

# AALS LAW, MEDICINE & HEALTH CARE SECTION NEWSLETTER (Fall 2010)

## Section Officers

### Chair:

Kevin Outterson  
Boston University School of Law

### Chair-Elect:

Joan H. Krause  
UNC School of Law

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Jennifer S. Bard  
Texas Tech University School of Law

### Immediate Past Chairs:

Michele Goodwin  
University of Minnesota Law School

Diane E. Hoffmann— Outgoing Chair  
University of Maryland School of Law

### At Large Members:

Paul A. Lombardo  
Georgia State University College of Law

I. Glenn Cohen  
Harvard Law School

## AALS Annual Meeting

Jan. 5-8, 2011, San Francisco, CA

### Section Activities

**Section Breakfast:** Friday, Jan. 7, 7:00-8:15 a.m.

**Speaker:** Scott Burriss will discuss the on-going grant program from the Robert Wood Johnson Foundation to invest in public health law scholarship.

**Business Meeting:** Friday, Jan. 7, 8:00 a.m. (immediately following the breakfast)

### Section Panel:

**Women's Choices, Women's Voices: Legal Regimes and Women's Health**

Friday, January 7, 4:00-5:45 p.m.

Co-sponsored by the Section on Women in Legal Education

Our 2011 panel will explore the ways in which the choices made in the legal system – at times without sufficient input from those most affected – influence women's health. Examples of this phenomenon can be found throughout health care. In medical research, for example, the long-permissible exclusion of women from clinical studies, coupled with the historical focus on primarily male or gender-neutral medical conditions, has resulted in well-documented gaps in knowledge regarding appropriate treatment options for female patients (particularly women of color).

In the reproductive rights and technologies context, the services available to women may be affected by such legal doctrines as medical licensure, criminal law, and Constitutional and civil rights protections. Even in the traditional bioethics areas of informed consent and end-of-life decisionmaking, the assumptions underlying the legal doctrine – reflected, for example, in the models we use to determine how a typical patient would want a dispute to be resolved – may not adequately reflect the options that women would like to have. This panel will explore the ways in which the legal system's approach to these issues affects women's health, and how we might better integrate women's voices – and their choices – into the discussion.

### Panelists

- **Prof. Joan H. Krause**, Univ. of North Carolina, moderator
- **Prof. Linda C. Fentiman**, Pace Univ. Law School (chosen from the Call for Speakers)
- **Prof. Lisa Ikemoto**, UC Davis School of Law
- **Dr. Anne Drapkin Lyerly**, Trent Center for Bioethics, Humanities & History of Medicine; Assoc. Prof., Dept. of Obstetrics & Gynecology, Duke University Medical Center
- **Prof. Michelle Oberman**, Santa Clara University School of Law
- **Prof. Susan Wolf**, University of Minnesota Law School, McKnight Presidential Professor of Law, Medicine & Public Policy; Faegre & Benson Professor of Law; Professor of Medicine

## Letter from the Chair

As health law professors, we teach and write in the midst of a political maelstrom. Just when we thought our jobs couldn't get any more interesting, major legislation passes, split into two bills. Almost immediately, many states sue to block it. I can't remember another piece of federal legislation that has spawned such hatred and controversy – and simultaneously, support from many in the policy community.

This fall, we welcomed students into our classrooms from every imaginable political persuasion. Our job is difficult: to teach healthcare law despite the political street fighting and battles of the anecdote (see the posters below for both amusing and angry rhetoric). We want to give our students the data, in all its complexity; to understand the full context of the cases, statutes and regulations that fill our casebooks; and to “follow the money” in the system while remembering that at the center of it all is a pa-

tient, seeking help.

As you can see from this Newsletter, we have been busy outside the classroom as well. Health law professors are productive and the quality of our scholarship continues to mature. Congratulations to everyone for a successful year. I thank **Jennifer Bard** (Texas Tech) for creating this Newsletter.

You should consider coming to San Francisco for the AALS Annual Meeting in January. **Joan Krause** (UNC) has put together a terrific panel on “**Women's Choices, Women's Voices: Legal Regimes and Women's Health**” (Friday, Jan. 7, 2011 at 4pm). The speaker for the Annual Section Breakfast (7 am on Friday) will be **Scott Burris**, letting us know how to apply for public health law grants from the Robert Wood Johnson Foundation. Hope to see you there.

Kevin Outterson, BU Law  
Section Chair



## Faculty News

### Lori Andrews

Distinguished Professor of Law and Director of the Institute for Science, Law and Technology, Chicago-Kent College of Law

GENETICS: ETHICS, LAW, AND POLICY, Third Edition (2010).

*Who Owns Your Body? A Study in Literature and Law*, CHICAGO-KENT L.R. Symposium ( Winter 2010).

*Public Policy through Bioart*, in ART ET BIOTECHNOLOGIES, (Ernestine Daubner and Louise Poissant, eds., University of Quebec: Quebec, forthcoming 2010)(with Jalissa Bauman Horne).

*A Pound of Flesh: Patient Legal Action for Human Research Protections in the Biotech Age*, in IMPATIENT VOICES: PATIENTS AS POLICY ACTORS FOR U.S. HEALTH CARE, Rutgers University Press (forthcoming 2010) (Beatrix Hoffman, Rachael Grob and Mark Schlesinger, eds.) (with Julie Burger).

*Genetic Sequence Patents: Historical Justification and Current Impacts*, in LIVING PROPERTIES: MAKING KNOWLEDGE AND CONTROLLING OWNERSHIP IN THE HISTORY OF BIOLOGY, Berlin, Germany (Jean-Paul Gaudillière, Daniel J. Kevles, Hans-Jörg Rheinberger eds., Monograph, Max Planck Institute for the History of Science, 2010) (with Jordan Paradise).

*Assessing Values to Set Policies for Consent, Storage, and use of Tissue and Information in Biobanks*, in NEW CHALLENGES FOR BIOBANKS: ETHICS, LAW AND GOVERNANCE (Kris Dierickx and Pascal Barry eds., Intersentia, 2009).

*How Art and Literature Can Contribute to Genetic Policy*, 22 GENEWATCH 4 (December 2009).

### George J. Annas

Chair, Health Law, Bioethics & Human Rights  
William Fairfield Warren Distinguished Professor,  
Health Law, Bioethics & Human Rights, Boston University

WORST CASE BIOETHICS: DEATH, DISASTER, AND PUBLIC HEALTH, Oxford University Press, NY, 2010.

*Resurrection of a Stem-Cell Funding Barrier – Dickey-Wickler in Court*, N. ENG. J. MED. Online 2010.

*Health Insurance Politics in Federal Court* (with W. Mariner), 363 N. ENG. J. MED. 1300 (2010).

*Justice John Paul Stevens – The Practice of Medicine and the Rule of Law*, 362 N. ENG. J. MED. 22469 (2010).

*Standard of Care: In Sickness and in Health and in Emergencies*, 362 N. ENG. J. MED. 22126-31 (2010).

*The Real Pro-Life Stance – Health Care Reform and Abortion Funding*, 362 N. ENG. J. MED. Online (2010).

### Tom Baker

William Maul Measey Professor of Law and Health Sciences, University of Pennsylvania Law School

*Tontines for the Invincibles: Enticing Low Risks into the Health Insurance Pool with an Idea from Insurance History and Behavioral Economics*, 2010 WIS. L. REV. 79 (2010) (co-authored with Peter Siegelman).

*Allowing Patients to Waive the Right to Sue for Malpractice: A Response to Thaler and Sunstein*, 104 NW. U. L. REV. (forthcoming 2010)(co-authored with Timothy Lytton).

### Jennifer S. Bard

Visiting Professor, Drake Law School, Alvin R. Allison Professor of Law and Director, Health Law Program, Texas Tech University School of Law  
Associate Professor (Adjunct) Texas Tech University School of Medicine, Department of Psychiatry

*Rights to Health Care Information: And the Band Played On in THE PICTURE OF HEALTH: MEDICAL ETHICS AND THE MOVIES* (Henri Colt and Sylvia Quadrelli eds., 2011) (Oxford) (in press).

Craig M. Klugman and Jennifer S. Bard, ABC OF PRE-HOSPITAL EMERGENCY MEDICINE (Oxford) (under contract).

### Jessica Berg

Professor of Law, Bioethics, and Public Health,  
and Associate Director, Law-Medicine Center,  
Case Western Reserve University Schools of Law and Medicine

*Putting the Community Back into the “Community Benefit” Standard*, 43 GEO. L.R. 375 (2010).

### Scott Burris

Temple Professor of Law and Director, Center for Health Law, Policy & Practice, Temple University Beasley School of Law

The Public Health Law Research Program of the Robert Wood Johnson Foundation is in its second year and will be announcing its second round of grantees by the end of the year. Scott and colleagues have published a paper offering a defini-

tion of PHLR, in the Milbank Quarterly, as well as the first of a series of methods papers, this one on creating quantitative legal data sets. These and other resources are available on the program's website, at [www.publichealthlawresearch.org](http://www.publichealthlawresearch.org).

### **Steve P. Calandrillo**

Associate Dean for Faculty & Charles I. Stone Professor of Law, University of Washington School of Law

*Baseball's Moral Hazard: Law, Economics and the Designated Hitter Rule*, 90 B.U. L. REV. \_\_\_ (2010) (with Dustin E. Buehler).

*Penalizing Punitive Damages: Why the Supreme Court Needs a Lesson in Law & Economics* 78 GEO. WA. L. REV. 774-821 (2010).

### **Norman L. Cantor**

Emeritus Professor of Law, Rutgers University School of Law, Newark

AFTER WE DIE: THE LIFE AND TIMES OF THE HUMAN CADAVER, (Georgetown University Press 2010).

*No Ethical or Legal Imperative to Provide Life Support to a Permanently Unaware Patient*, 10 AM. J. BIOETHICS 58 (2010).

### **Kathy Cerminara**

Professor, Nova Southeastern University Shepard Broad Law Center

2011 SUPPLEMENT TO THE RIGHT TO DIE: THE LAW OF END-OF-LIFE DECISIONMAKING (Aspen 3d ed. 2004) (co-authored with Alan Meisel).

*The Schiavo Maelstrom and Its Legal Impact*, chapter in KENNETH W. GOODMAN, ED., ETHICS, POLITICS AND DEATH IN THE 21ST CENTURY: THE STRANGE, SAD CASE OF TERRI SCHIAVO (Oxford University Press 2010).

*Hospice and Health Care Reform: Improving Care at the End of Life*, 16 WIDENER L. REV. \_\_\_ (forthcoming 2010 or 2011) (invited symposium issue).

*Introduction: Remembering Stephanie Feldman Aleong*, 34 NOVA L. REV. \_\_\_ (forthcoming 2010).

*Schiavo Revisited? The Struggle for Autonomy at the End of Life in Italy*, 12 MARQ. ELDER'S ADVISOR \_\_\_ (forthcoming 2011) (co-authored).

*La Caja de Pandora: Improving Access to Hospice Care Among Hispanic and African-American Patients*, 10 HOUS. J. HEALTH L. & POL'Y \_\_\_ (forthcoming 2010) (symposium issue, co-authored).

*Pandora's Dismay: Eliminating Coverage-Related Barriers to Hospice Care*, 11 FLA. COASTAL L. REV. 107 (2010) (invited symposium issue).

*Health Care Reform at the End of Life: Giving With One Hand But Taking With The Other, "Society Scholars,"* American Society of Law, Medicine & Ethics, [www.aslme.org/Society\\_Scholars](http://www.aslme.org/Society_Scholars) (June 7, 2010).

### **Seth J. Chandler**

Law Foundation Professor of Law, University of Houston Law Center

*Long Term Care: The Next Healthcare Frontier*, 19 ANNUALS HEALTH L. 19 (2010).

*The Architecture of Contemporary Healthcare Reform and Effective Marginal Tax Rates*, \_\_\_ MISS. C.L. REV. \_\_\_ (forthcoming 2010).

### **I. Glenn Cohen**

Assistant Professor, Harvard Law School, and Co-director, Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics

*Trading-Off Reproductive Technology and Adoption: Does Subsidizing IVF Decrease Adoption Rates and Should It Matter?* 95 MINN. L. REV. \_ (forthcoming 2010) (co-authored with Daniel Chen).

*Protecting Patients with Passports: Medical Tourism, Medical Tourism and the Patient Protective Argument*, 95 IOWA L. REV. 1467 (2010).

*Medical Tourism: The View from 10,000 Feet*, 40 HASTINGS CTR. REP. March- April, 11 (2010).

*Medical Tourism, Consumer-Driven Healthcare, and Patient Protection*, 17 LAHEY CLINIC MED. ETHICS J., Spring 4 (2010).

### **Carl Coleman**

Director of Global Initiatives for the Center for Health & Pharmaceutical Law & Policy and the Gibbons Institute of Law, Science & Technology, Professor of Law, Seton Hall Law School

SETON HALL LAW SCHOOL CENTER FOR HEALTH & PHARMACEUTICAL LAW & POLICY, THE LIMITS OF DISCLOSURE AS A RESPONSE TO CONFLICTS OF INTEREST IN CLINICAL RESEARCH (forthcoming 2010) (co-author).

WORLD HEALTH ORGANIZATION, ETHICAL ISSUES IN TB CARE AND CONTROL (forthcoming 2010) (rapporteur).

*Allocating Vaccines and Antiviral Medications During an Influenza Pandemic*, 39 SETON HALL L. REV. 1111 (2009).

SETON HALL LAW SCHOOL CENTER FOR HEALTH & PHARMACEUTICAL LAW & POLICY, CONFLICTS OF INTEREST IN CLINICAL TRIAL RECRUITMENT AND ENROLLMENT: A CALL FOR INCREASED OVERSIGHT (2009) (co-author).

### Judith Daar

Associate Dean for Academic Affairs and Professor of Law, Whittier Law School

*ART Through the Ages: The Pioneers' Perspective on Reproductive Medicine*, reviewing LEGAL CONCEPTIONS: THE EVOLVING LAW AND POLICY OF ASSISTED REPRODUCTIVE TECHNOLOGIES by Susan Crockin and Howard Jones, \_\_\_ Perspectives in Biology and Medicine \_\_\_ (2010).

### Camille Davidson

Assistant Professor, Charlotte School of Law

*Octomom and Multi-Fetal Pregnancies: Why Federal Legislation Should Require Insurers to Cover In Vitro Fertilization* 17 WM. & MARY J. WOMEN & L. \_\_\_\_ (forthcoming Fall 2010).

### Janet L. Dolgin

Jack and Freida Dicker Distinguished Professor of Health Care Law, Director of Health Law Studies Hofstra Law School

*The Legal Development of the Informed Consent Doctrine: Past and Present*, 19 CAMBRIDGE QUARTERLY OF HEALTHCARE ETHICS 97 (2010).

*Class Competition and the Failure of American Health Care: A Recent Illustration*, 70 LA. L. REV., 683 (2010).

*When Others Get Too Close: Immigrants, Class, and the Health Care Debate*, 19 CORNELL J. LAW AND PUB. POL'Y 283 (co-authored with Katherine R. Dieterich).

### Jennifer Drobac

Visiting Scholar, UC Berkeley Law, Center for the Study of Law & Society

WORLDLY BUT NOT YET WISE: SEXUAL HARASSMENT OF TEENAGERS, THEIR DEVELOPING CAPACITY, AND THE LAW'S RESPONSE (University of Chicago Press, contract for publication 2012).

### Jean M. Eggen

Professor of Law, Widener University School of Law

TOXIC TORTS IN A NUTSHELL (Thomson-West 4th ed. 2010).

*The Mature Product Preemption Doctrine: The Unitary Standard and the Paradox of Consumer Protection*, 60 CASE W. RES. L. REV. 95 (2009).

*Punitive Damages and the Public Health Agenda*, in RECONSIDERING LAW AND POLICY DEBATES: A PUBLIC HEALTH PERSPECTIVE (John G. Culhane, ed., Cambridge University Press, 2010) (forthcoming).

Nanotechnology Blog, <http://blogs.law.widener.edu/nanolaw/>.

### Einer R. Elhauge

Petrie Professor of Law, Harvard Law School

THE FRAGMENTATION OF U.S. HEALTH CARE: CAUSES AND SOLUTIONS (Einer Elhauge, ed., Oxford University Press 2010).

### Barbara J. Evans

Associate Professor, Co-director, Health Law & Policy Institute, Director, Center on Biotechnology & Law, University of Houston Law Center

*Establishing the Clinical Utility of Pharmacogenetic Tests in the Post-FDAAA Era*, CLINICAL PHARMACOLOGY & THERAPEUTICS, (forthcoming 2010)(solicited work).

*Legal Trends Driving the Clinical Translation of Pharmacogenomics*, in PRINCIPLES OF PHARMACOGENETICS AND PHARMACOGENOMICS (Russ B. Altman, David A. Flockhart & David B. Goldstein, eds., Cambridge University Press, 2010)(forthcoming).

*Regulating Direct-to-Consumer Personal Genome Testing*, 330 SCIENCE 181 – 82 (2010)(with Amy L. McGuire, Timothy Caulfield, & Wylie Burke).

*Seven Pillars of a New Evidentiary Paradigm: The Food, Drug, and Cosmetic Act Enters the Genomic Era*, 85 NOTRE DAME L. REV. 519 (2010).

*Authority of the Food and Drug Administration to Require Data Access and Control Use Rights in the Sentinel Data Network*, 65 FOOD & DRUG L.J. 67 (2010).

*Issue Brief: Appropriate Human-Subject Protections for Research Use of Sentinel System Data*, in FDA SENTINEL INITIATIVE MEETING SERIES: LEGAL ISSUES IN ACTIVE MEDICAL PRODUCT SURVEILLANCE (2010), available at [http://www.brookings.edu/~media/Files/events/2010/0308\\_FDA\\_legal\\_issues/Panel%20%20Issue%20Brief.pdf](http://www.brookings.edu/~media/Files/events/2010/0308_FDA_legal_issues/Panel%20%20Issue%20Brief.pdf).

*Congress' New Infrastructural Model of Medical Privacy*, 84 NOTRE DAME L. REV. 585 (2009).

*Ethical and Privacy Issues in Pharmacogenomic Research*, in PHARMACOGENOMICS: APPLICATIONS TO PA-

TIENT CARE 2ED.313 – 338 (Howard L. McLeod et al., eds., 2009).

*Judicial Scrutiny of Legislative Action that Presents Bioethical Dilemmas*, 16 VA. J. SOC. POL'Y & LAW 179 (2009).

### Leslie Francis

Professor & Chair, Department of Philosophy, Alfred C. Emery Professor of Law, University of Utah

*Group Compromise: Perfect Cases Make Problematic Generalizations*, \_\_ AM. J. BIOETHICS \_\_ (2010) (forthcoming) (with J.G. Francis).

*The Physician-Patient Relationship and a National Health Information Network*, 38 J.L. MED. & ETHICS 36 (2010).

*Rights Variation within a Federalist System: The Importance of Mobility*, POL. RES. Q. (2010) (forthcoming) (with J.G. Francis).

*Bringing Age Discrimination and Disability Discrimination Together: Achieving Meaningful Access*, 11 MARQ. ELDERS ADVISOR 1 (2010) (with Anita Silvers).

*Thinking About the Good: Reconfiguring Metaphysics (or not) For People with Cognitive Disabilities*, 40 *Metaphilosophy* 3, (2009) reprinted in EVA FEDER KITTAY & LICIA CARLSON, EDS. COGNITIVE DISABILITY AND ITS CHALLENGE TO MORAL PHILOSOPHY (Wiley-Blackwell 2010).

### Lance Gable

Assistant Professor of Law, Wayne State University Law School

RESEARCH WITH HIGH RISK POPULATIONS: BALANCING SCIENCE, ETHICS, AND LAW (American Psychological Association, 2009). I also contributed to three chapters in the book including the Introduction (with Buchanan and Fisher), *Legal Challenges Raised by Non-intervention Research Conducted Under High-risk Circumstances*, and *Ethical and Legal Frameworks in Non-Intervention Research with High Risk Populations: Concluding Thoughts and Best Practices* (with Buchanan and Fisher).

*Reproductive Health as a Human Right*, \_\_ CASE W. RES. L. REV. \_\_ (2010) (forthcoming).

*Protecting the Mental Health of First Responders: Legal and Ethical Considerations*, \_\_ J. L. MED.& ETHICS \_\_ (2010)(forthcoming) (with Lainie Rutkow and Jonathan M. Links).

*Global Public Health Legal Responses to H1N1*, -- \_\_ J. L. MED.& ETHICS \_\_ (2010) (forthcoming) (with Brooke Courtney, Robert Gatter, and Eleanor D. Kinney).

*A Global Assessment of the Role of Law in the HIV/AIDS Pandemic*, 123 PUBLIC HEALTH 260-264 (2009) (with Lawrence O. Gostin and James G. Hodge, Jr.).

*Rights Based Approaches to Public Health Systems*, in ELVIRA BERACOCHEA (ED.), RIGHTS BASED APPROACHES TO PUBLIC HEALTH (Springer, forthcoming 2010) (with Benjamin Mason Meier, Jocelyn E. Getgen, and Leslie London).

*Human Rights of Persons with Mental Disabilities: The European Convention of Human Rights*, in LAWRENCE O. GOSTIN, JEAN V. MCHALE, PHILIP FENNEL, RONALD D. MACKAY, & PETER BARTLETT (EDS.), THE PRINCIPLES OF MENTAL HEALTH LAW AND POLICY 103-166 (Oxford University Press, 2010) (with Lawrence O. Gostin).

*Mental Health as a Human Right*, in ANDREW CLAPHAM, MARY ROBINSON, CLAIRE MAHON, AND SCOTT JERBI (EDS.), REALIZING THE RIGHT TO HEALTH: SWISS HUMAN RIGHTS BOOK VOLUME III 249-261 (Rüffer & Rub, 2009) (with Lawrence O. Gostin).

### Rob Gatter

Professor of Law, Saint Louis University School of Law; Co-Director, Center for Health Law Studies

*A Prisoner's Constitutional Right to Medical Information: Doctrinally Flawed and a Threat to State Informed Consent Law*, 45 WAKE FOREST L. REV. \_\_\_\_ (forthcoming 2010).

*Blowing Blotner: A Missed Opportunity to Rationalize Georgia's Informed Consent Law*, 10 HOUS. J. HEALTH L. & POL'Y \_\_\_\_ (forthcoming 2010).

### Michele Goodwin

Everett Fraser Professor of Law, University of Minnesota Law School

BABY MARKETS: MONEY AND THE NEW POLITICS OF CREATING FAMILIES (Cambridge University Press)(2010).

*A View From the Cradle: Tort Law and the Private Regulation of Assisted Regulation*, 59 EMORY L.J. 1040 (2010).

*Patient Negligence*, 72 LAW & CONTEMP. PROBS. 223 (2009).

*Rethinking Colorblind State Action: A Thought Experiment on Racial Preference*, 72 LAW & CONTEMP. PROBS. 251 (2009).

*Relational Markets in Intimate Goods*, 44 TUL. L. REV. 803 (2009).

**Lawrence O. Gostin**

Linda and Timothy O'Neill Professor of Global Health Law, Georgetown University Law Center

PUBLIC HEALTH LAW AND ETHICS: A READER (University of California Press and Milbank Memorial Fund, 2<sup>nd</sup> ed. 2010).

LAWRENCE GOSTIN, PETER BARTLETT, PHIL FENNEL, JEAN MCHALE, RONNIE MACKAY, EDS., PRINCIPLES OF MENTAL HEALTH LAW AND POLICY (Oxford University Press 2010).

*Redressing the Unconscionable Health Gap: A Global Plan for Justice*, 4 HARVARD L. & POL'Y REV. 271-294 (2010).

*The Unconscionable Health Gap: A Global Plan For Justice*, 375 THE LANCET 1504-05 (May 1, 2010).

Elenora E. Connors & Lawrence O. Gostin, *Healthcare Reform: A Historic Moment in American Social Policy*, 303(24) JAMA 2521-22 (2010).

Lawrence O. Gostin & Elenora E. Connors, *Healthcare Reform in Transition: Incremental Insurance Reform Without an Individual Mandate*, 303(12) JAMA 1188-89 (2010).

Peter D. Jacobson & Lawrence O Gostin, *Restoring Health to Health Reform*, 304(1) JAMA 85-86 (2010).

Devi Sridhar & Lawrence O. Gostin, *Caring About Health?* CHATHAM HOUSE: INDEPENDENT THINKING ABOUT INTERNATIONAL AFFAIRS, August/September 2010, The-WorldToday.Org.

Allyn L. Taylor & Lawrence O. Gostin, *International Recruitment of Health Personnel*, 375 THE LANCET 1673-74 (May 15, 2010).

**Thomas (Tim) Greaney**

Chester A. Myers Professor of Law & Co-Director, Center for Health Law Studies, Saint Louis University School of Law

*The Affordable Care Act and Competition Policy: Antidote or Placebo?*, \_\_\_ OREGON L. REV. \_\_\_ (forthcoming 2010).

*Accountable Care Organizations: A New, New Thing with Old Problems*, HEALTH CARE OUTLOOK (2010).

*Competition Policy and Organizational Fragmentation in Health Care*, 71 U. Pitt. L. Rev 217 (2009).

**Peter J. Hammer**

Professor of Law & Director, Damon J. Keith Center for Civil Rights, Wayne State University Law School

*International Law, Public Health and Addiction*, in PRINCIPLES OF ADDICTIONS AND THE LAW, 113-133 (Norman S. Miller, ed., Oxford: Academic Press, 2010).

**Leslie Meltzer Henry**

Assistant Professor of Law, University of Maryland

ANTIDOTE: STRATEGIES FOR CONTAINING AMERICAN'S RUN-AWAY HEALTH CARE COSTS (Brookings Institutional Press 2009)(co-edited with Gregg Bloche).

*Visionary Pragmatism and the Value of Privacy in the Twenty-First Century*, 108 MICH. L. REV. 1107 (2010) (with Danielle Keats Citron).

*Deciphering Dignity*, 10 AM. J. BIOETHICS 59 (2010).

**Jessie Hill**

Professor of Law, Case Western Reserve University School of Law

*Dangerous Terrain: Mapping the Female Body in Gonzales v. Carhart*, 19 COLUM. J. GENDER & L. \_\_\_ (forthcoming 2010) (invited symposium contribution).

*A Radically Immodest Judicial Modesty: The End of Facial Challenges to Abortion Regulations and the Future of the Health Exception in the Roberts Era*, 59 CASE W. RES. L. REV. \_\_\_ (forthcoming 2010) (invited symposium contribution).

*Introduction: Reproductive Rights, Human Rights, and The Human Right to Health*, 60 CASE W. RES. L. REV. \_\_\_ (forthcoming) (symposium introduction).

**Diane Hoffman**

Professor of Law, Associate Dean for Academic Programs, Director, Law & Health Care Program, University of Maryland School of Law

*Dying as a Public Health Issue: Stretching the Boundaries of Public Health*, in SOCIAL ISSUES, WELFARE CONSEQUENCES AND PUBLIC HEALTH LAW (John Culhane ed., 2010)(forthcoming).

*Medical Marijuana and the Law*, 362 NEW ENG. J. MED. 1453 (2010)(co-authored with Ellen Weber).

**Sharona Hoffman**

Professor of Law & Bioethics, Co-Director, Law-Medicine Center, Case Western Reserve University School of Law

*The Importance of Immutability*, 52 WILL. & MARY L. REV. (forthcoming 2011).

*Meaningful Use and Certification of Health Information Technology: What About Safety?*, J. OF L. MED. & ETHICS 28 (forthcoming 2010) (with Andy Podgurski).

*Employing E-Health: The Impact of Electronic Health Records on the Workplace*, 19 KANSAS J. LAW & PUB. POL'Y 409 (2010) (invited symposium piece).

*Electronic Health Records and Research: Privacy vs. Scientific Priorities*, 10 THE AMERICAN J. OF BIOETHICS 19 (2010).

*Breach Notification and the Law*, 21 J. OF CLINICAL ETHICS 42 (2010).

*E-Health Hazards: Provider Liability and Electronic Health Record Systems*, 24 BERKELEY TECH. L. J. 1523 (2009) (with Andy Podgurski).

**Nicole Huberfeld**

Willburt D. Ham Associate Professor of Law, University of Kentucky

*Federal Spending and Compulsory Maternity in FEMINIST CONSTITUTIONALISM*, Cambridge University Press, 2010 (forthcoming).

Book Review, *Concurring Opinions*, July 13, 2010 (reviewing ALISON L. LACROIX, THE IDEOLOGICAL ORIGINS OF AMERICAN FEDERALISM).

*Conditional Spending and Compulsory Maternity*, 2010 U. ILL. L. REV. 751 (2010).

**Nan D. Hunter**

Professor of Law, Georgetown University Law Center

*Rights Talk and Patient Subjectivity: The Role of Autonomy, Equality and Participation Norms*, 45 WAKE FOREST L. REV. \_\_\_\_ (forthcoming 2010).

**Sandra H. Johnson**

Interim Dean, Professor Emerita, St. Louis University School of Law

**Timothy Stoltzfus Jost**

Robert Willett Family Professor, Washington and Lee University School of Law

HEALTH LAW: CASES, MATERIALS, AND PROBLEMS, (Health Reform Supp.) (with Barry Furrow, Thomas Greaney, Sandra Johnson, and Robert Schwartz) (West 2010).

HEALTH INSURANCE EXCHANGES AND THE AFFORDABLE CARE ACT: KEY POLICY ISSUES (Commonwealth Fund 2010).

*Introduction to the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, Health Care Reform Special Alert* (LexisNexis 2010), 1-1-82.

*Value-Based Purchasing Opportunities and Traditional Medicare: A Proposal and Legal Evaluation* (with Lawrence P. Casalino) in THE FRAGMENTATION OF AMERICAN HEALTH CARE, 201-20 (Einer Elhauge, 2010).

*Episcopal Oversight: How the Bishops Conference Gets Health-care Legislation Wrong*, COMMONWEAL (June 2010.).

*Sanction the 18 State AGs*, NAT'L L.J., April 12, 2010.

*Turning States from Adversaries into Partners*, AMERICAN PROSPECT, Summer 2010 at A9.

*State Lawsuits Won't Succeed in Overturning the Individual Mandate*, HEALTH AFFAIRS, June 2010 at 1225.

*Implementing Health Care Reform*, AMERICAS QUARTERLY, Summer 2010 at 97.

*The Independent Payment Advisory Board*, NEW ENG. J. MED. Online (May 26, 2010).

Can the States Nullify Health Care Reform? NEW ENG. J. MED. Online (Feb. 10, 2010).

**David Kaye**

Distinguished Professor and Weiss Family Scholar, Penn State University, Dickinson School of Law

THE DOUBLE HELIX AND THE LAW OF EVIDENCE (2010).

THE NEW WIGMORE: A NEW TREATISE ON EVIDENCE: EXPERT EVIDENCE (2d Ed. 2010) (forthcoming).

*Foreword in DATA ANALYSIS IN FORENSIC SCIENCE: A BAYESIAN DECISION PERSPECTIVE* (Franco Taroni, et. Al eds., John Wiley & Sons, 2010).

*Science in the Jury Box: Jurors' Comprehension of Mitochondrial DNA Evidence*, 35 LAW & HUM. BEHAV. \_\_\_\_ (forthcoming, with V. Hans et al.).

*Probability, Individualization, and Uniqueness in Forensic Science Evidence: Listening to the Academies*, 75 BROOK. L. REV. \_\_\_ (2010) (forthcoming).

*The Good, the Bad, and the Ugly: The NRC Report on Strengthening Forensic Science in America*, 50 SCI. & JUST. 8 (2010).

*GINA's Genotypes*, 108 MICH. L. REV. FIRST IMPRESSIONS 51 (2010).

### **Eleanor D. Kinney**

Hall Render Professor of Law & Co-Director  
Hall Center for Law and Health, Indiana University  
School of Law

*Medical Legal Partnerships: A Key Strategy for Addressing Social Determinants of Health*, 25 J. GEN. INTERN. MED. (Supp. 2) 200 (2010) (co-authored with Heather A. McCabe).

*Hays v. Sebelius*, in TOP 20 FOOD AND DRUG CASES, 2009 & CASES TO WATCH 2010, 121 (John Reiss ed., 2010) (co-authored with Heather A. McCabe & Ralph F. Hall).

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### **Joan H. Krause**

Professor of Law; Adjunct Professor, Department of Social Medicine; Adjunct Professor, School of Public Health, University of North Carolina at Chapel Hill

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### **Renée M. Landers**

Professor of Law and Faculty Director, Health and Biomedical Law Concentration, Suffolk University Law School

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### **Rob Leflar**

Arkansas Bar Foundation Professor of Law, University of Arkansas School of Law (Fayetteville)

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### **Elizabeth Weeks Leonard**

Associate Professor of Law & Director, Family Health Care Legal Services Clinic, University of Kansas School of Law

*Medical-Legal Partnership: Three Voices from the Law School Clinic*, in VULNERABLE POPULATIONS AND TRANSFORMATIVE LAW TEACHING: A CRITICAL READER (Carolina Academic Press, forthcoming 2011) (with MaryBeth Musumeci & Brutorina D. Arellano).

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### **Paul A. Lombardo**

Professor of Law, Georgia State University College of Law

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### **Kathryn V. Lorio**

Interim Dean and Leon Sarpy Professor of Law, Loyola University New Orleans Law School

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### **Kristin Madison**

Professor of Law, University of Pennsylvania Law School

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### **Jessica Mantel**

Assistant Professor and Co-director, Health Law and Policy Institute, University of Houston Law Center

*Setting National Coverage Standards for Health Plans Under Healthcare Reform*, 58 UCLA L. REV. 1 (2010).

### **Wendy K. Mariner**

Professor of Health Law, Bioethics & Human Rights, School of Public Health; Professor of Law, School of Law; Co-Director, Regulatory Knowledge and Ethics Clinical and Translational Science Institute, Boston University

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### **Maxwell J. Mehlman**

Case Western Reserve University, Arthur E. Peter-silge Professor of Law, Director, The Law-Medicine Center, School of Law, Professor of Bioethics, School of Medicine

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### **Frances H. Miller**

Professor of Law Emerita, Boston University School of Law

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### **Abigail Moncrieff**

Peter Paul Development Professor, Associate Professor of Law, Boston University School of Law

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### **Stephen R. Munzer**

Professor of Law, UCLA School of Law

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### **David Orentlicher**

Samuel R. Rosen Professor and Co-Director, Center for Law and Health, Indiana University School of Law-Indianapolis, Visiting for the 2010-2011 academic year at the University of Iowa College of Law

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### Kevin Outterson

Associate Professor of Law, Boston University Schools of Law and Public Health, Co-Director of the Health Law Program, Editor-in-Chief, Journal of Law, Medicine, and Ethics

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### Jordan Paradise

Associate Professor of Law, Seton Hall University School of Law

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### Efthimios Parasidis

Assistant Professor of Law, Center for Health Law Studies, Saint Louis University School of Law

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### Wendy E. Parmet

Matthews Distinguished University Professor of Law, Northeastern University School of Law

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### Frank Pasquale

Loftus Professor of Law, Seton Hall Law School  
*New Position*

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**Kimani Paul-Emile**

Associate Professor, Fordham University School of Law

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**Elizabeth Pendo**

Associate Dean of Academic Affairs, Professor of Law, Saint Louis University School of Law, Center for Health Law Studies  
*New Position*

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**Thaddeus Mason Pope**

Associate Professor of Law, Widener University School of Law

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**Jessica L. Roberts**

Assistant Professor of Law, University of Houston Law Center

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**Karen Rothenberg**

Marjorie Cook Professor of Law, University of Maryland

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**William M. Sage, MD, JD**

Vice Provost for Health Affairs, James R. Dougherty Chair for Faculty Excellence, The University of Texas at Austin

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**Sallie T. Sanford**

Acting Assistant Professor of Law, School of Law, University of Washington

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**Ani B. Satz**

Associate Professor, Emory University School of Law, Rollins School of Public Health Center for Ethics

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**Richard S. Saver**

Associate Professor, School of Law; Adjunct Associate Professor, Department of Social Medicine; Adjunct Associate Professor, Gillings School of Public Health, University of North Carolina at Chapel Hill

*Health Care Reform's Wild Card: The Uncertain Effectiveness of Comparative Effectiveness Research*, 159 UNIV. OF PA. L. REV. \_\_\_\_ (2011)(forthcoming) (symposium).

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**Nadia Sawicki**

Assistant Professor of Law, Beazley Institute for Health Law and Policy, Loyola University Chicago School of Law

*Character, Competence, and the Principles of Medical Discipline*, 13 JOURNAL OF HEALTH CARE LAW & POLICY 285 (2010).

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**O. Carter Snead**

Associate Professor of Law, Notre Dame Law School

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### Roy G. Spece

Professor of Law, University of Arizona, James E. Rogers College of Law

*Medical Tourism: Protecting Patients from Conflicts of Interest in Broker's Fees Paid by Foreign Providers*, 6 J. HEALTH & BIOMED. L. 1 (2010).

### Nicolas P. Terry

Chester A. Myers Professor of Law, Saint Louis University School of Law

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### Lynn D. Wardle

Bruce C. Hafen Professor of Law, J. Reuben Clark Law School

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### Elizabeth Leonard Weeks

Visiting Professor, University of Georgia Law School

*Medical-Legal Partnership: Three Voices from the Law School Clinic*, in VULNERABLE POPULATIONS AND TRANSFORMATIVE LAW TEACHING: A CRITICAL READER (Carolina Academic Press, forthcoming 2011) (with MaryBeth Musumeci & Brtrinia D. Arellano).

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*State Constitutionalism and the Right to Health Care*, 12 U. PA. J. CONST. L. 1325 (forthcoming 2010).

Guest Editor, Symposium on *Public Health Reform: Patient Protection and Affordable Care Act Implications for the Public's Health*, J.L. MED. & ETHICS (forthcoming 2011).

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*What I Talk About When I Talk about Health Law*, 18 ANNALS HEALTH L. 9 (2010) (special edition commemorating the 25th anniversary of the Beazley Institute for Health Law and Policy, Loyola University Chicago School of Law).

### David B. Wexler

Distinguished Research Professor Emeritus of Law, The University of Arizona, James E. Rogers College of Law

REHABILITATING LAWYERS: PRINCIPLES OF THERAPEUTIC JURISPRUDENCE FOR CRIMINAL LAW PRACTICE (David B. Wexler, ed., Carolina Academic Press 2008).

### Lindsay F. Wiley

Assistant Professor of Law, American University, Washington College of Law

*Moving Global Health Law Upstream: A Critical Appraisal of Global Health Law as a Tool for Health Adaptation to Climate Change*, 22 GEO. INT'L ENV'T'L L. REV. 439 (2010).

*Adaptation to the Health Consequences of Climate Change as a Potential Influence of Public Health Law and Policy: From Preparedness to Resilience*, 15 WID. L. REV. 483 (2010).

### Vickie J. Williams

Associate Dean for Academic Affairs & Associate Professor of Law, Gonzaga University School of Law

#### Recent appointments:

I have received tenure and have assumed the position of Associate Dean for Academic Affairs.

### William J. Winslade

Director, Health Law & Policy Institute, Professor of Law, University of Houston Law Center

*Personal Reflections on Extremely Premature Newborns: Vitalism, Treatment Decisions, and Ethical Permissibility*, 25 GA. ST. U. L. REV., 929-956 (2009).

*Clinical Ethics: A Practical Approach to Ethical Decisions*  
in CLINICAL MEDICINE, 7th ed., (New York: McGraw-Hill,  
2010)(with A. R. Jonsen and M. Siegler).

### **Ruqaijah Yearby**

Assistant Professor, University at Buffalo Law  
School, State University of New York

*Are Race Neutral Rationing Policies The Answer When  
They Exacerbate Racial Inequities In Health Care?* \_ J.  
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Treatment?: The Persistence of Racial Disparities in  
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## News from Member Schools

### Boston University Schools of Law and Public Health

The BU Health Law Program announces its Health Law Scholars Program

**Purpose:** The BU Health Law Program is an interdisciplinary research and teaching program at Boston University, including the School of Law and the Department of Health Law, Bioethics & Human Rights at the School of Public Health. The Health Law Program is dedicated to scholarly research at the intersection of law and health policy, broadly conceived. Topical areas include, but are not limited to: health care financing and organization; insurance; global health; public health; emergency preparedness; bioethics; health & human rights; cost, quality and access; health care markets; food & drug law; biomedical research; innovation; and health disparities. The Health Law Scholars Program is a post-JD experience designed to prepare candidates for tenure-track faculty positions in law schools.

**Program:** Scholars will hold a full-time, one or two-year appointment in the School of Law as a visiting assistant professor, beginning June 2011. Scholars teach one seminar per semester (six credits per year) and devote the balance of their time to research and writing. Scholars also participate in faculty workshops at BU and can observe health policy and research in practice at Boston Medical Center. The program is led by Professor Wendy Mariner and Associate Professor Kevin Outterson. Other faculty members of the program include Professor George Annas, Professor Leonard Glantz, Professor Fran Miller, and Associate Professor Abigail Moncrieff. The Program builds on the unique strengths of BU programs in Law and Public Health, giving the candidate multi-disciplinary exposure to the richness of health law, with support from BU faculty mentors. Scholars will also want to take advantage of the wealth of educational and cultural opportunities available in the city of Boston. **Stipend and Benefits:** Each Scholar is provided with an office, library privileges, health benefits, a research budget, and a \$60,000 stipend. Depending on your interests and our resources, you may be able to split time between the supporting BU Schools. **Eligibility:** Applicants must hold a JD or other similar degree in law. Outstanding academic credentials and an excellent research proposal will be required. Preference will be given to candidates who have a strong draft article in health law that has potential for development and publication.

**Application:** Applications will be accepted on a rolling basis starting December 1, 2010. Include the fol-

lowing materials as pdf files:

- \* Curriculum Vitae
  - \* University transcripts
  - \* Research proposal in health law of not more than 2000 words
  - \* Writing sample, in draft form
  - \* Three letters of recommendation, emailed directly from the recommender
- All application materials should be e-mailed to: Leanne Chaves, Administrative Assistant ([Leannekc@bu.edu](mailto:Leannekc@bu.edu)).

Questions may be directed to Professor Mariner ([wmariner@bu.edu](mailto:wmariner@bu.edu)) or Associate Professor Outterson ([mko@bu.edu](mailto:mko@bu.edu)).



### Case Western Reserve University School of Law, The Law-Medicine Center

#### LAW AND MEDICINE PROGRAM CLIMBS IN RANKINGS

#### HEALTH MATRIX PUBLISHES TIMELY SYMPOSIUM ISSUES

*Health Matrix*, our student-edited health law journal, includes articles by major scholars and select student notes. One issue each year is a symposium on a significant health law topic. In 2009-10 (20:1), the journal published: "Food Regulation: Problems and Reform" and in 2010-11 it will publish "Public Health and Commercial Speech."

#### RECENT & UPCOMING LAW-MEDICINE CENTER EVENTS

September 29, 2010 – Elena and Miles Zaremski Law -Medicine Forum

"When the Oncologist becomes the Oncology Patient"

Speaker: Barbara Berman, widow of oncologist Jack Berman, MD, and a professor at Case Western Reserve University School of Medicine

October 5, 2010 – Oliver C. Schroeder, Jr. Scholar-in-Residence Lecture

"Why We Play: Sports, Drugs, and Meanings"

Speaker: Thomas H. Murray, Ph.D. President and CEO, The Hastings Center

February 11, 2011 – Law-Medicine Symposium

"Divided Loyalties: Professional Standards and Military Duty"

March 16, 2011 -- Rush McKnight Labor Law Lecture

Samuel R. Bagenstos, Principal Deputy Assistant Attorney General, U.S. Department of Justice, Civil

## Rights Division

April 8, 2011 – Law-Medicine Symposium  
“Legal Regulation of Assisted Reproductive Technology”

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**Loyola University, Chicago, The Beazley Institute for Health Law and Policy**

The Beazley Institute for Health Law and Policy at Loyola University Chicago School of Law is pleased to be hosting the 34th Annual Health Law Professors Conference, sponsored by the American Society for Law, Medicine and Ethics, on June 2-4, 2010 in Chicago. Further details, including a call for presentations, will be distributed shortly. For more information, contact Megan Bess at 312-915-7177 or mbess@luc.edu.

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**O’Neill Institute for National and Global Health Law, Georgetown University Law Center**

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**The Petrie-Flom Center for Health Law Policy, Biotechnology and Bioethics at Harvard Law School**

Faculty Co-Directors I. Glenn Cohen and Benjamin N. Roin, Founding Faculty Director, Einer R. Elhauge

**Affiliate Placements**

The Petrie Flom Center is pleased to announce placement of two academic fellows in our 2010 cohort, Allison Hoffman and Christopher Robertson, to the faculties of UCLA Law and the James E. Rogers College of Law at the Univ. of Arizona respectively. Additionally, two past student fellows of the Center earned tenure-track teaching positions. Daniel Chen is an assistant professor of law at Duke University Law School, and Heidi Williams was appointed to a position in the Economics Department at MIT.

**Faculty Research**

The highlight of Center’s sponsored research this year was the release of a book on health care fragmentation, based on papers and discussions from our annual conference in 2007. *The Fragmentation of U.S. Health Care*, edited by Petrie-Flom Center Founding Faculty Director, Einer Elhauge, has been widely praised for its insightful and timely look at the complex issues surrounding health care reform. The Center’s affiliated faculty continued to produce leading research in the field on topics including medical

tourism, legal issues surrounding genetic engineering and reproductive technology, and the role of patent and regulatory exclusivity in pharmaceutical development. Finally, we were pleased to introduce the Center’s bi-annual newsletter *Health Law at Harvard* which captures the highlights of our activities and affiliates scholarship. Past issues are posted on our website [www.law.harvard.edu/programs/petrieflom/](http://www.law.harvard.edu/programs/petrieflom/)

**Health Law Policy and Bioethics Workshop**

Our workshop continued its strong tradition as a leading venue for exploring new research in health law. Presenters for the 2010 academic year included Glenn Cohen (Harvard), Colleen Flood (Univ. Toronto), Hank Greeley (Stanford), Kristin Madison (Univ. Pennsylvania), Michelle Mello (Harvard), Barak Richman (Duke), Benjamin Roin (Harvard), Ted Ruger (Univ. Pennsylvania), Sadath Sayeed (Harvard), and Elizabeth Warren (Harvard). This year, presentations have been or will be delivered by Ernst Berndt (MIT), Amitabh Chandra (Harvard), Rebecca Eisenberg (Univ. Michigan), Einer Elhauge (Harvard), Nir Eyal (Harvard), David Hyman (Univ. Illinois), Adam Kolber (Brooklyn Law), Anup Malani (Univ. Chicago), Abigail Moncrieff (Boston Univ.), and Talha Syed (Berkeley).

**Events and Conferences**

In the Spring 2010 semester, the Center hosted numerous events and conferences focusing on a broad array of topics in health law. Highlights of this programming include:

An industry summit of several leading pharmaceutical companies and academics focused on the ethics and practicalities of conducting multi-regional clinical trials; a one-day meeting with high level representatives from international human rights organizations examining questions surrounding legal capacity and the United Nations Convention of the Rights of Persons with Disabilities, Article 12; two training sessions for the state and federal judiciaries on the legal implications of advances in neuroscience.

The Center’s annual conference addressed legal and ethical questions raised by advances in the mind sciences and evolutionary biology and the role they should play in legal and ethical analyses. Entitled *Moral Biology: What (if anything) Can Advances in the Mind Sciences and Evolutionary Biology Tell Us about the Law and Morality*, the conference gathered more than 20 leading experts in the fields of law, behavioral sciences, philosophy and medicine.

Additionally, several short meetings held during the year brought together students, scholars, high-ranking government officials, scientific researchers, and legal practitioners to examine leading edge is-

sues in health law. These included: *When Medical Care Compromises Financial Health*; *Health Law, HIV/AIDS & Disability Rights: A View from the White House*; *Electronic Health Records and Medical Liability*; *Comparative Models of Health Care Reform*; *Medical Prize Funds: An Alternative Reward Mechanism for Medical Innovation*; *Developments and Implications of New Legislation on Follow-on Biologics*; *Current and Future Regulation of Stem Cell Research*; *Patent Policy and Innovation*.

Upcoming events planned by the Center include a meeting in November 2010 on the subject of whether Congress should repeal the McCarran-Ferguson Act. The meeting will bring together regulators, industry actors and academics working in the fields of business, law and economics to discuss the pros and cons of repealing the McCarran-Ferguson Act's federal antitrust exemption for health care insurers.

Our annual conference in May 2011 will focus on the legal and ethical challenges posed by the increasing globalization of health care.



### **Saint Louis University School of Law Center for Health Law Studies**

In Spring 2011, four health law students in their graduating years will earn credit working nearly full time on health law matters in federal agencies. The program has organized externships serving OIG, CMS, the VA, the Antitrust Division of DOJ, and the Public Health Division of HHS.

We will present four Distinguished Speakers: Frank Pasquale, Schering-Plough Professor in Health Care Regulation and Enforcement, Seton Hall University, Jonathon D. Moreno, David and Lyn Silfen University Professor and Professor of Medical Ethics and of History and Sociology of Science, University of Pennsylvania, Leslie Pickering Francis, Alfred C. Emery Professor of Law and Professor and Chair of Philosophy, University of Utah, and R. Alta Charo, Senior Advisor, FDA Office of Policy and Warren P. Knowles Professor of Law and Bioethics, University of Wisconsin.

In October the Center in cooperation with ASLME will host the Health Law Scholars Workshop at which senior health law scholars workshop works-in-progress by four junior colleagues selected by a national committee of faculty from responses to a call for abstracts. At this year's workshop, works-in-progress will be presented by Jeffrey B. Hammond, J.D., Associate Professor of Law, Faulkner University School of Law; Stacy B. Lee, J.D., Assistant Professor, Johns Hopkins Carey Business School; Jes-

sica L. Roberts, J.D., Assistant Professor of Law, University of Houston Law Center; and, Katrice Bridges Copeland, J.D., Assistant Professor of Law, Pennsylvania State University School of Law. Senior health law scholars who will join SLU faculty to workshop those papers include Kathleen Boozang, Vice Provost and Professor Law, Seton Hall University, Mary Crossley, Dean and Professor of Law, University of Pittsburgh, Peter Jacobson, Professor of Health Law and Policy and Director, Center for Law, Ethics, and Health, University of Michigan and Kevin Outterson, Associate Professor of Law and Co-Director, Health Law Program, Boston University.

In March 2011, the Center will present its annual Health Law Symposium entitled "Implementing Health Reform: Fairness, Accountability and Competition." The panel of presenters will include Len Nichols, Ph.D., Director, Center for Health Policy Research and Ethics, Professor of Health Policy, George Mason University; Amy B. Monahan, J.D., Associate Professor, University of Minnesota; Sara Rosenbaum, J.D., Hirsh Professor of Health Law and Policy, Chair, Department of Health Policy, The George Washington University Law School; and, Sarah Somers, J.D., Senior Attorney, National Health Law Program. The papers presented at the symposium will be published in the Fall 2011 edition of the SAINT LOUIS UNIVERSITY JOURNAL OF HEALTH LAW AND POLICY.



### **Seton Hall Center for Health & Pharmaceutical Law & Policy**

John V. Jacobi, J.D.  
Faculty Director, Center for Health & Pharmaceutical Law & Policy  
and Dorothea Dix Professor of Health Law & Policy  
Seton Hall University School of Law

Kathleen M. Boozang, J.D., LL.M.  
Interim Vice Provost and Professor of Law

Interim Vice Provost and Professor of Law  
Seton Hall University School of Law

Simone Handler-Hutchinson, J.D.  
Executive Director  
Center for Health & Pharmaceutical Law & Policy  
Seton Hall University School of Law

### **US ATTORNEY PAUL J. FISHMAN FOCUSES ON HEALTH CARE FRAUD**

The Honorable Paul J. Fishman, United States Attorney for the District of New Jersey, addressed the Seton Hall Law community on "Why Prosecuting Health Care Fraud is a Top Priority in New Jersey." The public lecture was provided free of charge on Thursday, September 23.

#### **CENTER EXAMINES THE FUTURE OF FOLLOW-ON BIOLOGICS**

Together with the Gibbons Institute for Law, Science & Technology, the Center will host a day-long invitational roundtable, "Follow-On Biologics: Implementation Challenges and Opportunities," on October 29. The roundtable will bring together experts from academia, government, industry and private law practice to explore a number of topics, including the scientific and regulatory distinctions between the established generic drug approval processes and the Patient Protection and Affordable Care Act's expedited approval process for follow-on biologics, with a focus on the differences between traditional drugs and biologics including size, characteristics, complexity, manufacturing processes, reproducibility, and concepts of similarity and interchangeability. Henry Grabowski, Ph.D., of Duke University will give a keynote address on "Implementation of the Biosimilars Pathway." Falk Ehmann, M.D., Ph.D., of the European Medicines Agency, and Elizabeth Jex and Suzanne Drennon Munck, of the Federal Trade Commission, will also present.

#### **CENTER WORKS ON PILOT TO IMPROVE ACCESS TO CRITICAL COMMUNITY SERVICES**

The Greater Newark Healthcare Coalition is a new nonprofit comprising Newark's hospitals, Federally Qualified Health Centers, primary physicians and many community groups, as well as city and state government representatives, gathered to improve access to care for the region's most vulnerable populations. Professor John Jacobi, Faculty Director of the Center for Health & Pharmaceutical Law & Policy and Dorothea Dix Professor of Health Law & Policy, serves as the Coalition's board chair. The Coalition has already spun off a Health Information Exchange, and is engaged in a number of exciting pilot projects.

One project will address the community care needs of very high utilizers of hospital emergency department services. The Coalition plans to identify an initial cohort of frequent users and provide them with intensive case management with the goal of matching them with appropriate, commu-

nity-based services. This approach has been shown in other states to both improve the lives of frequent users and reduce unnecessary hospital visits.

Professor Jacobi and Research Fellow Kate Greenwood will analyze the role of existing laws and policies in either facilitating or frustrating the Coalition's efforts. They hypothesize that while funding flows (relatively) freely to hospital emergency departments because of the legal entitlement to care in that setting, these funds will not readily follow frequent users as they seek community health and social services better suited to their needs. They hope to assist state and regional policymakers and service providers in their efforts to reform the funding and delivery mechanisms to better meet the needs of this very vulnerable population.

#### **UPCOMING CENTER WHITE PAPER WILL HIGHLIGHT THE LIMITS OF DISCLOSURE**

In the Center's forthcoming white paper, "The Limits of Disclosure as a Response to Financial Conflicts of Interest in Clinical Research," scholars at the Center argue against routinely incorporating discussions about conflicts of interest into the informed consent process. They contend that such discussions are unlikely to ameliorate the problems associated with conflicts of interest, and that requiring them would come at a considerable cost.

#### **SETON HALL LAW TO HOST 4TH ANNUAL ASLME STUDENT HEALTH LAW CONFERENCE**

On October 22, Seton Hall Law will host the "4th Annual Student Health Law Conference: Taking the Health Law Career Path," an event co-sponsored by the American Society for Law, Medicine & Ethics. Over 200 students from law schools across the country are expected to attend the day-long event to explore career opportunities within the field of health law. During the opening session, Peter Liebold, Executive Vice President and Chief Executive Officer of the American Health Lawyers Association, will address hot hiring areas in health law and advise students how to self-assess their personal and professional skills in order to better position themselves for a successful career in health law.

#### **SETON HALL LAW TO CO-SPONSOR PHARMACEUTICAL INTELLECTUAL PROPERTY SUMMIT**

Together with the law firm of Fish & Richardson, the Center will present the Pharmaceutical Intellec-

tual Property Summit 2010 on Thursday, October 28, in Princeton, New Jersey. Howard Sklamberg, Director of the Office of Enforcement, Food & Drug Administration, will provide the keynote address. The Summit will focus on the intersection between health law and intellectual property law as it affects the pharmaceutical sector.

#### **EUROPEAN HEALTHCARE COMPLIANCE PROGRAMME WELCOMED IN PARIS**

The Center successfully completed its inaugural European Healthcare Compliance Certification Program in June 2010 and will offer the program again in February 2011. Seton Hall Law partnered with Sciences Po, a premier European university, to deliver the multi-day program on the Sciences Po campus in the heart of Paris. Pharmaceutical and medical device professionals traveled from many countries, including Ireland, Switzerland, Great Britain, Germany, Italy, Spain, Russia and the U.S., to attend this international program.

#### **GIBBONS INSTITUTE HOSTS PANEL ON PAY FOR DELAY IN HATCH-WAXMAN PATENT LITIGATION**

Seton Hall Law's Gibbons Institute of Law, Science & Technology and the New Jersey Intellectual Property Law Association presented a panel discussion entitled, "Pay for Delay: Views from the FTC, Industry and Legal Economists on Reverse Payment Settlements in Hatch-Waxman Patent Litigation."

Panelists included Michael Kades, Attorney Advisor, Federal Trade Commission; Charles A. Gallia, Counsel, Gibbons P.C.; Anastasia Winslow, Assistant General Counsel, Bristol-Myers Squibb; and David Opderbeck, Associate Professor of Law and Director, Gibbons Institute of Law, Science & Technology.

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#### **Whittier Law School**

Whittier Law School will host its annual Health Law Symposium on Friday, April 8, 2011. The theme of this year's symposium will be health care reform.

