
2003-2007	Reproductive Health Advisor for the medical student free Mobile Health Clinic
2004	Member, Women's Health Curriculum Task Force
2004-2006	Member, Medical Education Committee
2005-2007	Member, Ob-Gyn Resident Education Committee
2005	Member, Physician Assistant Program Review Committee
2005	Member, First Case Start Improvement Project
2005-2010	Faculty Advisor, Medical Students for Choice, which won Carver College of Medicine Medical Student Government Outstanding Student Organization, 2007-2008
2006-2007	Member, Perinatal Illicit Drug Screening Protocol Subcommittee
2006-2008	Member, Protection of Persons Subcommittee
2006-2007	Liaison, Family Practice resident OB/GYN rotation
2006-2008	Member, Quality and Safety Advisory Council
2009	Medical Director, Ryan Residency Family Planning Training Program
2006-2010	Reviewer, Obstetrics & Gynecology journal

Grants Received

2005-2007	University of Iowa New Clinical Initiative Grant for Fibroid Clinic
2009	Ryan Residency Family Planning Training Grant ($394,702)

Invited lectures

5/7/01	"Evaluation and Treatment of Abnormal Bleeding in The Perimenopausal Patient", Visiting Professor lecture, Broadlawns, Des Moines, IA.
4/6/01	"RU-486 Update", Conference presentation, U of I Family Practice refresher course
9/22/01	"RU-486 Update", OBG Postgraduate Conference, Iowa City, IA
5/22/02	"Elective Induction of Labor", OBG Grand Rounds
10/13/04	"Ectopic Pregnancies", Visiting Professor lecture, Mason City, IA
10/13/04	"Misoprostol in Obstetrics", Visiting Professor lecture, Mason City, IA
4/7/05	"Abnormal Bleeding in the Perimenopausal Patient", Spring Nurse Conference, U of I College of Nursing
5/25/05	"Complications of Abortion, Current Controversies", OBG Grand Rounds
10/12/05	"Symptomatic Fibroid Treatment," Women's Health Conference, UIHC Dept. of Nursing Services and Patient Care
4/25/06	"This is God's Work," Panel participant, NAF Annual Conference, San Francisco, CA
4/29/06	"First Trimester Bleeding," Visiting Professor lecture, Davenport, IA
4/29/06	"Management of Spontaneous Abortion," Visiting Professor lecture, Davenport, IA
2000-2009	Periodic presentations to local AMWA and MSFC chapters
10/19/07	"Abnormal Uterine Bleeding," Iowa Nurse Practitioner Society Annual Conference
9/12/08	"Management of Early Pregnancy Loss;" "Medication Abortion," Workshop: Options for Early Pregnancy Loss or Therapeutic Abortion: Aspiration and Medication Management, Iowa City Public Library; sponsored by the Abortion Access Project and Association of Reproductive Health Professionals
9/16/08	"Dysmenorrhea Treatment," Iowa Pharmacists CME
12/4/08	"Carhart vs. Gonzalez: A Plaintiff's Perspective," Des Moines University MSFC Chapter
4/14/09	"Essure Hysteroscopic Tubal Occlusion: Sterilization and Beyond," OBG Grand Rounds
4/21/09	Implanon Training Session, Cedar Rapids, IA

SERVICE

Clinical assignments since last promotion

1999-2010	Private gynecology and obstetric clinics
1999-2009	Gynecology weekly Pre-operative Educational Conference Coordinator
2000-2009	VA gynecology clinic and OR coverage (through 2005)
2000-2008	Interview prospective medical students at the College of Medicine
2003-2009	Fibroid Clinic Coordinator (multidisciplinary clinic with Interventional Radiology)
2003-2006	Volunteer staff for Reproductive Health student free mobile health clinic at Broadway Neighborhood Center
2005-2007	Medical Director, OB-Gyn Clinic
2005	IMEI Student Mentor
2005	Medical Consultant, Female Breast and Pelvic Program Teaching Video,

University of Iowa Carver College of Medicine

2007-2009	Medical Student Service Distinction Track Mentor
2009	Procedure Clinic Coordinator
2009	Medical Director, Ryan Residency Family Planning Training Program

Community Service

2010	President, Iowa Abortion Access Fund
2008-2010	Board Member, Iowa Medical Aid Fund; Member, Development Committee (2008); Vice President, Policies & Procedures Committee Chair (2009)
2002-2005	President, Iowa City Area NOW Chapter
2008	Chair, Faith United Church of Christ Worship Committee
2006	Chair, Iowans Marching for Women's Lives Coalition
2000-2008	Staff, Emma Goldman Clinic GBLT annual free clinic
2004-2005	Host, Riverside Theatre Actor Housing