



HEALTH LAW INSTITUTE NEWSLETTER

Monitoring the pulse of health law

SPRING COLLOQUIUM 2006

Please join us for the Health Law Institute's Spring Colloquium! Each month, scholars, judges, practitioners, and community leaders from around the country share their research and answer questions.

Lectures generally take place during the lunch hour, providing law students with the opportunity to participate. For more information, please contact Rhea Banks at (312) 362-7271 or rbanks2@depaul.edu

Genetic and Medical Experimentation in the Aftermath of the Holocaust

Speaker: Patricia Heberer, Historian, U.S. Holocaust Museum

Date: January 25, 2006

Time: 12:00 p.m. — 1:00 p.m.

Location: DePaul Center, Room 8005

Lessons from the Holocaust: Law, Biotechnology, and the Future of Medicine

Speaker: Judith Daar, Professor of Law, Whittier Law School

Date: February 15, 2006

Time: 12:00 p.m. — 1:00 p.m.

Location: DePaul Center, Room 8005

Study Abroad: The Utilization of 3rd World Markets for Medical Experimentation

Speaker: Michele Goodwin, Professor of Law, DePaul University College of Law

Date: March 15, 2006

Time: 12:00 p.m. — 1:00 p.m.

Location: DePaul Center, Room 8005

Whose Agenda Matters Most? Fiduciary Responsibilities of Physicians and Medical Professionals

Speaker: Abe Schwab

Date: April 19, 2006

Time: 12:00 p.m. — 1:00 p.m.

Location: DePaul Center, Room 8005

Mid-Year Report: The Association of American Law Schools Section on Law, Medicine and Health Care

Dear Reader,

2005-06 was an academic year of extraordinary accomplishments for many of our colleagues. In this edition of the Health Law Institute Newsletter is the mid-year achievement report of health law professors throughout the nation. Indeed, there was so much to report that we nearly doubled this issue!

One area of scholarship that I was most impressed by was that addressing the public health tragedy left by Hurricane Katrina. It was a powerful storm that exposed race and class fault lines in the United States. The photographs of women, children, the elderly, cats and dogs stranded, shifting through debris filled water are not easily forgotten. There is permanence to the impressions left by such human tragedy. Figur-

ing out future solutions or preventative measures isn't so easy.

However, it is so very encouraging to know that many of you were involved with programs to help those most in need. DePaul sent students from its health law program as well as the general student body to lend a hand. Many of you wrote or were somehow involved with assisting in the aftermath. The news teams have departed, but there are so many lessons yet to be learned about preparedness, access, and the distribution of health care and other resources.

Professor Michele Goodwin, JD, LL.M., Wicklander Fellow
Director, Health Law Institute
Director, Center for the Study of Race and Bioethics

Rising Immigrant Population Demands New Health Initiatives

By Patrice Perkins

The Center for Studying Health System Change ("HSC") recently published a brief based upon site visits to twelve communities. The brief projected that the rising population of undocumented immigrants will excessively burden healthcare safety nets. The influx of undocumented immigrants in the United States is due to stringent, post 911 immigration policies which make Visa access more difficult. Undocumented immigrants generally lack health insurance and rely heavily upon safety nets for their healthcare needs. HSC estimates that there are approximately 10 million undocumented immigrants in the United States. [1]

Further, federal laws restrict legal immigrant access to Medicaid and the State Children's Health Insurance Programs

("CHIP") until they have maintained U.S. citizenship for five years. During this period, legal immigrants also greatly rely upon safety net systems for their healthcare. Thus, as the total immigrant population increases, so will the demand for safety nets. [2]

Safety nets are a network of providers that provide health services to indigenous populations. Cities that historically have attracted greater immigrant populations tend to have more sophisticated safety nets. For example, California, New York, Florida, New Jersey, and Arizona maintain larger networks of public or private hospitals and community centers that provide no-cost services. These cities understand the special needs of immigrant populations and can effectively serve them. [3]

Continued on page 3

CASE NOTE

Addiego v. City and County of San Francisco,
2006 WL 408641 (N.D. Cal. Feb. 17, 2006)

By Hillary Ahle

In February 2006, a California federal court determined that a plaintiff who was injured from a fall in a medical center's parking lot had no Emergency Medical Treatment and Labor Act ("EMTALA") claim against the medical center because the plaintiff was not "dumped" according to the terms of the statute. EMTALA is a federal statute that was promulgated to prevent hospitals from "dumping" — refusing to treat or transferring — patients that presented to medical centers with emergency conditions, but did not have the means to pay for services.

The plaintiff's daughter had taken the plaintiff to the California Pacific Medical Center ("CPMC") for a routine appointment, and as she exited her vehicle in the CPMC parking garage, the plaintiff fell and broke her hip. While the CPMC parking garage was approximately thirty yards from the CPMC emergency department ("ED"), the parking attendant called the CPMC security department who refused the plaintiff's request for immediate medical attention from the ED, and instead called 911. An hour later, an ambulance was dispatched to transport the plaintiff thirty yards to CPMC's ED.

In her lawsuit against the CPMC, the plaintiff asserted that the delay in her transportation to the ED exacerbated her injuries and she claimed both premises liability and personal injury. The plaintiff also filed a separate action

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HEALTH LAW INSTITUTE NEWSLETTER

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States Challenge the Medicare Part D Clawback Provision in Supreme Court

By Erin Wetherille

Starting February 25, 2006, states were required to make monthly payments to the federal government, called “clawbacks,” as a part of the Medicare Modernization Act of 2003, Part D. These clawback payments are based in part on states’ Medicaid per-capita drug spending for dual eligibles in 2003, estimated by subsequent increases in national drug spending. [1] The justification for the payments is that now dual eligibles will be automatically enrolled in Medicare Part D, thus relieving states of the drug expenditures for the dual eligible population. The payments begin with a 90% contribution rate in 2006, which will be lowered annually until 2015 when the percentage will remain constant at 75%. [2]

Many states are concerned that the provision will wind up costing them more than they save with the Part D coverage of their dual eligibles. Texas Attorney General Greg Abbott further argues that states should not have to relinquish control over how they budget state taxpayer dollars in order to pay for a federal program. [3]

In a culmination of months of discussions of state concerns regarding the provision, on Friday, March 3, five states (Texas, Kentucky, Maine, Missouri, and New Jersey) filed a complaint

against the Department of Health and Human Services in the United States Supreme Court on the premise that they are being forced by the federal government to fund Part D in violation of the Constitution. Ten other states (Arizona, Alaska, Connecticut, Kansas, Mississippi, New Hampshire, Ohio, Oklahoma, South Carolina, and Vermont) filed an *amicus* brief with the Court in support of the lawsuit.

The complaint alleges that the clawback provision is an unconstitutional tax because it usurps state sovereignty and mandates the states pay money to the federal government to fund a “purely federal” benefit program. [4] The Supreme Court must decide whether or not to take the challenge since it was not first brought in lower courts first. □

References

- [1] *States Converge on DC to Mull Legal Bid, Hill Action Over Clawback*, Inside CMS, August 25, 2005.
- [2] Melicia Seay, *Medicare Modernization Act*, Health Policy Tracking Service, April 5, 2005. Found at: www.hpts.org
- [3] *Texas, 4 Other States Sue Feds Over Medicare Plan*, Houston Chronicle, March 4, 2006.
- [4] *States File Supreme Court Suit Against Part D Clawback Formula*, Inside CMS, March 9, 2006.

Rising Immigrant Population *continued from page 1*

Limited financial resources present significant problems for safety net providers. There is a greater demand for health services, but public funding is stagnant. The federal government will only fund emergency services provided to undocumented immigrants through emergency Medicaid coverage. The Medicare Modernization Act of 2003 was enacted to provide funds for the provision of emergency services provided by hospitals and health care providers. As of 2005, HSC communities had yet to receive these funds. Phoenix interviewees noted that “the funding would impact providers favorably but the money would still be insufficient to cover the full costs of caring for the undocumented population.” [4]

HSC notes minimal opposition to publicly financed health care centers providing services to immigrants. Unfortunately these organizations have not received additional public funding to provide these services. Thus, private organizations develop their own strategies to finance health services provided to immigrant populations. Services are largely financed with disproportionate share

hospital payments, federal grants to eligible health centers, and cross-subsidization through cost shifting by hospitals and in physician practices. [5]

HSC proposes that the increasing immigrant population, especially those who are undocumented and uninsured, will increasingly strain safety net providers. Communities that have just recently begun to serve immigrant populations will face the most significant challenges. However, the federal government may need to reexamine its current policy so that all communities may effectively respond to the health care needs of its immigrants. [6] □

References

- [1] Hurley, Robert E., Katz, Aaron & Andrea Staiti. *Stretching the Safety Net to Serve Undocumented Immigrants: Community Responses to Health Needs*, Issue Brief 104. Center for Studying Health Center Change. <http://www.hschange.org/CONTENT/818/>. (February 2006).
- [2] *Id.*
- [3] *Id.*
- [4] *Id.*
- [5] *Id.*
- [6] *Id.*

Addiego v. City and County of San Francisco *continued from page 2*

against the City and County of San Francisco, alleging that the CPMC had violated EMTALA by refusing to transport her to the ED. The defendants moved to dismiss this claim, and their motion was granted by the U.S. District Court for the Northern District of California; the court noted that EMTALA mandates only that a hospital must provide a medical screening to patients that come to the ED to determine whether an emergency condition exists, and that the hospital must treat any existing emergency conditions. 42 U.S.C. § 1395dd(a), (b). The plaintiff in *Addiego* did not allege that the CPMC violated either of these provisions

because she was admitted for care at the hospital upon her arrival at the ED. The plaintiff contended that the hospital had violated EMTALA by failing to provide a medical screening and stabilizing care while the plaintiff was in the CPMC parking garage. The court, however, concluded that there was no duty under EMTALA for a hospital to send emergency room personnel to provide screening and stabilizing care to a person in its parking garage, and that a hospital has no duty to use its own personnel to transport a patient from the parking lot to its ED. □

LEGISLATIVE UPDATE

Illinois Senate Bill 2270 Proposes the Nation's Most Rigorous Nurse-to-Patient Staffing Ratios

By Jason S. Greis

Illinois, like many other states in the nation, faces an acute shortage of qualified nurses that is expected to worsen well into the foreseeable future. The metropolitan Chicago area alone currently faces a shortage of 2,500 nurses and the U.S. Health Resources and Services Administration anticipates that Illinois will face a statewide shortage of 21,000 nurses by 2020.

Several factors are contributing to this growing crisis. First, an increasing number of aging "Baby Boomers" are presenting in hospitals' emergency departments and intensive care units, thereby forcing an already limited number of nurses to attend to larger patient loads. Additionally, the population of nurses caring for the sick and elderly is also growing older. According to the U.S. Department of Health and Human Services, 31.7% of the nursing population was under the age of 40 in 2000, compared with 52.9% in 1980. Finally, increasing patient acuity, decreasing nursing school enrollment and the attraction of less physically and emotionally demanding alternative career choices all exacerbate the growing problem. Illinois Senator Iris Martinez (D-Chicago), however, hopes that enactment of Illinois Senate Bill ("SB2270") she is sponsoring will help address this problem.

SB2270, and its Illinois House bill counterpart, HB2548, would create the "Nursing Care and Quality Improvement Act" (the "Act"). The Act, which would apply to all Illinois hospitals licensed under the state Hospital Licensing Act, would require hospitals to create and maintain a comprehensive, hospital-wide staffing plan that establishes minimum, specific and numerical nurse-to-patient ratios for hospital units within one year after the effective date of the Act. Modeled after California's Staffing Ratio Law, AB 394, signed by Governor Gray Davis in 1999 and which became effective January 1, 2004, the Act would establish mandatory nurse-to-patient ratios for units providing direct patient care that must be maintained at all times throughout each shift.

The Act would establish unit nurse-to-patient ratios of: 1:1 in operating room and trauma emergency units; 1:2 in critical care, emergency critical care, intensive care, labor and delivery and post-anesthesia units; 1:3 in ante partum, emergency room, pediatrics, telemetry step-down and telemetry units; 1:4 in intermediate care nursery, specialty care, medical or surgical units, and acute care psychiatric units; 1:5 in rehabilitation units, and 1:6 in post-partum (3 couplets) and well-baby units.

Many of these ratios represent significant, more stringent requirements than those ratios established under California's Staffing Ratio Law. California's law, for example, requires nurse-to-patient ratios of 1:4 in emergency room, 1:5 in telemetry and 1:6 in medical or surgical units. More importantly, even though California's requirements are less onerous than those proposed in Illinois, eleven California hospital emergency rooms were forced to close because they were unable to meet the required minimum staffing ratios, forcing Governor Schwarzenegger to enact emergency regulations to adjust emergency department ratio requirements. Mark Gallagher, past President of the Illinois Staffing Association and current C.E.O. of AMR ProNurse, a Chicagoland

provider of temporary nurse and allied health staffing services, believes that SB2270 could drastically increase hourly temporary nurse staffing bill rates, which already exceed \$75 per hour for the most difficult to fill shifts, thereby further aggravating hospitals' existing financial woes.

Opponents of the Act, such as the Illinois Hospital Association ("IHA"), fear that Illinois hospitals will encounter challenges similar to those faced by their California counterparts. Cathy Grossi, IHA's Senior Director of Health Policy and Regulation, is concerned that compliance with the Act could cost IHA member hospitals in excess of one million dollars and lead to layoffs of ancillary personnel as hospitals attempt to offset the cost of employing additional nurses to meet required ratios.

SB2270 also contains a provision allowing nurses to refuse a shift assignment if, among other reasons, a hospital fails to meet the minimum staffing ratio or if a nurse is not prepared by education, training or experience to care for an assigned patient. Should a nurse refuse an assignment for any qualified reason, the hospital would be prohibited from discharging, discriminating or retaliating against, or filing professional disciplinary complaints or reports against nurses for such assignment refusals. IHA believes that assignment refusal due to staffing shortages is counterproductive to unit morale and providing patient care because the increased patient load would subsequently fall upon other unit members willing to care for the refusing nurse's patients. If a hospital, nonetheless, engaged in retaliatory activities then the Act would allow unlawfully disciplined nurses to file a complaint with the Illinois Department of Public Health ("IDPH") against the offending institution and receive any one of: reinstatement, reimbursement of lost wages, compensation and benefits, attorneys' fees, court costs or other damages.

Finally, the Act would grant IDPH the authority to impose civil monetary penalties against a hospital, or suspend, revoke or place conditional provisions upon a hospital's license for each violation of any provision of the Act. This means that the Act, as drafted, would allow IDPH, in its discretion, to close an entire hospital if such hospital was even one nurse short in any single department.

Although Senator Martinez failed to call SB2270 for a vote in a Senate Health and Human Services Committee hearing in February 2006, it is still under consideration and has been referred to a subcommittee. In the event that no significant revisions are made to SB2270, Illinois hospitals may face serious challenges in the near future. □

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1. METROPOLITAN CHICAGO HEALTHCARE COUNCIL, CARING FOR THE FUTURE: A PLAN FOR MEETING METROPOLITAN CHICAGO'S GROWING HEALTH CARE WORKFORCE NEEDS i (Sept. 2005).
2. *Id.*

Continued on page 5

Colorado Legislative Measure Combats Adolescent Suicide

By Patrice Perkins

Suicide is the third leading cause of death among persons 15 to 24 years old, and the second most frequent cause among college students. The American College of Health Association reports that almost 1,100 suicides are committed on college campuses each year. The Health Information Patient Privacy Act ("HIPPA") and the Family Educational Rights and Privacy Act ("FERPA") guarantee adult college students a minimum level of confidentiality. These federal laws prevent college officials from contacting relatives of students whom officials suspect are on the verge of suicide, without prior consent from the students. [1] Thus, there is a fear that many executed suicides on college campuses could be prevented.

Deanna Hanna, D-Lakewood, introduced Colorado Senate Bill 67 to combat this problem. In March, the Senate Education Committee supported this bill, which would create a pilot program allowing students at Denver colleges and universities to waive HIPPA and FERPA. The bill would allow school officials to contact parents of a student who experiences severe depression or attempts suicide. After two years, the schools must report any changes in their suicide rates. Supporters expect a positive change in the suicide rates at participating schools. [2]

Senate Bill 67 is patterned after a Tennessee measure established in 2005, and the second of its kind. [3] This is shocking considering that suicide is recognized as a major problem on college campuses. Alan Lipschitz, M.D. explains how the college setting provides greater opportunities for detection and prevention: "While most suicidal students draw little attention to themselves, their multi-year residence in the monitored college environment offers the possibility that a sufficiently determined effort could detect suicidal students and press them into treatment. . . Once

suicidal students are detected, schools hold considerable ability to assure their compliance with treatment." [4] It seems that the competitive advantage that colleges and universities have to combat suicide attempts is undermined once faced with HIPPA and FERPA.

Lipschitz noted, in the past, students who were suspected of being suicidal were immediately sent home on medical leave. [5] HIPPA and FERPA prohibit this policy by limiting the information that the school can provide to family members. One goal of Senate Bill 67 is to allow family members to mediate with loved ones who are extremely depressed or likely to commit suicide. Hanna describes the bill as "allowing parents a way to glean information about their child's well being while [he is] away at college." [6]

The death of college student Patrick McKee provoked Hanna's proposal of Senate Bill 67. University officials knew of McKee's depression, but were prohibited from sharing information with his parents. The 19-year old committed suicide on December 23, 2004. Hanna hopes that Senate Bill 67 will prevent similar occurrences in Colorado. [7] If successful, her efforts could catalyze a trend for similar programs in other states. □

References

1. Washington, April M. *Senator's Bill Seeks to Breach Suicide Secrecy*. Rocky Mountain News. February 13, 2006.
2. Washington, April M. *Panel Backs Anti-Suicide Measure*. Rocky Mountain News. March 2, 2006.
3. Washington, *supra* note 2.
4. Lipschitz, Adam. *College Student Suicide*. Suicide and Mental Health Association International. <http://suicideandmentalhealthassociationinternational.org/collstudentsui.html>. (last visited April 10, 2006.)
5. Lipschitz, *supra* note 4.
6. Washington, *supra* note 2.
7. Washington, *supra* note 2.

Illinois Senate Bill 2270 *continued from page 4*

3. *Id.* (quoting U.S. DEPT OF HEALTH AND HUMAN SERV'S, PROJECTED SUPPLY, DEMAND AND SHORTAGES OF REGISTERED NURSES: 2000-2020 (July 2002)).
4. U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE REGISTERED NURSE POPULATION, FINDINGS FROM THE NATIONAL SAMPLE SURVEY OF REGISTERED NURSES 7 (Mar. 2000)).
5. SB2270, 94th Gen. Ass. (Ill).
6. *Id.* at §15(b).
7. *Id.* at §20(b).
8. AB 394 (1999).
9. Healthcare Association of New York State, *California Eases Nurse Staffing Ratio Regulations*, http://www.hanys.org/fpnews/120807_fpnews.cfm (last visited Mar. 31, 2006).
10. Telephone interview with Mark Gallagher (Apr. 5, 2006).
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12. SB2270, § 30, 94th Gen. Ass. (Ill).
13. *Id.* at §30(b).
14. Telephone interview with Cathy Grossi (Mar. 31, 2006).
15. SB2270, § 30(d), 94th Gen. Ass. (Ill).
16. *Id.* at §35.
17. Illinois Hospital Association, *Updated on SB2270: Nurse Staffing Ratio Bill*,

<http://www.ihatoday.org/issues/workforce/sb2270update.html> (last visited Mar. 31, 2006).

The author, Jason S. Greis, is an associate in Seyfarth Shaw LLP's Business Services Group and a graduate of DePaul University College of Law. His practice focuses on healthcare, mergers and acquisitions and commercial lending. This article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.) Copyright © 2006 Seyfarth Shaw LLP. All rights reserved.

AALS PROFILE: JUDITH DAAR

By Kendra Gray



Judith Daar decided she wanted to become a professor ten minutes into her first-year contracts course at Georgetown University Law Center. She is now a professor of law at Whittier Law School and a clinical professor of medicine at the University of

California Irvine College of Medicine. She teaches a variety of courses, including health law, bioethics and reproductive technologies, property, and wills and trusts. Professor Daar is extremely committed to the field of health law and focuses much of her research on reproductive technology.

Professor Daar discovered her passion for health law while still in law school, where she had the opportunity to take a course on law and medicine. She began to specialize in reproductive technology after meeting a physician early in her teaching career. Professor Daar collaborated on a presentation with him, which sparked her interest in the legal aspects of assisted conception. Her first article focused on reproductive technology and, since then, she has authored many articles on the topic, such as human cloning, frozen embryo disputes and the regulation of reproductive medicine. In addition, she recently finished a casebook titled *Reproductive Technologies and the Law*, which was published in January 2006.

Professor Daar currently serves as chair of the Association of American Law Schools' ("AALS") Section on Law, Medicine and Health Care. The AALS is a non-profit association of 166 law schools that strives to improve the legal profession through legal education. The AALS holds an annual meeting in January for law professors from across the country to gather and attend meetings on a variety of legal topics. At the AALS January 2006 meeting, Professor Daar organized a panel for professors of health law and also sponsored a panel on stem cell research. Professor Daar was pleased she was able to sponsor a panel that was so timely, given that stem cell research is a hotly debated topic that involves so many scientific, legal

and ethical issues. Professor Daar gave a great example of just how volatile and dynamic that area is by describing how one of the stem cell research panelists was forced to cancel at the last minute. Apparently, he was under investigation for publishing papers that contained fraudulent data about the process of therapeutic cloning. Fortunately, Professor Daar found an excellent replacement; someone she described as the forefather of stem cell research.

As chair of the AALS Section on Law, Medicine, and Health Care, Professor Daar's primary goal is to present quality in the field. She also hopes to increase interest in the field and was happy to report that membership in the AALS Section on Law, Medicine, and Health Care has grown every year. She believes the future for health law is very bright given the interest level among law professors, including those who have been teaching for decades and those who have just begun their teaching careers. Professor Daar is also aware of the high demand for health law courses among law students and the current shortage of health law professors. She hopes that will soon cease to be a problem.

Professor Daar believes there are many opportunities available for law school graduates interested in health law. She described a variety of potential career options, including working as general counsel for a hospital, working for federal, state or local government, working for a private law firm that services health care clients such as patients, physicians, or financial institutions, or taking part in public interest law and tackling issues such as access to care.

The health law field continues to grow and change every day. She said it is important to pay attention to emerging legislation because it is a good indicator of where the law may be headed. For example, there has been legislation introduced in Arizona that would make egg donation illegal. In other states, there has been a growing interest in allowing children of donor gametes to trace their genetic parents.

Overall, Professor Daar is happy to be involved in such an exciting area of law. She hopes that in the future, more law schools create health law specialty programs so that a greater number of law students gain exposure to health law. □

AALS PROFILE: DR. JEFFREY KAHN

By Valerie Smith

In the aftermath of 9/11, the potential threat of bioterrorism has spurred heightened interest in the ethical, legal, and social aspects of public health policies and practices. Although these interests have only recently gained prominence, Jeffrey Kahn, PhD, MPH and his colleagues at the University of Minnesota Center for Bioethics (the "Center") have been working on these and other bioethics issues over the two decades since the Center's founding in 1985.

Dr. Kahn, who began his service as Director of the Center for Bioethics and Professor in the University's Medical School in August 1996, plays a crucial role in effecting the Center's mission to advance and disseminate knowledge concerning ethical issues in health care and the life sciences. To accomplish this mission, Dr. Kahn and colleagues conduct original research that explores the intersection between ethics and various aspects of health and medicine, such as genetics, public health policy and the use of human subjects in research. The Center's mission includes outreach efforts to educate the public regarding these and other bioethics issues with an eye toward informing intelligent public discussion and debate.

In 2003, Dr. Kahn, with three colleagues from across the country, led an effort to formulate a model curriculum in ethics and public health. **ETHICS IN PUBLIC HEALTH: A MODEL CURRICULUM** provides the foundation of ethics education needed not only in schools of public health, but also in continuing professional education. The model curriculum acts as a resource to enhance and encourage thoughtful and critical discussions of the ethical issues in the field. More recently, Dr. Kahn and Prof. Anna Mastroianni of the University of Washington co-authored a chapter on ethics and public health for the forthcoming **HANDBOOK OF BIOETHICS** (Oxford University Press) and are currently working on a paper examining informed consent in epidemiology research.

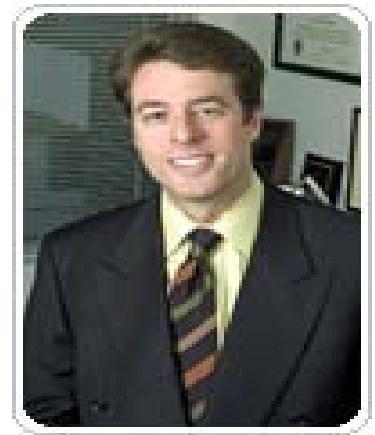
Dr. Kahn also continues to pursue his interest in the ethics of organ donation, allocation, and transplant policies, including research with colleagues at the Uni-

versity of Minnesota that is examining the nature of living kidney donors' understanding in the informed consent process. The increasing discussion of ethical and policy issues in proposed payments to living kidney donors continues to be an area of interest and scholarship for Dr.

Kahn, and he has published articles on the topic in both the bioethics and transplant literature. Dr. Kahn's future work includes a planned book on the evolution of the ethical debate concerning human embryonic stem cell research.

Ultimately, Dr. Kahn and his colleagues at the Center continue to work on a wide range of perplexing questions faced by health care professionals, scientists, and the public every day.

More information about Dr. Kahn is available at <http://www.bioethics.umn.edu>. □



AALS ANNOUNCEMENTS

Brooklyn Law School

- Professor Nan D. Hunter, Co-Director, Center for Health, Science, and Public Policy published *Managed Process, Due Care: Structures of Accountability in Health Care*, 6 YALE J. OF HEALTH POLICY, LAW, AND ETHICS 93 (2006). She will publish her presentation at the January AALS conference panel on Public Health Law in an upcoming issue of the JOURNAL OF HEALTH CARE LAW AND POLICY. During the coming year, she is serving as a consultant to the Public Health Division of the New York Academy of Medicine on legal issues related to emergency preparedness. In Spring 2007, she will be visiting at the University of Miami Law School.
- Brooklyn Law School, through its Center for Health, Science and Public Policy, will enter its fourth year next fall of offering the Science for Judges Program, which attracts federal and state judges from around the country to participate in a two-day symposium on issues related to science and litigation. Science for Judges is sponsored in collaboration with the Federal Judicial Center, the National Center for State Courts, and the Panel on Science, Law and Technology of the National Academy of Sciences. The Center is also continuing its Theory-Practice Seminar series. In the fall, BLS alumnus Stephen Teret, professor at Johns Hopkins School of Public Health, led a program on *Gun and Alcohol Litigation: The Impact on Public Policy*. In the spring, University of Michigan Law School Professor Jill Hurwitz spoke on "Does Hospital Ownership Matter in Patient Care? Mapping the Missions of Nonprofit, For-Profit and Public Hospitals." At each, the presentation was followed by a panel of commentators including officials and practitioners, fostering cross-fertilization between health law scholars and on-the-ground experts.

Steve Calandrillo, Professor of Law, U. of Washington School of Law

- *Sports Medicine Conflicts: Team Physicians Versus Athlete-Patients*, 50 ST. LOUIS U. L.J. 185 (2006)
- Working on a paper tentatively entitled, *Syringes in the Sea: Why Federal Regulation of Medical Waste is Long Overdue*
- Named a Washington Law School Foundation Scholar for 2006-07

Sandra Carnahan, Associate Professor of Law, South Texas College of Law, Houston, Texas

- Sandra J. Carnahan, *Law, Medicine, and Wealth: Does Concierge Medicine Promote Health Care Choice Or Is It A Barrier To Access?* 20 STANFORD L. & POL'Y REV. 101 (forthcoming June 2006).

Kathy L. Cerminara, Professor of Law, Nova Southeastern University

- February 2006 annual 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 (Cambridge University Press 2006) (forthcoming)
- *Three Female Faces: The Law of End-of-Life Decision-Making in America*, chapter in DECISION-MAKING NEAR THE END OF LIFE: RECENT DEVELOPMENTS AND FUTURE DIRECTIONS (Routledge 2006) (forthcoming)
- *Musings on the Need to Convince Some People With Disabilities That End-of-Life Decisionmaking Advocates Are Not Out to Get Them*, 37 LOYOLA CHICAGO L.J. 343 (2006)
- *Tracking the Storm: The Far-Reaching Power of the Forces Propelling the Schiavo Cases*, 35 STETSON L. REV. 147 (2005)
- *Theresa Marie Schiavo's Long Road to Peace*, 30 DEATH STUDIES 101 (2006)

Peter J. Cohen, MD, JD, Adjunct Professor of Law, Georgetown University Law Center

- Peter J. Cohen, *Science, Politics, and the Regulation of Dietary Supplements Time to Repeal DSHEA*, 31 AMER. J. LAW & MED. 175 (2005).
- Peter J. Cohen, *Medical Marijuana, Compassionate Use, and Public Policy Expert Opinion or Vox Populi?* 36 HASTINGS CENTER REPORT, forthcoming (May-June, 2006).

Lawrence Gostin, Associate Dean (Research and Academic Programs) Georgetown University Law Center

- Honorary Fellow, Cardiff University, Wales (for distinguished career contributions to public health law)
- The Center for Law and the Public's Health was designated a World Health Organization Collaborating Center. The launch of the Center will be on October 13, 2006 at Georgetown University Law Center.
- Drafter, World Health Organization Model Public Health Law
- Chair, World Health Organization Expert Committee on Public Health Interventions in Pandemic Influenza
- Chair, Institute of Medicine Committee on the Ethics of Human Research on Prisoners
- Ronald Bayer, Lawrence O. Gostin, Bruce Jennings, Bonnie Steinbock, eds., *Public Health Ethics: Theory, Policy and Practice* (Oxford University Press, Forthcoming 2006).
- Lawrence O. Gostin, Judith Areen, Patricia A. King, Steven Goldberg, Peter Jacobson, LAW, SCIENCE AND MEDICINE (University Casebook Series, The Foundation Press, 2005, 3rd ed.).
- Lawrence O. Gostin, Medical Countermeasures for Pandemic Influenza: Ethics and the Law (Part I), 295 JAMA 554-557 (2006).
- Lawrence O. Gostin, Public Health Strategies for Pandemic Influenza: Ethics and the Law (Part II), 295 JAMA 1700-1704 (2006).
- Lawrence O. Gostin, *Federal Executive Power and Communicable Disease Control: CDC Quarantine Regulations*, 36 HASTINGS CENTER REPORT 10-11 (2006).
- David P. Fidler & Lawrence O. Gostin, The New International Health Regulations: An Historic Development for International Law and Public Health, 33 JLME 85-94 (2006).
- James G. Hodge, Jr., Lawrence O. Gostin, Kristine Gebbie, Deborah L. Erickson, Transforming Public Health Law: The Turning Point Model State Public Health Act, 33 JLME 77-84 (2006).
- Lawrence O. Gostin, The Supreme Court's Impact on Medicine and Health: The Rehnquist Court, 1986-2005, 294 JAMA 1685-1687 (2005).
- Lawrence O. Gostin, Ethics, the Constitution, and the Dying Process, 293 JAMA 2403-2407 (2005).
- Lawrence O. Gostin, Medical Marijuana, American Federalism, and the Supreme Court, 294 JAMA 842-844 (2005).

AALS ANNOUNCEMENTS

Mark A. Hall, Wake Forest University School of Law

- Mark Hall (Wake Forest), Carl Schneider (Michigan), and Lois Shepherd (Florida State) organized an academic workshop in Dec. 2005 entitled "Rethinking Health Law," which broadly explored the current foci and future directions of the field. The workshop papers will appear as a symposium in the Summer 2006 issue of the WAKE FOREST LAW REVIEW.

Hamline University School of Law

- Stacey A. Tovino and Lucinda E. Jesson, have joined the faculty of Hamline University School of Law's new Health Law Center. Jesson has been named director of the Health Law Center and associate professor of law. Tovino, who currently is a visiting assistant professor at the University of Houston's Health Law and Policy Institute, will bring a strong interdisciplinary health law focus as assistant professor of law beginning in fall 2006. In addition, local attorney Peter Hofrenning has been hired to serve as assistant director of the Center and adjunct professor of law.
- Hamline will formally launch its new Health Law Center in Fall 2006. The Center will focus on the burgeoning growth of health law, federal regulation of the healthcare system, tort reform, medical device development and regulation, and ethics. Based on the center model that has led to Hamline's Dispute Resolution Institute being named fifth in the nation by *U.S. News and World Report*, the Health Law Center will develop a symposium program, provide specialized practical training, lawyer education, legal clinics, and significant scholarship in health law and related fields.
- Hamline University School of Law (www.hamline.edu/law) educates students to become competent, professional and ethical lawyers who apply legal knowledge with disciplined imagination and a global perspective that allows them to strengthen society. Hamline's Alternative Dispute Resolution Center is ranked fifth in the nation by *U.S. News & World Report*. Hamline University School of Law was founded in 1972 and later merged with Hamline University, which is ranked first in Minnesota among comprehensive universities by *U.S. News and World Report*.

Sharon Hoffman, Professor of Law, Professor of Bioethics, and Associate Director of the Law-Medicine Center, Case Western Reserve University School of Law

- *'Racially-Tailored' Medicine Unraveled*, 55 AMERICAN UNIVERSITY LAW REVIEW 395 (2005)
- *The Suitability of IRB Liability*, 67 UNIVERSITY OF PITTSBURGH LAW REVIEW __ (forthcoming 2006) (with Jessica W. Berg)

Sandra H. Johnson, J.D., LL.M., Tenet Endowed Chair in Health Law and Ethics, Center for Health Law Studies, Saint Louis University School of Law

- Sandra Johnson, Center for Health Law Studies, Saint Louis University School of Law, and Ana Iltis, Ph.D., at the University's Center for Health Care Ethics, have been named co-Editors in Chief of the Journal of Law, Medicine & Ethics. Sandra was the editor of the symposium issue in the Winter, 2005, issue of JLME on Pain Management in the Emergency Department (and authored an article on the Social, Professional and Legal Framework for Pain Management in Emergency Medicine). The issue is available in full text, pdf on ASLME's web site (aslme.org).
- Sandra Johnson gave the inaugural Fallon-Friedlander Lecture in Health and Law at the University of Chicago.

Timothy Stoltzfus Jost, Robert L. Willett Family Professor, Washington and Lee University School of Law

- Tim Jost is working hard on a book on consumer-driven health care, which he hopes to have out by the end of this year or the beginning of next. He has recently published an article with Mark Hall on state regulation of consumer-driven health care in Suffolk's new health law journal. He hopes that a number of articles that he has written will come out soon, including one on a European view of competition in health care (with Diane Dawson and Andre den Exter) in JHIPPL, on the effects of the European open method of coordination on social insurance programs (in Medical Law International), on what Medicare can do about racial and ethnic disparities in health care (in DePaul's health law journal), and on Our Broken Health Care System, Can Consumer's Fix It? in the WAKE FOREST LAW REVIEW.

Robert A. Katz, Associate Professor of Law, Indiana University School of Law - Indianapolis

- *The Re-Gift of Life: Can Charity Law Prevent For-Profit Firms From Exploiting Nonprofit Tissue Banks and Donated Tissue?*, 53 DEPAUL L. REV. ____ (2006) (forthcoming), published as part of the DePaul Law Review and Health Law Institute's Symposium: "Precious Commodities - The Supply and Demand of Body Parts."
- *The Re-Gift of Life: Who Should Capture the Value of Donated Human Tissue*, THE HEALTH LAWYER 14 (Vol. 18; No. 4: 2006) (publication of the ABA's Health Law Section).
- *The Legal Column: Who should capture the value of donated tissue?*, LAHEY CLINIC MEDICAL ETHICS JOURNAL 4 (Fall 2005).
- ABA Administrative Law Section Liaison to the Uniform Law Commission's committee drafting revisions to the Uniform Anatomical Gift Act.

Law-Medicine Center at Case School of Law in Cleveland, Ohio

- The Law-Medicine Center at Case School of Law in Cleveland, Ohio has had an active year. For the third year in a row, the Center awarded four summer stipends to students interested in careers in public interest health law. The grants will enable them to gain summer job experience toward that goal. This year's recipients will work at Patients Not Patents in Washington, DC; UNAIDS, WHO (World Health Organization), and AMI (Aide Medicale Internationale) in Rangoon, Burma; SPARC (Society for the Protection and the Rights of the Child); and the Vermont Medical Society.
- In March, the Center cosponsored a unique full-day bioterrorism simulation, "The Fifth Plague." Local, state, national and international officials role-played their response to an agricultural-based attack. Issues addressed included legal questions of authority and powers of various agencies; cooperation among different branches of the government and between the U.S. and Canada; and responses to an actual attack. Georgetown Associate Dean Lawrence Gostin gave the keynote address.
- Last fall, the Center presented a lecture by Health Research Group Director Sidney Wolfe, M.D., "Worst Pills, Best Pills." Student editors of HEALTH MATRIX: JOURNAL OF LAW-MEDICINE will edit and publish his speech. This year, for the first time, the student edited health law journal selected a Best Student Note and awarded a money prize to the Associate Editor who authored it. The note will be published in next year's journal.
- Recognizing excellence in teaching and scholarship, Case School of Law granted tenure to two health law faculty members last year: Jessica Wilen Berg, Professor of Law and Bioethics, and Sharon Hoffman, Professor of Law and Bioethics. Prof. Hoffman, who is associate director of the Law-Medicine Center, was honored for excellence in research and scholarship by the Flora Stone Mather Center for Women at Case. She and Case Bioethics Associate Professor Patricia Marshall, Ph.D., were among the first to receive Spotlight Series Awards for Women's Scholarship.
- Law-Medicine Center Director Maxwell Mehlman is the principal investigator on a two-year, \$772,500 grant awarded by the National Institutes of Health, "Protecting Human Subjects in Genetic Enhancement Research." Professor Jessica Berg is a co-investigator on the project, which will examine whether special protection is needed for human subjects in genetic enhancement research. Professor Mehlman's grant makes up part of his work for CGREAL (Center for Genetic Research Ethics and Law), a five-year interdisciplinary project at Case. The high quality of interdisciplinary work at Case Western Reserve University led the NIH in 2003 to designate the school one of only four "centers of excellence" in the study of the ethical, legal and social implications of human genetics. Professor Mehlman was appointed Associate Director for Public Policy and Director of the Genetic Enhancement research group within CGREAL.

AALS ANNOUNCEMENTS

Kristin Madison, Assistant Professor, University of Pennsylvania Law School

- *The Residency Match: Competitive Restraints in an Imperfect World*, 42 HOUS. L. REV. 759 (2005).
- *ERISA and Liability for Provision of Medical Information*, 84 N.C. L. REV. 471 (2006).

Barbara A. Noah, Associate Professor, Western New England College, School of Law

- Barbara A. Noah, *The Role of Religion in the Schiavo Controversy*, 6 HOUSTON J. HEALTH L. & POL'Y (forthcoming May, 2006).
- Barbara A. Noah, *Book Review* (reviewing Tom Baker, THE MEDICAL MALPRACTICE MYTH), 16 L. & POL. BOOK REV. 253-55 (2006).
- Barbara A. Noah, *Dietary Supplements: Balancing Consumer Choice & Safety*, 33 J. L. MED. & ETHICS 860-65 (2005) (reviewing New York State Task Force on Life & Law report).

Michelle Oberman, Professor of Law, Santa Clara University School of Law

- Member, University of California at San Francisco Campus Committee on Gamete, Embryo, and Stem Cell Research (GESCR) (2005-present)
- Member, Board of Advisors, Georgetown Journal of Gender and the Law (2005-present)
- Michelle Oberman, *Symposium: Precious Commodities: The Supply and Demand of Body Parts, When the Truth is not Enough: Tissue Donation, Altruism and the Market*, DEPAUL L. REV. (forthcoming, 2006).
- Michelle Oberman, *Sex, Lies and the Duty to Disclose*, 47 ARIZ. L. REV. 871 (2005).
- Michelle Oberman, *American Association of Law Schools Panel: Panel on the Use of Patients for Teaching Purposes Without Their Knowledge or Consent, Introduction*, 8 J. HEALTH CARE L. & POL'Y 210 (2005).
- Katharine K. Baker and Michelle Oberman, *Child Rape*, in THE CHICAGO COMPANION TO THE CHILD (forthcoming, 2006).
- Michelle Oberman, *Understanding Maternal Filicide*, in the ENCYCLOPEDIA OF DOMESTIC VIOLENCE (forthcoming, 2006).
- Michelle Oberman and Cheryl Meyer, *Mothers Who Kill Their Children: Considering Patterns, Prevention and Intervention*, in ABNORMAL PSYCHOLOGY IN THE 21ST CENTURY (ed. Thomas Plante, (forthcoming 2006).

Elizabeth A. Pendo, Professor of Law, St. Thomas University School of Law

- Elizabeth Pendo, Professor of Law at St. Thomas University School of Law in Miami, Florida, published *The Politics of Infertility: Recognizing Coverage Exclusions as Discrimination*, 11 CONN. INS. L.J. 41 (2005), *Coverage of Reproductive Technologies Under Employer-Sponsored Health Care Plans: Proceedings of the 2004 Annual Meeting, AALS Sections on Employee Benefits and Employment Discrimination*, 8(2) EMPLOYEE RTS. & EMP. POL'Y J. 523 (2005) and *Telling Stories About Health Insurance: Using New Films in the Classroom*, 5 HOUSTON J. OF HEALTH L. & POL'Y 101 (2005). (symposium issue, 'Mass Media Influence on Health Law and Policy').
- Pendo also spoke on "Current Issues under the FLMA and the ADA," at the Labor Arbitration Institute conference in Miami, and as a panelist for "Getting Involved: Service to the Community and the Profession," at the AALS Annual Meeting in Washington D.C. Pendo finished service as the Secretary for the AALS New Law Professors Section by putting out its very first newsletter, and is currently serving as President-Elect of that section (for 2006-07).
- This summer, Pendo will be working on a new article, and teaching a course on Legal Perspectives on Health Care Ethics in the on-line Masters of Health Law program at Nova Southeastern University Shepard Broad Law Center.

Richard S. Saver, Assistant Professor of Law, Health Law and Policy Institute, University of Houston Law Center

- What IRBs Could Learn From Corporate Boards in the Hasting Center journal IRB: ETHICS AND HUMAN RESEARCH (Sept./Oct. 2005).
- His book chapter, *The Costs of Avoiding Physician Conflicts of Interest: A Cautionary Tale of Gainsharing Regulation*, will appear in JUST MEDICAL CARE: WHAT'S IN, WHAT'S OUT, HOW WE DECIDE (University of Toronto Press, 2006).
- His latest article, *Medical Research and Intangible Harm*, is forthcoming in the UNIVERSITY OF CINCINNATI LAW REV.
- He also presented "A New Era in Research Regulation?" in April as an invited grand rounds lecturer at the Baylor College of Medicine.

Seton Hall

- In response to the NJ U.S. Attorney's recent activities regarding UMDNJ and BMS, Seton Hall is sponsoring two programs, one for hospital and the other for pharma counsel, on waiver of attorney client privilege and corporate payment of individual attorneys fees, which programs will each include US Attorney Chris Christie.
- On May 18 Seton Hall is sponsoring a program on Drug Approval for Patent Practitioners: A US and European Perspective.
- On June 23 Seton Hall is sponsoring a program for pharma and Medical device executives, directors and general counsel on Corporate Compliance.
- During the week of June 18, Seton Hall is sponsoring its week Long Corporate Compliance Certification Program for pharma and medical device compliance officers.
- This semester, Seton Hall hosted Rebecca Eisenberg of the University of Michigan as its Spring 2006 Merck Visiting Scholar.

Kirsten Rabe Smolensky, Bigelow Fellow & Lecturer in Law, University of Chicago Law School, MacLean Ethics Fellow

- Smolensky will be starting as an Associate Professor of Law at the University of Arizona this fall, where she will teach health law and torts. Additionally, she has an article coming out in The University of Chicago's Legal Forum this summer entitled, "Defining Life From the Perspective of Death."

AALS ANNOUNCEMENTS

The University of Pittsburgh School of Law

- The University of Pittsburgh School of Law Health Law Clinic challenged the Center for Medicare and Medicaid Services' National Coverage Decision on solitary pancreas transplants on behalf of their client who suffered from severe Type 1 diabetes, hypoglycemic unawareness and gastroparesis, but not kidney failure. Because her kidneys were healthy, she fell outside of the coverage parameters. After reviewing developments in research and coverage by private insurers for solitary pancreas transplants, the Clinic undertook this challenge. The Departmental Appeals Board for Health and Human Services found that our arguments showed that the record was not sufficient to support the coverage of only pancreases with kidneys and, sua sponte, announced a reconsideration of the NCD because of that. Over two comment periods, in which many individual patients and physicians and scientists expressed their support of the challenge, CMS announced last week a new NCD allowing solitary pancreas transplants in certain limited circumstances, which would have covered our client, had she not received a pancreas in the middle of the case when her secondary insurer stepped in to make an exception to cover the procedure. The new NCD tracks the recommendation of the American Diabetes Association and can be found on the CMS website.
- The University of Pittsburgh School of Law announces the Norman J. and Alice Chapman Rubash Distinguished Lecture in Law and Social Work will be delivered by Ron Pollack, founding executive director of Families USA. The lecture will be held on Thursday, October 19, 2006.

Virginia Commonwealth University Department of Health Administration

- VCU Department of Health Administration Is offering the following Executive Fellowship Programs: Patient Safety June 2006-May 2007 "To Err is Human" ...To prevent harmful errors is to design patient safety into the Health system. In November 1999, the Institute of Medicine's report, "To Err is Human: Building a Safer Health System", estimates that as many as 98,000 patients die each year as the result of medical errors in hospitals. (That number may be as high as 200,000 per year according to more recent studies). The Executive Fellowship in Patient Safety is a well accepted program focusing on tools, techniques, and theory of designing patient safety initiatives in healthcare organizations. The program begins with an on-campus session June 21-24, 2006 at the Virginia Commonwealth University followed by on-line-modules using Blackboard internet learning system. (CD's / Program material will be available for the on-campus sessions). Fellows are required to design and implement a patient safety project within their facility. The fellowship will conclude with an on-campus graduation session May 2007 in conjunction with the VIPC&S (Virginian's for Improving Patient Care & Safety) annual conference. For more detailed information and application information please visit our Website at: www.HAD.VCU.EDU Or www.had.vcu.edu/williamson/safety.html
- Health Law July 2006-April 2007 The Executive Fellowship in Health Law is a new cutting edge program created in celebration of our 20th anniversary of the dual degree MHD/JD program. Catered towards RNs, MDs, Risk Managers, Supervisors, and other hospital professionals the fellowship program is designed to get a better understanding on how laws influence the administration of healthcare. The program begins with an on-campus session July 20-22, 2006 at the University of Richmond Law School followed by on-line-modules using Blackboard internet learning system. (CD's Program material will be available for the on-campus sessions). The first on-line session is scheduled to begin September 10th, 2006. Fellows will be required to write a short paper on a legal issue within their facility. Many of the faculty are graduates of our MHA/JD dual degree program between the University of Richmond Law School and the Department of Health Administration at VCU. For more detailed information and application information please visit our Website at: www.HAD.VCU.EDU Or www.had.vcu.edu/williamson/health_law.html Or contact: Karen N. Swisher, MS, JD * Professor * Dept. of Health Administrations* VCU/Medical Campus phone (804) 828-5460 email: kswisher@vcu.edu

Elizabeth A. Weeks, Associate Professor, University of Kansas School of Law

- Weeks is returning to University of Kansas this May, after a one-year visit at Pacific-McGeorge. At KU, Weeks will be teaching Torts, a Health Law survey course, and a Public Health Law seminar. After the Catastrophe: Disaster Relief for Hospitals, presented at the Health Law Scholars Workshop at SLU two years ago, has been accepted for publication in the North Carolina Law Review. Weeks has given several presentations on disaster response, including the American Medical Association Organized Medical Staff Section, American Health Lawyers Association Medicare and Medicaid Reimbursement Institute, American Public Health Association Annual Meeting, DePaul symposium on Shaping a New Direction for Law and Medicine: An International Debate on Culture, Disaster, Biotechnology & Public Health, and the State of Missouri conference on Public Health Emergencies and the Law. Weeks' new project involves empirical research on health care ethics and business norms, under government health care programs and regulatory loopholes.

Ruqaiyah A. Yearby, Assistant Professor, Loyola University Chicago School of Law - Health Law Institute

- A Right to No Meaningful Review Under the Due Process Clause: The Aftermath of Judicial Deference to the Federal Administrative Agencies*, 16 HEALTH MATRIX __ (Spring 2006)
- Is It Too Late For Title VI Enforcement?: Seeking Redemption of the Unequal United States' Long Term Care System Through International Means*, 9 DEPAUL J. HEALTH CARE L. 971-1004 (Spring 2006)
- Medical Treatment Decisions, in 27 ILLINOIS JURISPRUDENCE, HEALTH CARE LAW (2005)
- Saint Louis University, School of Law Invited Speaker, February 8, 2006 "Is It Too Late For Title VI Enforcement?: Seeking Redemption of the Unequal United States' Long Term Care System Through International Means"
- American University Washington College of Law Invited Speaker, January 27, 2006 "You Can't Win, You Can't Break Even, And You Can't Get Out Of The Game: Interest Convergence and the Continuation of Racial Disparities in Health Care Forty Years After the Enactment of Title VI"
- American Association of Law Schools Invited Speaker, January 6, 2006 "Striving for Equal Access and Quality, But Settling for the Status Quo: Is Title VI More Illusory Than Real?" (poster)



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LEGISLATIVE UPDATE

Illinois' Campaign Against Childhood Lead Poisoning

By Valerie Smith

The Illinois House of Representatives unanimously passed HB4854 ("Bill") amending the Lead Poisoning Prevention Act and establishing a number of new provisions to fight lead paint poisoning. Lead paint poisoning causes debilitating health problems in millions of predominantly low-income children each year. A child who inhales lead paint dust or eats lead paint chips increases his risk of developing learning disabilities, speech problems, behavioral disorders, and even death, if high levels are ingested. Illinois currently leads all states with the highest number of children affected by lead poisoning, over 11% in 2001, making the implementation of preventive legislation in this area particularly urgent to save the health of our children.

The House Bill is based on the advocacy by the Illinois Lead Safe Housing Task Force. The Task Force's aim is to eliminate childhood lead poisoning by 2010 in Chicago and increase the number of affordable, lead safe housing units. The Task Force has

raised awareness of the lead poisoning problem in Chicago and has been influential in the key components of HB4854.

The primary component of the Bill is signage. Every store that sells paint or paint supplies must post signs or distribute brochures detailing the risks of lead paint and safe methods of removing lead based paints. Landlords must post notices if a child who resides in the building has contracted lead poisoning. Once lead is found in the building, the owner must remove the paint within thirty days or incur a fine of \$250 per day with a maximum fine of \$2,500. Once a child under three-years-old tests positive for lead poisoning, the Department of Public Health is required to inspect the home of that child regardless of the level of lead in the blood. This legislation places responsibility on all parties to work together to combat lead poisoning in an effort to make a safer environment for Illinois children. □