

# CONTENTS

---

<i>About the Editors</i>	xi
<i>About the Contributors</i>	xiii

1. Editors' Introduction to <i>The Oxford Handbook of Comparative Health Law</i>	1
TAMARA K. HERVEY AND DAVID ORENTLICHER	

## PART I PARADIGMS OF HEALTHCARE SYSTEMS, LAW, AND REGULATION

2. Paradigms of Healthcare Systems, Law, and Regulation: A Transatlantic Conversation	19
ALCESTE SANTUARI AND WILLIAM SAGE	

## PART II PREVENTING ILL HEALTH

3. Introduction to Public Health Law	69
WENDY E. PARMET, MARKUS FRISCHHUT, AMANDINE GARDE, AND BRIGIT TOEBES	
4. Communicable and Other Infectious Diseases: The EU Perspective	77
MARKUS FRISCHHUT	
5. Communicable Disease Law in the United States	97
WENDY E. PARMET	
6. US Law Relating to Noncommunicable Diseases	119
WENDY E. PARMET	
7. The Lack of Coherence in the European Union's Approach to Noncommunicable Disease Prevention	143
AMANDINE GARDE	



8. Socioeconomic Health Inequalities in Europe: The Role of Law and Human Rights 171  
BRIGIT TOEBES
9. Social Determinants in the United States 189  
WENDY E. PARMET

### PART III TREATING ILL HEALTH

#### Access to the Healthcare System

10. Introduction to Access to Healthcare 209  
ANDRÉ DEN EXTER, MARK A. HALL, ALLISON K. HOFFMAN,  
AND KEITH SYRETT
11. The American Pathology of Inequitable Access to Medical Care 213  
ALLISON K. HOFFMAN AND MARK A. HALL
12. Access to Healthcare in Europe 243  
ANDRÉ DEN EXTER AND KEITH SYRETT

#### Regulation of Health Care Services, Facilities, and Transactions

13. Introduction to Regulation of Professionals and Facilities 275  
DEIRDRE MADDEN AND ISAAC D. BUCK
14. Regulation of Professionals and Facilities in Europe 277  
DEIRDRE MADDEN
15. Regulation of Professionals and Facilities in the United States 293  
ISAAC D. BUCK
16. Introduction to Antitrust and the Provision of Healthcare in the United States and European Union: Common Challenges 311  
THOMAS GREANEY AND OKEOGHENE ODUDU
17. Health Care Services and EU Competition Law 317  
OKEOGHENE ODUDU
18. Healthcare Antitrust in the United States: The Intersection of Regulation and Competition 349  
THOMAS GREANEY
19. Introduction to Fraud and Abuse Law 365  
TRACEY A. ELLIOTT AND JOAN H. KRAUSE



20. Fraud and Abuse Law in the United States	375
JOAN H. KRAUSE	
21. Healthcare Fraud and Abuse in Europe	393
TRACEY A. ELLIOTT	
<b>The Treatment Relationship: Confidentiality, Consent, and Conflicts of Interest</b>	
22. Privacy and Integrity of Medical Information	417
SHARONA HOFFMAN AND JEAN HERVEG	
23. Patient Autonomy, Capacity, and Consent: Children	459
JESSICA BERG AND EMMA CAVE	
24. Patient Autonomy, Capacity, and Consent: Vulnerable Adults	477
MARY DONNELLY AND JESSICA BERG	
25. Introduction to Provider Conflicts of Interest in Health Care	505
SUNČANA ROKSANDIĆ AND RICHARD S. SAVER	
26. Provider Conflicts of Interest in US Healthcare: The Intractable Regulatory Challenge	513
RICHARD S. SAVER	
27. Provider Conflicts of Interest in European Healthcare: Trustworthy Physicians	537
SUNČANA ROKSANDIĆ	
<b>Medical Malpractice</b>	
28. Medical Liability: Comparing Compensation Systems	559
KARL HARALD SØVIG AND BARRY FURROW	

## PART IV REGULATING THE DEVELOPMENT AND USE OF MEDICAL TREATMENTS

<b>Human Experimentation and Research</b>	
29. Introduction to Research with Human Participants	607
CARL H. COLEMAN	
30. Research with Human Participants in the European Union	613
DAVID SHAW AND DAVID TOWNEND	



31. Research with Human Participants in the United States 633  
CARL H. COLEMAN
32. Biobanks 657  
GRAEME T. LAURIE AND CARL H. COLEMAN
- Pharmaceutical and Medical Devices Law**
33. Introduction to Medical Products Law 685  
ERIKA LIETZAN, AURÉLIE MAHALATCHIMY,  
AND PATRICIA J. ZETTLER
34. Regulating Medicines in the United States 691  
ERIKA LIETZAN AND PATRICIA J. ZETTLER
35. Regulating Medicines in the European Union 721  
AURÉLIE MAHALATCHIMY
36. Regulating Medical Devices in the United States 755  
PATRICIA J. ZETTLER AND ERIKA LIETZAN
37. Regulating Medical Devices in the European Union 779  
AURÉLIE MAHALATCHIMY
- Control, Use, and Allocation of Body Parts: Organs,  
Human Tissue, Blood**
38. Property in Human Body Parts: An Old Legal Question  
for a New Technological Age 809  
JUSTINE PILA
39. Organ Transplantation 841  
JOAQUIN CAYON-DE LAS CUEVAS AND DAVID ORENTLICHER
40. Introduction to Incomplete Commodification and Its  
Creeping Counterpart 875  
NATALIE RAM AND STÉPHANIE HENNETTE VAUCHEZ
41. Incomplete Commodification in American Law 879  
NATALIE RAM
42. Of Markets and Principles: The European Perspective 897  
STÉPHANIE HENNETTE VAUCHEZ



## Ethical and Legal Implications of Advances in Genetics

43. Introduction to Genetics and the Law 919  
MAXWELL MEHLMAN, METTE HARTLEV, AND SONIA SUTER
44. Genetics and the Law: United States 923  
MAXWELL MEHLMAN AND SONIA SUTER
45. Genetics and the Law: Europe 949  
METTE HARTLEV
46. Genetics and the Law: Conclusion 981  
MAXWELL MEHLMAN, METTE HARTLEV, AND SONIA SUTER

## PART V HEALTHCARE AT THE BEGINNING AND END OF LIFE

### Reproductive Rights

47. Introduction to the Right to Procreate and Assisted  
Reproductive Technologies 989  
I. GLENN COHEN AND EMILY JACKSON
48. The Right to Procreate and Assisted Reproductive  
Technologies in Europe 993  
EMILY JACKSON
49. The Right(s) to Procreate and Assisted Reproductive  
Technologies in the United States 1009  
I. GLENN COHEN
50. Introduction to the Right to Avoid Procreation and the  
Regulation of Pregnancy 1027  
JANNE ROTHMAR HERRMANN AND ELIZABETH SEPPER
51. The Right to Avoid Procreation and the Regulation of  
Pregnancy: A European Perspective 1033  
JANNE ROTHMAR HERRMANN
52. The Right to Avoid Procreation and the Regulation of  
Pregnancy: A US Perspective 1051  
ELIZABETH SEPPER



**The Law of Death and Dying**

53. Decisions at the End of Life 1073

DAVID ORENTLICHER AND JUDIT SÁNDOR

*Index* 1109