

American Law Institute – Medical Monitoring vs. Medical Mongering

“One of the key activities of the American Law Institute (ALI) has been the researching, writing, and publication of Restatements. According to the ALI’s website, the basic idea was that the ALI ‘should address uncertainty in the law through a restatement of basic legal subjects that would tell judges and lawyers what the law was.’ This self-appointed task has a huge influence on the development of the law in the United States, and indeed around the world, mostly for the better. Restatements can and often do reduce uncertainty and eliminate unnecessary complexity and obfuscation. The ALI also holds itself out ‘promote those changes which will tend better to adapt the laws to the needs of life.’ The ALI has thus characterized its Restatements as having a “critical and constructive” goal as well as a clarifying and simplifying function,” writes Nathan A. Schachtman in his *blog*.

“This ambiguity in its mission statement makes ALI Restatement provisions occasionally controversial on occasion. Controversy can arise from the ALI’s addressing factual situations ‘not yet discussed by courts or dealt with by legislatures....’ Perhaps more disconcerting, however, are situations that have been addressed by courts and legislatures at length, but where the ALI attempts to impose its policy judgments in place of those that carry the imprimatur of a majority of jurisdictions in the United States.”

Read the article.