 Substance Abuse, Families and the Courts: Legal and Public Health Challenges

A devastating tornado of substance abuse and addiction is tearing through the nation's child welfare and family court systems leaving in its path a wreckage of abused and neglected children, turning social welfare agencies and courts on their heads and uprooting the traditional disposition to keep children with their natural parents."

This opening paragraph from "No Safe Haven," a report recently issued by the National Center on Addiction and Substance Abuse at Columbia University (CASA) illustrates the large and growing challenge that substance abuse poses to the nation's civil justice system.

On Friday, May 14, 1999, the University of Maryland School of Law's Law & Health Care Program and the University of Baltimore School of Law brought together an interdisciplinary team of experts to address these issues at a conference on, "Substance Abuse, Families and the Courts: Legal and Public Health Challenges." The conference was cosponsored by the Standing Committee on Substance Abuse of the American Bar Association (ABA).

Gloria Danziger, staff director of the ABA's Standing Committee called the conference collaboration "important and timely," and she adds, "The ABA has been working in Maryland to develop family courts and especially to increase the awareness of substance abuse."

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abuse implications around the country. This conference is the next step—working with leading academicians, law practitioners, and the medical and public health communities to discuss the way substance abuse and addiction affects families in the justice system."

Over 125 participants attended the conference, including family law judges and masters from across Maryland, state legislators, policy makers, academics and substance abuse experts.

The first segment of the conference was led by Dr. Georges C. Benjamin, Secretary of the Maryland Department of Health and Mental Hygiene, who highlighted Maryland's efforts to improve access and increase the effectiveness of substance abuse treatment throughout the state.

Richard Millstein, Deputy Director of the National Institute for Drug Abuse then spoke on "The Science of Addiction: Research and Public Health Perspectives."

Benjamin and Millstein were followed by a panel which addressed the impact of substance abuse on families. The panel included Susan A. Foster of the National Center on Addiction and Substance Abuse at Columbia University, who discussed the results of the "No Safe Haven" report.

The focus of the conference then shifted to recent judicial reform efforts. A panel which included Professor Barbara A. Babb of the University of Baltimore School of Law, the Honorable Albert J. Matricciani, Jr., Circuit Court for Baltimore City, and Judith D. Moran, former Family Division Coordinator for the Circuit Court for Baltimore City, discussed therapeutic jurisprudence and the impact of the unified family court movement on substance abuse issues.

Following a luncheon speech by the Honorable Sheila Murphy, a leading member of the ABA's Standing Committee, an interdisciplinary panel examined the evolution, evaluation and future directions of family drug treatment courts.

The concluding session provided critical perspectives on substance abuse, child welfare and family preservation. Professor Dorothy E. Roberts of Northwestern University School of Law explored the racial and socio-economic implications of recent child welfare reforms that emphasize permanency planning over family preservation and reunification.

Professor Jane Murphy of the University of Baltimore School of Law discussed the connections among child abuse, substance abuse and domestic violence revealed by her research on recent Maryland Court findings.

Finally, Professor Richard Boldt of the University of Maryland School of Law challenged assumptions about substance abuse that judges bring to termination of parental rights cases and offered a provocative critique of the gender implications of traditional approaches to treatment.

Papers based on the conference presentations will be featured in a special symposium issue of the Journal of Health Care Law & Policy to be published by the end of this year. To subscribe to the Journal or order individual issues, please use the form on page 14.
1999 Graduates

CONCENTRATION IN HEALTH LAW

Twenty-one outstanding and very different May 1999 graduates were honored by the law school and the Law & Health Care Program for successful completion of the Concentration in Health Law. These students are part of the second graduating class to complete the requirements for the Concentration, a seventeen credit course of study that includes academic, experiential and writing components.

The 1999 Concentration students are a multi-faceted group. They come from a variety of backgrounds and had many different reasons for choosing Maryland's Law & Health Care Program. Their academic paths while in law school were as diverse and distinctive as the career choices they will pursue after graduation.

While the L&HCP always draws a segment of its students from the medical professions, the 1999 Concentration students include a few particularly interesting cases of physician/attorney and nurse/attorney graduates.

Fred Levy is a physician who attended law school while continuing to work in the emergency department at Johns Hopkins Hospital (JHH). Levy comes from a family of physicians and knew from an early age that he would pursue a career in medicine, but his proclivity for the law was something he discovered a number of years into his medical career. He has come to realize that the "analysis and dissection" skills normally used in medical diagnoses could be used just as successfully in a legal career.

While in law school, Levy completed an externship in the Malpractice Litigation Division at JHH, which led to his being offered a position as an attorney at Hopkins. He will study for the Bar this summer, and then will realize his dream of a dual career—working at JHH as both an emergency department physician and an attorney.

Chris Coffin was working as a nurse in Georgia when he decided that a J.D. would be the next best step he could take to aid people with mental retardation and other disabilities. He chose the L&HCP for its excellent national reputation and continued to work as an R.N. while he completed his law degree.

In addition to the many contributions to the mentally disabled Coffin has made during his law school tenure (see article on page 13), he has also taken advantage of nearly all of the opportunities offered by the Program. He spent several semesters in the Mental Disabilities Clinic and completed a health law externship in the general counsel's office at the University of Maryland Medical System. He is a past-president of the Student Health Law Organization, and his paper "Restrain and Seclusion for Institutionalized Persons With Mental Illness," will soon be published in the ABA's Mental and Physical Disability Law Reporter. Coffin has accepted a prestigious one-year clerkship as part of the U.S. Department of Justice Honors Program after graduation.

Other 1999 Concentration students came to the L&HCP after successful careers as advocates or in the health policy field.

Angela Liang worked in the public health field in California before coming to Maryland—both because of the reputation of our health law program and because her specialty interests closely matched the research being done by L&HCP director, Karen Rothenberg on women and AIDS.

Liang, too, has taken advantage of a wide variety of Program experiences. She served as Senior Articles Editor of the Journal of Health Care Law & Policy, and completed a health law practicum at the Office of Civil Rights, U.S. Department of Justice. She was the 1999 L&HCP nominee for the prestigious Elaine Osborne Jacobson Award for women working in health law and received the law school Alumni Association prize for exhibiting character and leadership while a student.

Richard Johnson has followed yet another path to law school and the
Pain Management and Palliative Care in the Era of Managed Care: Issues for Health Insurers

by Diane E. Hoffmann

The undertreatment of pain is an issue that has received increasing attention in recent years. Studies have shown that terminally ill patients often die in pain and that many individuals with chronic, intractable pain search for relief of pain with no or limited success. Barriers to adequate pain treatment have been reported in the literature and include: 1) inadequate training of health professionals on the issue; 2) a belief that too much pain medication, in particular narcotics, can lead to addiction; 3) fear of criminal prosecution or disciplinary action for overprescribing of narcotics; and 4) inadequate insurance coverage or insurance obstacles to pain care.

Little research has focused on the last of these—insurance obstacles to treatment of pain. At the same time, there is some evidence that pain management may be more of a concern to insurers than it had been in the past, in large part because of newer, more expensive approaches to pain relief. Twenty years ago, oral and intravenous drugs were the primary remedies available for treating pain. Today, treatment options include nerve blocks, neurostimulators and implantable pumps, alternative medicine approaches such as acupuncture and behavioral therapies such as biofeedback and stress management.

Supported by a grant from the American Society of Law, Medicine & Ethics’ Mayday Scholars Program, this study examines the role and perspective of insurers in this complex issue. Based on a review of the existing literature and an interview of 39 senior

Drive-Through Deliveries: Is “Consumer Protection” Just What the Doctor Ordered?

by David Hyman

Although consumer protection against managed care has become extraordinarily popular in the last few years, there are good reasons to be skeptical about many of these legislative and regulatory efforts. Few legislators have the necessary training or inclination to weigh the (often conflicting) evidence on the benefits of any given consumer protection. Evidence on the costs of a consumer protection is frequently unavailable, and estimates are subject to considerable uncertainty. The drafting of consumer protections is also readily hijacked by entrenched providers, who have their own interests at heart. When these factors are coupled with the emotional overlay accompanying health care issues, and
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IN THE HEALTH LAW CLINIC

The law school offers, as part of its regular curriculum, a clinical law program in which faculty members who are practicing attorneys supervise law students in the representation of actual clients. For those students with a general interest in health law, the clinic represents clients in cases involving health care for children, legal issues of the handicapped, mental illness, AIDS and the elderly.

Is universal health care the answer to the woes of the health care market today? That may be the conclusion to which interns in our new Health Care for the Poor class have come.

This semester, instead of our traditional live-client clinic, Professor Diane Hoffmann and I taught a seminar, Health Care for the Poor, which incorporated internships at several health care advocacy groups. Nine students chose this option to meet the law school’s mandatory experiential learning standard. They were placed in Baltimore at Advocates for Children and Youth and at Legal Services for the Elderly. In Washington, D.C., students worked at the ABA Center for Children and the Law, the National Senior Citizens Law Center, and at Families USA, a consumer oriented health care advocacy group.

Two students dealt directly with elderly clients and helped pro bono attorneys work on cases. In another placement, students spoke to parents in Head Start agencies about Maryland’s new Children’s Health Insurance Program (CHIP), answering their questions and helping them understand how to enroll and to keep their present providers. Some students worked on national class action cases and sat in on committee meetings on Capitol Hill, while others prepared memos for attorneys practicing in the area of adolescent health care and helped develop policy in the ever changing world of health care for the poor.

One theme that emerged from all of these placements was that health care these days, for the poor as well as for the more well-to-do, is a very complicated matter. The imposition of managed care on medical services for the poor has changed the situation dramatically. Eligibility regulations are changing rapidly, especially in the worlds of Medicaid and Medicare, and it is difficult for those with limited resources to keep up with the changes and get the health care to which they are entitled.

Students Ruben Chavez and Alissa Salahi, working at Advocates for Children and Youth, spoke of parents who are intimidated by the publications produced by the state to educate parents about CHIP. The thick books listing providers in certain plans contain legal jargon which is too complicated for many parents to comprehend, especially if English is their second language.

The process to enroll one’s child in the program can also be complex. The state enrollment broker sends a packet of information to the parents of those who may be eligible for CHIP benefits. Parents may or may not receive this information. The material contains an “800” number that parents can call to tell the broker which providers they use. The enrollment broker can then assign the family to a certain managed care plan which incorporates all the parent’s providers. But if parents do not get the information, do not read it or cannot comprehend it, they miss out on the easiest way to enroll. Instead, parents are expected to fill out complicated enrollment forms for each of their children and mail them to the broker. This is often expecting too much from some indigent parents, and children end up not getting care they need.

At the other end of the age spectrum, the elderly are facing similar challenges. With the coming of Medicare + Choice in the fall of 1999, the elderly must decide among a number of managed care and fee-for-service plans. Erica Ward and Louis Patalano, who worked at the National Senior Citizens Law Project, questioned how many frail elderly would appreciate the differences between plans and would be able to make informed choices about which would be best for them. While written materials may provide some information, the elderly would be better served by having someone sit with them and explain each choice, and

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Faculty Research: Diane Hoffmann
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medical directors at Blue Cross Blue Shield plans across the country (64% of all BCBS plans), the study found that plans seem to deal with treatment of pain and coverage issues on a case by case basis, often through case managers and, for the most part, have not established uniform pain treatment or coverage guidelines. The responses revealed inconsistencies in plan approaches due to different levels of attention paid to the problem, uncertainty and lack of consensus on how to approach pain management, in particular the management of chronic pain, and different experiences with pain treatment specialists and pain centers.

While most plans felt that they adequately dealt with pain management for terminally ill patients, primarily by referring such cases to a hospice, many plans did admit to problems in the treatment of patients with chronic pain. A number of plans have attempted to develop consistent treatment and coverage policies with various levels of success. Two medical directors reported efforts to bring experts in the treatment of pain management together in their state to come up with treatment guidelines but in both cases they were unable to reach a consensus. One director attributed the difficulty plans faced in this area to the fact that “this is not an established area of medical practice with a wide network of practitioners and accepted methodology by the provider community.” Another problem identified by medical directors was fraud or inappropriate treatment on the part of pain providers. Plans also had difficulty identifying appropriate experts or high quality individual providers as well as pain centers.

Based on these findings, it is clear that more attention needs to be focused on coming to a consensus on what is effective treatment or developing evidence based guidelines for treatment of chronic pain and on developing better and clearer standards for certification of individuals and facilities qualified to care for pain patients.

For a complete report of Professor Hoffmann’s findings see D. Hoffmann, “Pain Management and Palliative Care in the Era of Managed Care: Issues for Health Insurers,” 26 J. of Law, Medicine & Ethics 267 (1998).

Faculty Research: David Hyman
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the off-budget feature of many of the reforms, it should come as no surprise that consumer protection against managed care is particularly prone to legislative posturing and overreaching.

This research analyzes the most popular consumer protection initiative to date: legislation limiting or eliminating the economic incentive for an “early” postpartum discharge—commonly referred to as a “drive-through” or “drive-by” delivery. Once the issue came to public attention, these laws were enacted throughout the nation with breathtaking speed. Despite this overwhelming legislative enthusiasm, the case for such a law is actually extraordinarily flimsy. There is little or no evidence indicating postpartum stays of the specified length provide any benefit, regardless of how one defines benefit. Even if such stays provide a benefit, it does not follow that the benefit justifies the associated cost, or that the same results cannot be achieved in some other way at lesser cost. The law also creates perverse incentives for the coverage of post-discharge services and coverage decisions in general.

The campaign against drive-through deliveries also illustrates some problems familiar to students of regulatory theory. The case for extended postpartum stays was based almost entirely on wrenching (but extraordinarily unrepresentative) horror stories. The “reform” exploited social reluctance to make explicit cost/benefit trade-offs in matters of public health and safety. When legislators faced even a portion of the costs of their decisions, the certitude with which they condemned drive-through deliveries developed some exceedingly large loopholes. The health care providers who testified in favor of the proposed consumer protection neglected to mention that the issue was merely the opening salvo in their campaign against managed care—and their preferred remedy was a return to the model of professional dominance whose excesses led to managed care in the first place. Worse still, the campaign distracted attention from far-more serious problems with the quality of American medicine, and made it less likely those problems will ever be addressed.

The only clear winners from the campaign against drive-through deliveries were physicians, who framed the normative boundaries of the debate over the regulation of managed care in their favor, and set the stage for additional doctor-friendly regulation. An extended postpartum stay turns out to be just what the doctor ordered, but such stays turn out to be for the physician’s benefit, not the patient.

Professor Hyman’s article will be published in the North Carolina Law Review (forthcoming 1999).
Prior to becoming an attorney, Jaime Doherty earned his living as a reporter writing about health law issues. After spending five years as Communications Director of the American Health Lawyers Association (formerly the National Health Lawyers Association) in Washington, D.C., he realized that he was dissatisfied with his role as an observer. He wanted to be more of a participant—a "player" in the health law arena.

As an attorney, his choice of specialization was greatly influenced by his familiarity with health law issues gained during his days as a reporter, and also by the fact that his father was a health care lawyer who was involved in the very beginnings of the managed care movement.

The fact that Doherty sees health law as law with "a human face,"—always changing, and thus always interesting—played a role in his choice, as well.

Doherty says, "I feel very fortunate to have had the opportunity to practice health law in a variety of legal settings over the years... the students who sign up for my class tend to have a wide range of health care backgrounds, and I like to think that my varied career gives me the luxury of finding some common ground with each of them."

After passing the bar, Doherty spent four years as an associate with a D.C. law firm which specialized in representation of managed care organizations, providers and other health care entities.

He then became associate counsel for a Fortune 30 proprietary hospital chain, and from 1993 to 1997 was employed as senior counsel for integrated services at Johns Hopkins Health Systems.

At Hopkins, he was responsible for managed care contracting with government and commercial third party payors for affiliated physicians and hospitals, and for development of a five-state primary and specialty physician network.

Today Doherty is his own boss—a principal in the Maryland law firm of Pecore and Doherty, LLC, representing managed care organizations, health systems and individual, group and institutional health care providers.

He says, "I love practicing managed care law because of the sheer diversity of the subject matter and the practice. You are exposed to a never ending array of legal, financial and clinical issues, and you interact with health care providers and patients, corporate executives, finance professionals, regulators and other attorneys. You are often faced with issues for which there are no predetermined, easy or obvious answers."

Doherty's desire to teach grew out a revelation that he could be a more effective lawyer if his clients possessed a basic knowledge of the legal issues. By carefully explaining these issues to his clients—in essence, by educating his clients—Doherty found he could do a better job as an attorney.
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Adjuncts
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It is a combination of Doherty's passion for health law, his desire to educate, and the sum of his experiences as a health law attorney that makes him an excellent teacher and gives his classes highly sought after by L&HCP students.

"In many ways, Legal Issues in Managed Care was a tough course to begin teaching," he says. "There was no good textbook available and the statutory and case law are still evolving at a frenetic rate, owing in large part to the public controversy surrounding managed care." Doherty developed the syllabus and course materials from scratch.

He says as he was planning the course, he realized that he was frustrated as a young health care attorney by being forced to learn the law piecemeal.

"The 'big picture' did not coalesce in my own understanding until well into my career. One of my main goals is to give my students the beginning of a framework for analyzing the health care system that will allow their own understanding to develop faster and more coherently than mine did," he says.

Doherty deals with a lot of substantive law in the course, such as state and federal regulation, liability issues, contracting, etc., as well as basic business and financial issues which helps students understand how managed care works.

"Students need to know where the money comes from, how available dollars are distributed, who is at risk for the costs of care, how financial incentives are structured. You can't look at the legal issues in managed care in a vacuum," he adds.

He is pleased with the way the course has developed and says that he gives a lot of credit to the faculty and administration of the law school for having the foresight to include a dedicated course in managed care law in its curriculum.

In reflecting on his career choices and on the future of his profession, Doherty appears to be an attorney/health law teacher who likes where he has been and is excited about the future. In addition to his full professional life, he is married to Margaret Leonard, a staff attorney with the Maryland Legal Aid Bureau, and has a daughter, Alice Leonard Doherty.

He looks forward to continuing his dual roles as both a "player" and an educator in the complex and multifaceted disciplines of health law and managed care law.

In The Clinic
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asking about each person's needs and desires. Erica did note, however, that the Health Care Financing Administration had included advocates for consumers in a group of government workers and health care providers that is designing a new universal summary of benefits form for Medicare. HCFA does seem to recognize that the information that Medicare provides now does not fully inform beneficiaries about their benefits and their rights.

However, Brad Stover, who worked directly with elderly clients at Legal Services for the Elderly, noted that he had spoken to seniors who were dropped from their Medicare HMO without notice. They did not know that they did not have coverage until they were charged full price for a prescription or a doctor's visit. He feels that older people may get lost in the shuffle because they do not read the notices they get, perhaps because they have bad eyesight, perhaps because they do not realize the importance of a notice that comes from a government agency. Better communication with this vulnerable group is essential, but health care plans seem to be at a loss as how to do that.

The class discussed whether written notice is effective notice for people who may not have a high level of education, may speak limited English, may have serious disabilities, including cognitive impairments, or may simply not respond to the written word. Assuming that written notice is adequate notice may be a fallacy when addressing low income, elderly, disabled, and immigrant groups.

This point brought the discussion back to a speaker we heard recently, Dr. Peter Beilenson, the Commissioner of Health for the City of Baltimore. Dr. Beilenson has made considerable strides towards a plan which would provide universal health care to all Marylanders. One of Dr. Beilenson's central tenents is that considerable money could be saved in administrative expenses by having a single payer of health insurance, instead of a seemingly endless number of providers in different permutations. The medical association of Maryland is in favor of the plan, because doctors see substantial savings in billing one provider instead of having to employ staff solely to do their insurance billing. Dr. Beilenson estimates that the money that could be saved in administrative expenses would be enough to pay for insurance for all citizens of Maryland who now have no health insurance.

Perhaps this is the way health care will be delivered in the future. What we all agreed on at the end of this course is that the system is far from perfect now, and often operates to prevent people who most need health care from getting it.
Focus on...
Managed Care: New Opportunities in Research, Teaching & Service

LEARNING BY DOING:
Alternative Methods of Dispute Resolution (ADR) in Health Care

The rush to managed care has, among other things, created the impetus for more external review procedures and alternative methods of dispute resolution. The ADR in Health Care course teaches students how to incorporate these processes into the practice of health care law. They learn about dispute resolution by integrating course work with simulations and "real world" experience.

Taught by L&HCP program director Karen Rothenberg and Professor Roger Wolf, the course explores the application of dispute resolution to a variety of health care contexts, including medical malpractice, credentialing, bioethical and disability issues, and insurance disputes. Each week students attend a three hour seminar and take part in a five hour placement—this semester students did their placement work at the Health Advocacy Unit (HAU) of the Consumer Protection Division in the Maryland Office of the Attorney General.

The HAU handles a variety of consumer complaints grouped under the broad categories of quality of care, financial disputes, overbilling, and insurance disputes with managed care organizations.

Student Andy Jaskulsky says, "A lot of my work in the HAU has revolved around making people aware of information and educating them. The experience has taught me the importance of seeing both sides of a situation, and of not taking a side in order to arrive at a solution." She adds that she also likes the problem solving aspect of the HAU work.

Jaskulsky has worked on a case involving a billing dispute generated by the fact that a physician was no longer a member of an HMO, and she has functioned as a mediator between two disputants.

Third year student Michael Imber notes the contrast between working in the HAU and the typical law school class environment.

Imber says, "The HAU is a setting where mediation and compromise are more common. In law school we are taught to focus on one side—our client's position—and attack the other side's position. At the HAU, the process is peaceful, cordial, timely, and more often than not successful for both of the parties involved."

Kevin Simpson is Director of the HAU, and he has found that working with the students has always been "a positive experience." This is the third year students have done field placements at the HAU.

"Maryland health law students bring a great deal of experience [beyond the law] to their work here," Simpson says. "We have had physicians, clinicians, health policy experts, and people who have worked with Medicare and Medicaid among them. Often the students will bring up issues that present a perspective or offer a possible solution to a dispute that we wouldn't have thought of. We value their input."

Student April Mayo likes both the classroom segment of the course and her field work at the HAU. "I enjoy learning about the theory of ADR and then practicing the different methods through class simulations."

She says it has been an adjustment to learn not to take sides in HAU disputes—"but I am learning to be more of a sounding board for complainants"—and she says she is becoming more adept at encouraging solutions that will work for both parties.

Eugenia Liu has handled a variety of managed care-related cases, including one in which an insurance company refused to pay for an emergency room visit because the symptoms did not meet the company's criteria for coverage. Liu researched the issue and drafted an appeal letter for the consumer based on Maryland's "reasonably prudent person" standard.

Liu says that she has written a lot of letters to insurance companies to find out why coverage has been denied and asking that the companies reconsider their decision.

She says, "I have been very surprised at how receptive insurance companies are to these requests, though it may have something to do with the fact that the call is coming from the Maryland Attorney General's Office."
Student Health Law Organization Hosts Cardin Lecture

The Student Health Law Organization began the second semester with what has become an annual law school event—on March 30, 1999, Congressman Ben Cardin spoke to a standing-room-only crowd of Maryland faculty, staff and students on Congressional efforts to deal with a variety of health care issues, including the challenge posed by managed care and the prospects for revival of the proposal to assure health care coverage for all Americans.

Cardin is a Maryland law alumnus who has represented the state's Third Congressional District since 1987 and is currently the ranking democrat on the Human Resources Subcommittee to the Ways and Means Committee.

The Congressman spoke about the inevitable shift to more federal regulation in health care resulting in even the most aggressive state programs being undermined by more powerful federal regulations. He believes that this shift is necessary in today's health care environment.

Conversely, he expressed his concern for the extensive and complicated rules and guidelines under which most managed care organizations operate. He related the managed care horror story of a women who died complaining of chest pains while waiting for permission from her HMO to go the emergency room of her local hospital.

Cardin stated that he foresees little change in a move to universal health care considering the current congressional political balance, and he conveyed concern for the increasing cost to employees of employer health plans and the fact that small businesses are unable to offer health coverage to their workers.

Cardin's formal presentation was followed by a question and answer session.

L&HCP Ties for Second in U.S. News & World Report Survey

The Law & Health Care Program has once again placed in the nation's top health law specialty programs in U.S. News & World Report's annual survey moving up in the rankings to tie for second place. The Program considers the placement a special honor, since law school specialty programs are ranked via a reputational survey completed by faculty who teach in the field.

Once again, the University of Maryland Law School placed three of its specialty programs in the top ten nationwide—the L&HCP, Clinical Law and Environmental Law.
PROFESSOR KAREN ROTHENBERG
Publications:
Selected Presentations:
The 5th Annual Ruth C. Brufsky Memorial Ethics Rounds, Dana-Faber Cancer Institute, Boston, MA (1999)
“Genetics Research and Testing: Ethical, Legal & Social Challenges,” Knight Center for Specialized Journalism, Bethesda, MD (1998)
“Genetics Research and the Jewish Community, National Human Genome Research Institutes, NIH, Bethesda, MD (1998)

PROFESSOR STANLEY S. HERR
Publication:
Selected Presentations:
“Consent and People with Mental Retardation,” American Association on Mental Retardation Training Institute on Consent, Chicago, IL & Washington, DC (1999)

PROFESSOR DIANE HOFFMANN
Publication:
Selected Presentations:

Faculty Award for Excellence in Public Service, University System of Maryland Board of Regents (1999)
Legal Excellence Award for Advancing the Rights of the Disadvantaged, Fellows of the Maryland Bar Foundation (1999)

PROFESSOR DAVID A. HYMAN
Publications:
“Administrative Costs/Executive Salaries/For-Profit Managed Care,” Commentary, Ethical Challenges in Managed Care: A Casebook 176 (1999)
Selected Presentations:
“Drive-Through Deliveries: Is ‘Consumer Protection’ Just What the Doctor Ordered,” University of Missouri (Columbia) Faculty Workshop, Columbia University School of Law, Law and Economics Faculty Workshop, University of Virginia School of Law Faculty Workshop (1999)
Maryland Healthcare Ethics Committee Network Plans Conference

Morality—or how right and wrong are defined in a given context—is shaped through the cultural values, beliefs and traditions with which one is raised. In turn, culture influences health-related behavior and ethical decision making and is, in fact, a critically important part of the ethics consultation process.

The Maryland Healthcare Ethics Committee Network (MHECN) will examine these relevant contemporary issues in an upcoming conference, "Healthcare Ethics in a Multicultural Society," to be held on Thursday, June 3, 1999 at the Harbor Hospital Center in Baltimore. The conference is being cosponsored by the MHECN, Harbor Hospital Center and the Transplant Resource Center of Maryland, Inc.

Conference faculty will explore the underpinnings of cultural diversity and its value and importance for ethics committee members and health care providers, including how cultural issues affect end-of-life decisions, issues of importance for organ donors and recipients, and the responsibility of committee members when faced with consults centering on issues related to culture.

The MHECN grew out of the Baltimore Area Ethics Committee Network which had been in existence since the early 1990s. The organization was reformed early last year to address the broader mandate of Maryland ethics committees influenced by passage of the Maryland Health Care Decision Act and a health care system largely driven by managed care.

L&HCP faculty member Diane Hoffmann was instrumental in the group's reformation and is a member of its executive board. Hoffmann is also editor of the Mid-Atlantic Ethics Committee Newsletter, published by the MHECN.

This is the third conference the group has held since its reorganization. For more information on joining the MHECN or future conferences, please contact network coordinator Anne O'Neill at 410-547-8452.
Chris Coffin Wins 1999 AAMR Student Award

Though he has made many impressive contributions to people with mental retardation and other disabilities during his law school tenure, Chris Coffin says he is both "honored and surprised" that Professor Stan Herr found his work worthy of nomination for the 1999 American Association for Mental Retardation (AAMR) Student Award. Students in every discipline from across the United States were nominated for their scholarship, leadership, dedication and contribution to the field of mental retardation. The award was presented in a ceremony held during the AAMR's 123rd Annual Meeting in New Orleans on May 27, 1999.

Coffin is a recipient of the 1999 Concentration in Health Law designation and has served in the law school's Clinical Law program for fourteen consecutive months. He first worked as a student attorney and then as a teaching assistant in the Civil Rights for Persons With Disabilities Clinic, which Professor Herr directs.

Some of Coffin's achievements include his work with a coalition that led to the approval of the Governor's budget for a multi-million dollar waiting list initiative, eliminating the waiting list for certain services for persons with mental retardation; his efforts to foster a unique partnership between the clinic and Special Olympics of Maryland; and his efforts to educate college-age students with mental retardation about their fundamental legal rights through a local outreach program.

Professor Herr says, "Chris is a persistent and diligent advocate for the rights of persons with developmental disabilities, and he has achieved excellent results in challenging [clinic] cases... he understands that advocacy for people with mental retardation must be conducted on a broader scale, through education of the public and through legislative action."

Coffin received his undergraduate degree in nursing from the University of Cincinnati and continued to work as an R.N. while in law school.

After graduation in May of this year, Coffin will study and sit for the Georgia Bar, and has been accepted for a one year clerkship with the United States Department of Justice Honors Program. He will clerk for Chief Judge Mary Ellen Bittner, Administrative Law Judge of the Drug Enforcement Administration (DEA). The DEA regulates individuals who have been granted narcotic prescribing authority, and oversees prescribing, ordering and other issues related to controlled substances.

Keith Jacobson Receives GGEAR Award

In a ceremony on May 18, 1999, Keith R. Jacobson was presented the 1999 Geriatrics and Gerontology Education and Research Program (GGEAR) Student Award for excellence in clinical service for the School of Law.

The award is granted to students from each of the University of Maryland, Baltimore's six professional schools to recognize their commitment to care of older adults through their educational experiences at the University.

Jacobson was nominated by Professor Joan O'Sullivan, who served as his faculty supervisor in the Health and Elder Law Clinic in 1998 and 1999.

O'Sullivan, director of the L&HCP Health Law Clinic, says, "Keith approached his cases with energy and a positive attitude. He advocated tirelessly for an elderly woman who had been financially abused by her financial agent, a member of her church. While Keith was obviously incensed that the abuse had taken place, rather than jumping immediately to litigation, he learned to defer to the client's wishes and used his persuasive powers to convince a Medicaid worker to find the client eligible to have her Medicare premiums paid for her by the state."

O'Sullivan added, "Keith has developed an acute awareness of the vulnerability of the elderly and their need for strong advocates."

Jacobson, a May 1999 graduate, will soon begin working for the Social Security Administration.
The Journal of Health Care Law & Policy recently selected their 1999-2000 editorial board. The board members include: Scott D. Nelson, Editor-In-Chief, Cindy Tippett, Executive Editor, Julie Finegan, Senior Articles Editor, Anissa Cadar, Managing Editor, Arrah Tabe, Assistant Managing Editor, Lee Ann Lezzer, Traci Douma, and Joe Henry, Articles Editors, and Marisa Ferraro, Notes and Comments Editor.

Now in its third year, the new Journal staff is at work on its fifth symposium issue, "Substance Abuse, Families and the Courts: Legal and Public Health Challenges." (See article on page 1.)
HEALTH LAW PRACTICUMS AND EXTERNSHIPS: The U.S. Attorney's Office, Health Care Fraud Enforcement, Philadelphia, PA

Cathy Thomer, 3D

As the owner of a home health agency, Cathy Thomer brought significant knowledge of the health care industry and a fast-growing interest in health law to the L&HCP. She quickly immersed herself in the opportunities the Program offered, including spending two semesters in the Health/Elder Law clinic during her second year of law school. In the fall of 1998, she completed a practicum at the Maryland Office of the Attorney General, Medicaid Fraud Control Unit.

As a clinic student attorney, Thomer handled a number of cases—voluntary discharge from a nursing facility, welfare benefits overpayment and standby guardianship among them. While completing her practicum, the combination of her varied knowledge and experience made a significant impression on attorney, Carolyn McElroy, who was her field supervisor. It was in fact, McElroy, who brought the externship in the U.S. Attorney's Office in Philadelphia to Thomer's attention and recommended her for the position.

Thomer grew excited as she started investigating the externship—she would have the opportunity to gain hands-on experience in an even wider variety of health law cases; the supervising attorney, Jim Sheehan, Chief of the Civil Division of Health Care Fraud Enforcement, had an impeccable reputation among the Maryland attorneys Thomer interacted with; and the Division had an established placement program for nearby Temple University students. Thomer completed the externship during the spring 1999 semester, earning eight credits for a 32-hour work week.

True to her expectations, the knowledge of health law she gained has been extremely varied. She has written subpoenas, conducted research, interviewed witnesses, both in person and via the telephone, compiled witness summaries, and gathered all of the information necessary to a case investigation.

Specifically, Thomer has worked on reports of fraud involving Medicare and the Federal Employee's Insurance Plan and qui tam actions filed under the False Claims Act. (Qui tam is the technical legal term for the unique mechanism in the federal False Claims Act that allows persons and entities with evidence of fraud against federal programs or contracts to sue the wrongdoer on behalf of the Government.) Thomer also works with State offices that prosecute health care fraud and tries to coordinate each office's efforts when necessary. She has worked with the Department of Justice, Health Care Financing Administration contractors, and the Office of the Inspector General from the Department of Health and Human Services.

At times, people provide information quickly, which is very different from my experience in the health law clinic where parties often didn't 'jump' when...
Concentration in Health Law
Cont. from page 3

L&HCP. With a degree in economics and political science and after spending some time in the military, he focused his career sights on the health policy field. While in law school, he worked in the Health Care Financing Administration's (HCFA) Office of the Attorney Advisor and completed a health law practicum in HCFA's Center for Medicaid and State Operations.

Johnson's interest in health policy both led him to our Program and helped shaped his career path after graduation—he will continue to work for HCFA as an attorney after he passes the bar.

It was Kelly Reeves' interest in food and drug law that steered her to the L&HCP. Reeves took Professor Frank Palumbo's Food & Drug Law Seminar during her second year in law school and won second prize in the H. Thomas Austern writing competition for her paper, "Direct to Consumer Broadcast Advertising: Empowering the Consumer or Manipulating a Vulnerable Public." Reeves completed a health law practicum at the F.D.A. and will practice food and drug law with a major law firm after graduation.

SpotlightOn
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...they found out they were talking to a student attorney," Thomer says. On the other hand, she says that a call from the U.S. Attorney's Office can sometimes be a barrier to people's willingness to provide information.

One long-term project Thomer has worked on is a Memorandum of Law for a qui tam case in which she summarized the entire history of the case.

"It was a good feeling to file that Memo and finally have it become an official part of the case record," she said.

Thomer has nothing but good things to say of the Philadelphia office and the attorneys with whom she works.

"Jim Sheehan has been a wonderful mentor, allowing me to work independently and autonomously, but still providing a traditional educational seminar experience each week," Thomer says.

Every Wednesday, Sheehan discusses a substantive issue in an educational session, which Thomer enjoys because they are from a strictly prosecutorial point of view.

After graduation, Thomer would like to gain some litigation experience, but doesn't rule out working for the U.S. Attorney's Office in the future.