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Bioethics and Law in a Nutshell

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**BIOETHICS
AND LAW
IN A NUTSHELL**

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*To the memory of those of our parents
who have completed their life journeys,
Mary and Clarence ("Tacky") Hanneken
and Jerome Schwartz
S.H.J. and R.L.S.*

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PREFACE

For more than twenty years, we have been co-authors, with Barry Furrow, Tim Greaney, and Tim Jost, of *Health Law: Cases, Materials and Problems*, which is now in its Sixth Edition. The *Health Law* casebook has always included substantial coverage of bioethics issues, and the bioethics chapters have also been published, with additional material, as *Bioethics: Health Care Law and Ethics*. As those familiar with the casebooks will recognize, a few parts of this Nutshell are taken directly from one or the other of those casebooks. This Nutshell grows out of our experiences in writing these casebooks and in teaching our students over the years.

Our aim in this Nutshell is to provide students with a brief and accessible introductory overview of the central legal issues in bioethics. This volume is not meant to be, and is not, comprehensive. Our readers certainly will be able to list issues that we have not included.

Our concern is to provide a foundation for legal analysis of the most durable bioethics issues that have consistently found themselves at the center of the public debate over the last quarter of a century,

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not to address all of the issues that have made an appearance in that debate. Our focus is on the legal issues, and these materials primarily address issues that have found their way into the courts, legislatures, and administrative agencies in the United States. We have included only a brief chapter to provide a precis of the more influential ethical theories at play in bioethics discussions. This Nutshell provides the overview—the forest, if you will; you will have to go elsewhere to study the individual trees in more detail.

We have enjoyed writing this book, but mostly we have enjoyed collaborating for more than two decades now. One of the things we enjoy is that we do not agree with each other on several quite significant issues, and you may even notice this tension in the text. We have tried to be evenhanded, and we hope that we have explained how reasonable people can hold very different views on the propriety of applying law to almost every issue in bioethics.

As always, we are grateful to the students who assisted us in the preparation of this text: Cara Jackson and Kathryn Krieger of Saint Louis University School of Law and Katey Cortese of University of California, Hastings College of the Law. We are grateful as well to the decades of students who have made us think and express ourselves more clearly. We also thank our deans, Jeffrey Lewis and

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SANDRA H. JOHNSON
ROBERT L. SCHWARTZ

September 2009

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