

# LAW & HEALTH CARE

N E W S L E T T E R  
Volume X Number 1

## Focus on . . .

# PUBLIC HEALTH

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The events of September 11<sup>th</sup> and the master settlement agreement resulting from the multi-state tobacco litigation have generated increased interest in, and resources for, public health. These resources have, in turn, created new opportunities for health lawyers. The University of Maryland School of Law and the Law & Health Care Program are taking a number of steps to ensure that our students are well prepared to take advantage of these opportunities. Through the creation of two new Centers, the hiring of a number of new faculty members, and the addition of several new courses, clinics and publications, the School of Law is taking a leadership role in this area.

The mission of public health (as defined by the Institute of Medicine in its 1988 landmark report, *The Future of Public Health*) is to “fulfil[] society’s interest in assuring conditions in which people can be healthy.” Its focus is on the population rather than on any one individual. Despite its importance to our collective well-being, until recently, public health has received only a small portion of existing federal and state health care resources and dollars, and the funding it has received has been dedicated primarily

to treatment of disease rather than the prevention of public health problems.

Over the past few years, prompted by the windfall of the tobacco settlements, and spurred on by the terrorist events of September 11, 2001, states and the federal government have made public health issues a priority. With

*Cont. on page 2*

### FROM THE DIRECTOR

In this issue, we highlight the School of Law’s activities and resources in the area of public health. These include two new Centers—Tobacco Regulation, Litigation and Advocacy, and Health and Homeland Security; three new faculty members—Kathleen Dachille, Michael Greenberger and Ellen Weber; two new clinics—Tobacco Control, and Drug Policy and Public Health Strategy; a new adjunct professor—Allyn Taylor; and a new externship at the Centers for Disease Control, DHHS Office of the General Counsel. These new initiatives have enriched the Law & Health Care Program for both our students and faculty.

We hope you enjoy the issue!

Diane Hoffmann, JD, MS  
Director

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## Law & Health Care Newsletter

is published by the  
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University of Maryland School of Law  
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### L&HCP Faculty:

#### Diane E. Hoffmann, JD, MS

Director, L&HCP and Associate Dean,  
University of Maryland School of Law

There are a number of law school faculty who contribute to the diversity of the Law & Health Care Program through their teaching and scholarship. We share some of these faculty's selected publications, presentations, and appointments in *Faculty Notes*:

Taunya Lovell Banks, JD  
Richard Boldt, JD  
Irving Breitowitz, JD  
Karen Czapanskiy, JD  
Kathleen Hoke Dachille, JD  
I. Michael Greenberger, JD  
Susan J. Hankin, JD, MPH  
Deborah S. Hellman, JD, MA  
David A. Hyman, MD, JD  
Susan Leviton, JD  
Joan L. O'Sullivan, JD  
Thomas Pérez, JD, MPP  
Karen Rothenberg, JD, MPA  
Lawrence Sung, JD, PhD  
Deborah J. Weimer, JD, LLM  
Roger C. Wolf, JD

### Adjunct Faculty (2002-2003)

Ellen Callegary, JD, Callegary & Steedman  
Marc Charmatz, JD, National  
Association of the Deaf  
James Doherty, Jr., JD, Pecore & Doherty, LLC  
Susan J. Dwyer, PhD, University of Maryland  
Baltimore County  
Alan Goldberg, JD, Goulston & Storrs  
Gail Javitt, JD  
Lewis Noonberg, JD, Piper Rudnick LLP  
Jack Schwartz, JD, Maryland Office  
of the Attorney General  
Allyn Taylor, JD, World Health Organization

### Director of Health Law Externships Program Coordinator/Editor:

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Carole Marshall



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forwarded to the above address.*

## Focus on Public Health Cont. from page 1

funding no longer the impediment it once was, states have designed and implemented (or are in the process of designing and implementing) tobacco control, bioterrorism and other public health programs. Maryland has been a leader in this movement and the Law & Health Care Program (L&HCP) and its new academic partners play a unique role in the State's and region's public health strategy.

### Tobacco Control and the Public Health

States have a long history of attempting to control tobacco. In colonial times this included taxing it and regulating the quantity and quality produced. As early as 1632 in Massachusetts and 1647 in Connecticut, efforts were made to manage the use, sale and possession of this substance as an item of agriculture and commerce. Later, in the 1800s, state efforts to control tobacco were part of a general movement to improve the morals of a fast-growing, more industrialized, and increasingly urban United States. An anti-tobacco grassroots sentiment took hold, and by 1901, there was strong anti-smoking activity in 43 of the 45 states.

Beginning in the 1920s, however, two setbacks to the anti-tobacco movement occurred. World War I caused a shift in perception of tobacco from an evil habit to a way to uphold morale on the battlefield, and more importantly, the tobacco industry mobilized its own forces in the promotion and marketing of the commodity. The result was that between 1920 and 1950, tobacco prohibitions were repealed by the states. Though some restrictions remained—such as on access to tobacco by minors—the restrictions were not related to health. For the most part, the states went back to taxing tobacco as a way to maintain control of its sale and distribution.

The situation did not change until 1964, when the surgeon general published a report revealing the health

costs of smoking to those who smoked cigarettes. Then, in 1965, the Cigarette Labeling and Advertising Act was enacted requiring warning labels on the sides of cigarette packs and in advertisements. In exchange, tobacco products received virtual immunity from federal or, by explicit exemption, state regulation as to content and standards, and at the time, even most forms of advertising. Until recently, tobacco has occupied a unique niche—considered neither a food, nor drug, nor a hazardous substance, it was, in effect, protected from state and federal health-related regulation.

In addition to these restrictions on state efforts to regulate tobacco products, states received relatively little federal or other funding to support tobacco control efforts.

The funding picture for states changed, however, when in 1998, the multi-state master tobacco settlement agreement was adopted. The agreement imposed many limitations on the marketing, advertising and lobbying practices of the manufacturers and created a significant influx of funds to participating states to reduce smoking and its related impact on public health. While not all states are using their settlement funds for this purpose, Maryland has targeted prevention, cessation and treatment of smoking related illness as a primary use of its new resources.

As part of this targeted strategy, a small percentage of the state's tobacco settlement funds have gone to the establishment of the School of Law's new Center for Tobacco Regulation, Litigation and Advocacy. The Center, a joint initiative of the SOL's L&HCP and Environmental Law Program, is providing new opportunities for law students to learn first hand about a major public health issue. According to L&HCP Director Diane Hoffmann, "by providing legal expertise and resources to local governments and community groups attempting to reduce smoking and its related health impacts on communities, students will not only be learning new advocacy skills but will also be learning about the relevant constitutional and federal

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preemption issues that arise when local governments attempt to regulate tobacco products.” (See related articles on pages 6-7.)

**Public Health and Homeland Security**

Following the terrorist attacks on September 11, 2001, and the subsequent anthrax scare, a spate of federal and state legislation, executive orders and implementing regulations were

tion, is over \$19 million, \$16,791,405 of which is specifically dedicated to supporting bioterrorism, infectious disease and public health emergency preparedness activities (CDC funds), and the remainder to creating regional hospital plans to respond in the event of terrorism attack (HRSA funds).

According to Secretary Thompson, “[T]his is the first time that federal, state and local governments have come

health emergencies” and implement quarantines, forced vaccinations and other public health measures in such emergencies, eighteen states and the District of Columbia have enacted legislation. During the 2002 session, the Maryland General Assembly passed two bills related to catastrophic public health emergencies and the governor’s emergency powers in the face of such an emergency (2002 Laws of Maryland, chapters 1 and 5).

In response to these events, the University of Maryland Baltimore campus, on which the School of Law is located, has also turned its attention to bioterrorism and public health issues, establishing the University of Maryland Center for Health and Homeland Security. The Center, a joint effort of the campus’ professional schools, has as its goal the coordination and expansion of the university’s scientific research, health programs, policy development, and governmental consulting in homeland security. According to the Center’s director, Michael Greenberger, JD, Law School Professor, “public health and homeland security are issues that the country and the University will need to focus on for a long time. There is no better partner in the School of Law with which to address these important issues than the Law & Health Care Program.” (See related articles on pages 4 and 5.)

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*References:*

*Suzann R. Thomas-Buckle and Leonard G. Buckle, “Shifting Frames, Enduring Foe: Tobacco as a State Health Policy Problem,” in The New Politics of State Health Policy, edited by Robert B. Hackey and David A. Rochefort. Lawrence: University Press of Kansas, 2001.*

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*“[T]his is the first time that federal, state and local governments have come together on a unified plan to strengthen our public health system and better prepare to respond to a terrorism attack.”*

Tommy Thompson  
Secretary DHHS

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promptly enacted, along with numerous new public health and anti-terrorism policies. With these new laws came substantial funding for their implementation in amounts never before seen in the public health world.

Under the “Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorists Attacks on the United States Act” (Pub. Law 107-117), \$1.1 billion was designated to go to states to better prepare for bioterrorism. On January 31, 2002, U.S. Department of Health and Human Services (DHHS) Secretary Tommy Thompson announced that, in order to receive their full share of the funds, states had to submit plans to DHHS for approval. As of June 6, 2002, DHHS had fully approved the plans of 24 states and two cities, including Maryland, to build stronger public health systems and better prepare for a bioterrorism response. Partial plan approval was granted to 24 states and one city. Maryland’s fully funded share of the monies provided by the Centers for Disease Control and the Health Resources Services Administra-

tion, is over \$19 million, \$16,791,405 of which is specifically dedicated to supporting bioterrorism, infectious disease and public health emergency preparedness activities (CDC funds), and the remainder to creating regional hospital plans to respond in the event of terrorism attack (HRSA funds).

According to Secretary Thompson, “[T]his is the first time that federal, state and local governments have come together on a unified plan to strengthen our public health system and better prepare to respond to a terrorism attack.”

On June 12, 2002, President Bush signed into law the Public Health Security and Bioterrorism Preparedness and Response Act (Pub. Law 107-188). In fiscal years 2002-2003, \$4.6 billion dollars has been authorized to combat terrorism and improve public health preparedness, primarily through stockpiling vaccines and medications, improving food inspections and increasing security for water systems. The law also makes \$1.6 billion in grants available to the states for hospital preparedness and assessments of the vulnerability of local water systems.

In addition to being the recipients of significant new resources to fund expanded public health programs, states have responded to the possibility of bioterrorist attacks and other public health threats by passing new legislation. Following the template established by the Model State Emergency Health Powers Act (MSEHPA) to increase the powers of governors to declare “public

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## The UM Center for Health and Homeland Security

**A**t an inter-disciplinary “teach-in” immediately following last year’s September 11, 2001, terrorist attacks, David J. Ramsay, DM, DPhil, President of the University of Maryland Baltimore (UMB) campus, articulated to the deans and faculty in attendance his belief that UMB’s six professional schools, its graduate school, and the campus’ Health and Human Sciences Library were already invested in the type of work that has since come to be known as “homeland security.” President Ramsay felt that it was important that the campus expand and coordinate this work. Thus was born the University of Maryland Center for Health and Homeland Security (the “Center”).

Originally called the Center for Health Security and run on a “volunteer basis” out of President Ramsay’s office, the Center appointed a permanent director, I. Michael Greenberger, JD, Law School Professor, in May 2002. Funded solely by UMB funds, the Center operates within the Office of the President, but is physically located in the School of Law. Since its inception, the Center has begun an ambitious slate of projects, including establishing a website with links that will help average citizens to “take control” of the prevailing homeland security environment; completing a capability study of the UMB professional and graduate schools with respect to research, emergency response efforts, and surveillance efforts for dealing with acts of bioterrorism; and providing legal and administrative assistance to the School of Medicine’s Center for Vaccine Development to establish a Regional Center for Excellence in response to a

request from the National Institute for Allergies and Infectious Disease. In addition, the Center is developing scholarly programs that address health and policy reactions to potential and actual terrorist attacks.

According to Greenberger, in the first year following the September 11th terrorist events, most of the nation’s focus has been on law enforcement and intelligence, with little focus on public health. That must change.

“We will need to focus on such public health issues as first responders and the ability of hospitals to respond to surge demands due to terrorist attacks with [biological] weapons of mass destruction,” notes Greenberger. The School of Law’s focus is primarily on the public health policy and legal issues arising from the War on Terrorism. UMB’s health science schools focus on delivery and response needs.

The Center’s efforts have drawn significant media attention: several articles have appeared in local and national newspapers, Greenberger has been interviewed on local and national news programs, and a local television station is filming a segment on the Center and its activities. Greenberger expects that the interest in health and homeland security will continue.

“There are too many vulnerabilities. Concerns about terrorism and weapons of mass destruction will never be put to rest.” Greenberger anticipates that, for some time to come, with help from the School of Law, the Center will continue to explore contract, intellectual property, bioethics, constitutional, and other legal and policy issues as they relate to public health and homeland security.

### I. Michael Greenberger

**I** Michael Greenberger, JD, recently joined the School of Law faculty as Law School Professor and Director of the University of Maryland Center for



*I. Michael Greenberger*

Health and Homeland Security.

Following the record number of students accepting enrollment in the School of Law’s 2001 entering class, Greenberger was hired as a visiting professor during the 2001- 2002 academic year.

The timing was uncanny.

Greenberger, an expert in bioterrorism and corporate securities issues, came to the School just prior to the events of September 11, 2001, and the soon-to-follow scandal involving energy giant Enron’s corporate misconduct. He brought to the School of Law and the L&HCP a combination of specialties unrivaled in any law school at the time.

#### **Bioterrorism: War Games and Beyond**

Greenberger’s expertise in terrorism began one day in February, 2000 when he looked up from his desk at the U.S. Department of Justice and saw his boss, Janet Reno, the nation’s attorney general, standing there.

“Michael,” Reno announced, “I’m going to make you a counterterrorism star!”

She told Greenberger he was now in charge of planning the nation’s biggest-ever mock terrorism drill. Greenberger had no experience in the counterterrorism field but had always prided himself on being a quick study of new challenges and his manage-

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ment background gave him confidence in his ability to pull off big projects that depend on sustained teamwork. Reno told him that he had two months to assemble the exercise, which would come to be known as TOPOFF, an abbreviation for the “top officials” whose responses were being tested.

“That threw me right into the middle of it,” Greenberger recalls. “All of a sudden, I was down there every day with the FBI and the CIA and the NSC and the CDC and the Department of Defense. It was very, very intense.”

The TOPOFF drill Greenberger orchestrated that spring unfolded simultaneously in two cities and involved nearly every member of then-President Clinton’s Cabinet. A dozen Black Hawk helicopters descended on Portsmouth, N.H., in response to a chemical explosion. A bioterrorist attack in Denver left 600 actors feigning symptoms of the plague. A separate but related exercise planned by Greenberger simulated an attack on the suburbs of Washington, D.C.

Lessons learned during TOPOFF helped medical, political, and military leaders improve plans for responding to terrorist attacks that inflict mass casualties and illnesses in numbers capable of overwhelming the public health system. The exercise was such a success that Reno made Greenberger a permanent member of her counterterrorism team.

Greenberger stayed at the Justice Department until the Bush Administration took office. After signing on as a visiting professor at the University of Maryland School of Law in 2001, he assumed his days in counterterrorism were behind him, but then came September 11<sup>th</sup> and a brand new interest in homeland security.

### Professor Greenberger

After teaching trademarks and contracts courses in the fall of 2001, students identified Greenberger as a

stellar teacher and enrollment in his spring 2002 course entitled “Homeland Security and the Law of Counterterrorism”—originally planned as a seminar limited to 15 students—soared to 50 students. The course was unique, possibly the only one of its kind at the time. Because of its cutting-edge content, Greenberger used an “electronic textbook” that allowed him to adapt to this quickly moving area of law. He will teach the course again this year.

Greenberger is also developing a complementary, interdisciplinary course with Dr. Malinda Orlin, VP for Academic Affairs and Dean of the Graduate School, for the campus. The new course will be offered next spring and will focus on the public health issues arising from the War on Terrorism.

In addition to his appointment as Professor of Law, Greenberger directs the University of Maryland Center for Health and Homeland Security. (See article, page 4.) In that role, he will be the keynote speaker at a Community Issues Forum entitled “Health and Homeland Security: Taking Control” at which representatives from each of UMB’s professional schools will give advice to citizens on issues relating to health and homeland security. He was also a presenter at this year’s School of Law “teach-in” held on September 11, 2002.

### Enron: Just Another of Greenberger’s Specialties

In 1997, Greenberger served as the Director of the Division of Trading and Markets at the Commodity Futures Trading Commission (CFTC). He also served on the Steering Committee of the President’s Working Group on Financial Markets, and as a member of the International Organization of Securities Commissions’ Hedge Fund Task Force. At the CFTC, Greenberger was responsible for supervising

exchange traded futures and derivatives. Loosely accounted for, “derivatives” are used to “hedge” against risk or speculate about changes in the price of commodities, including energy. During Greenberger’s tenure, the head of the CFTC argued that derivatives are futures contracts over which the CFTC has jurisdiction. Following an intense lobbying effort by Enron, which was heavily into the derivatives market, Congress passed the Commodity Futures Modernization Act which made a clear statement that derivatives are exempt from regulation by the CFTC.

Having left the CFTC in 1999 to join the Department of Justice, Greenberger thought his derivatives—and Enron—days were over. But, with the collapse of Enron in the fall of 2001, as one of the early advocates for regulation of the derivatives market, Greenberger suddenly found himself in high demand for comments on the situation. As it turns out, the provision of gas and power was only a small part of Enron’s business. The vast majority of its business involved derivatives. Understanding the derivatives market like few others, Greenberger has frequently been asked to speak both in the media and at academic gatherings about issues pertaining to financial regulation. He has appeared on the ABC Evening News, The Jim Lehrer News Hour, and C-Span to discuss financial issues arising out of the Enron, Arthur Anderson, and WorldCom scandals.

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This article includes excerpts from an article that will appear in an upcoming issue of *Maryland Magazine*. The excerpts have been reprinted with permission of the University of Maryland Baltimore Office of External Affairs.

## The Center for Tobacco Regulation, Litigation and Advocacy

Last fall, the L&HCP Newsletter reported that it had received funding to establish the Center for Tobacco Regulation, Litigation and Advocacy (the "Tobacco Center"). (See "The Center for Tobacco Regulation, Litigation & Advocacy," Fall 2001 L&HCP Newsletter.) The Tobacco Center was launched last fall and has made remarkable strides toward achieving its goals of providing legal support to communities and local governments wishing to reduce smoking, the sale of tobacco products to minors, and the dangerous health effects of tobacco products.

During its first year of operation, the Tobacco Center:

- ◆ collected legal documents (including state and local laws, regulations and ordinances, court opinions and Attorney General opinions) relevant to tobacco control for inclusion in its database,

- ◆ conducted a needs assessment to determine the types of assistance local governments would like from the Tobacco Center,

- ◆ responded to questions about the law and enforcement issues from local governments,

- ◆ worked with the School of Law's Community Law in Action initiative and the Maryland Office of the Attorney General to conduct "sting operations" at retail stores in Baltimore City,

- ◆ worked with faculty and students in conjunction with a seminar on tobacco control and the law.

In July 2002, the Tobacco Center named Kathleen Hoke Dachille, JD (see article below), its permanent director. For Dachille, the appointment was the natural progression of a legal career focusing on the impact of guns and tobacco on the public health. Working for Maryland Attorney General Joseph Curran, Jr., who took the lead

nationally on public awareness of tobacco issues, Dachille prepared reports, legislation and testimony on tobacco-related issues; created a program to reduce youth access to tobacco in Maryland; and helped local governments to establish effective tobacco control. In her new role as Director of the Tobacco Center, Dachille will continue this work and move it into the national arena.

"There is no hope to defeat the tobacco lobby at the federal level, and it is incredibly difficult at the state level," notes Dachille. Tobacco industry lobbyists are much less effective at the local level, however, making passage of product placement ordinances and youth enforcement programs easier at the county level. The Tobacco Center will empower local governments to know what they can do to reduce the impact of tobacco on the public health, how to get it

### Kathleen Hoke Dachille

Kathleen Hoke Dachille, JD, a 1992 graduate of the School of Law, has joined the law school faculty as a Law School



Kathleen Hoke Dachille

Assistant Professor and Director of the School's Center for Tobacco Regulation, Litigation & Advocacy (the "Tobacco Center"). Following her graduation, Dachille clerked for Judge Lawrence Rodowsky of the

Maryland Court of Appeals and was an associate at Piper Rudnick LLP (formerly Piper & Marbury). She then took a position in the Civil Litigation Unit of the Office of the Maryland Attorney General where she worked for eight years. During her last three years with the Attorney General, Dachille worked on public health issues including gun control from a public health perspective, tobacco regulation and control, and the proposed conversion of Blue Cross/Blue Shield to a Maryland for-profit entity.

While an assistant attorney general, Dachille developed a "sting" program to identify retailers who were unlawfully selling cigarettes to minors. The first sting took place in April 2001 in

Baltimore City, Baltimore County and Prince George's County (a suburb of Washington, D.C.) Three teenagers (ages 15, 16 and 17) were sent to a sampling of convenience stores and gas station "mini marts" to purchase cigarettes. Disturbingly, the teenagers were able to complete their purchases 65% of the time, despite a Maryland law on the books since the mid-1980s prohibiting retailers from selling cigarettes to persons under 18 years of age. The Office of the Attorney General decided to take the results of the first sting operation as an opportunity to send a message to the public health community that something is wrong and to tobacco retailers that the State intends to do

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### THE NATIONAL TOBACCO CONTROL LEGAL CONSORTIUM

The Tobacco Center will also be working with the newly established National Tobacco Control Legal Consortium (the "Consortium"), a group of attorneys providing help to jurisdictions to set up legal resource centers for tobacco control. Dachille, in her role as Director of the School of Law's Center for Tobacco Regulation, Litigation & Advocacy, has been named a member of the Consortium's Steering Committee.

The Consortium will provide many innovative services to local governments and practicing attorneys interested in tobacco control. For example, the Consortium will establish a Rapid Response Team to provide help to local or government attorneys, and may provide a team of legal experts to assist with litigation over tobacco control when the local attorney does not have the background or experience to handle the lawsuit. The Consortium will also provide training to attorneys who wish to be part of the tobacco control "movement" but do not have the expertise in the law and issues surrounding tobacco regulation and control.

done, and ultimately how to enforce the ordinances that they pass.

With continued funding from the State, the Tobacco Center has a long list of projects aimed at assisting local governments, agencies and community groups interested in developing new or enforcing existing tobacco control efforts.

During the upcoming year, the Tobacco Center, through Dachille and Managing Attorney Michael Strande (also a School of Law graduate), will build the infrastructure for a legal office and begin to offer legal information and services to local governments and community groups interested in developing new or enforcing existing tobacco control efforts. The Tobacco Center will also provide technical support to attorneys in tobacco cases, including legal research, information on environmental tobacco smoke (ETS), expert referral, and/or drafting briefs or arranging for amicus briefs for attorneys representing local governments or

citizens groups. Dachille has already received requests from jurisdictions for guidance on legal issues such as authority to act, liability, and validity of procedures in conducting compliance checks.

Students at the School of Law will have an opportunity to work on a number of the Center's projects while

participating in the Law School's newly created Tobacco Control Clinic. Under Dachille's supervision, they will work with local jurisdictions and public health departments through such activities as litigation support, drafting and legal analysis of ordinances, meetings with local government

*Cont. on page 16*

something about it. In fact, the State had to do something about it in order to preserve federal funds for substance abuse treatment and prevention that are tied to reducing youth access to tobacco in the State.

Dachille created an educational brochure for tobacco retailers outlining "best practices" that they could adopt in order to comply with current laws. In addition, she worked one-on-one with local governments to establish enforcement programs. Dachille then "took the program with her to the Tobacco Center." Now, the Community Law in Action (CLIA) clinic is involved with Baltimore City's sting operation, with two School of Law students

working this year to "fine tune" the sting program and CLIA's involvement in it.

As mentioned, another of Dachille's projects at the Office of the Attorney General was the proposed Blue Cross/Blue Shield conversion to for-profit status. When CareFirst (Maryland's BC/BS provider) made known its desire to convert to for-profit status several years ago, the question arose as to whether the assets of a non-profit entity such as CareFirst are a charitable trust and, thus, under the authority of the Attorney General. Dachille was assigned the project and became the conversion expert. In this role, she investigated CareFirst's claims that it *needed* to convert to for-profit status,

taking an historical look at CareFirst's business practices to see what caused their financial concerns (for example, excessive compensation and severance packages), and meeting with representatives from another state's successful non-profit BC/BS organization to see how to bring such a model to Maryland. During the 2002 legislative session, Dachille advised the Maryland General Assembly as to the constitutionality and legal technicalities of the progressive reforms being introduced.

Dachille will teach the Tobacco Control Clinic in the fall as well as during the spring semester.

## WHO's Allyn Taylor to Teach International Public Health Law

In the spring 2003 semester, the School of Law will offer a seminar on International Public Health Law. The course will be taught by Allyn Taylor, JD, LL.M., J.S.D., a Health Policy Adviser with the World Health Organization (WHO), and will explore the forces that are driving international interest in public health and the organizations that affect the development of international law. The class will address such issues as tobacco control, cloning, disabilities, infectious disease, and access to medicine. Taylor will also discuss public health and war, focusing on the weaknesses in international law. "International Public Health is a course traditionally taught in schools of public health," notes Taylor. "I think it is wonderful that the focus of the Law & Health Care Program runs the gamut of nontraditional health law courses. The diversity of courses in the Program makes a statement for the School of Law."

Taylor has been interested in the role of the United Nations (UN) and WHO in human rights and health equity since receiving a Ford Foundation Fellowship to study the role of international law in advancing health at Columbia Law School. Prior to receiving her LL.M. and J.S.D. from Columbia, Taylor, a graduate of Boalt Hall School of Law, practiced for three years as a corporate finance lawyer at Simpson, Thatcher & Bartlett in New York City.

While writing her dissertation on the UN and WHO, a WHO representative read an article written by Taylor and asked her to consult with the organization on human rights and health equity. Specifically, WHO wanted to know

how it could use UN treaty bodies to advance health-related human rights. Taylor later met Ruth Romer at UCLA, and together they developed the idea for the Framework Convention on Tobacco Control (FCTC). The two wrote a feasibility study which was adopted by the World Health Assembly (the governing body of WHO) in 1995. Things did not move ahead, however, until Dr. Gro Harlem Brundtland (the former Prime Minister of Norway)

States Bureau of Alcohol, Tobacco and Firearms and held at the United Nations Headquarters in New York City this past July. Three School of Law students joined Taylor as WHO interns at the conference. (See related article, page 9.) At the ICITT, participants developed new approaches and recommendations on effective measures and best practices to address illicit tobacco trade. These recommendations will be presented at the next

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*"The Framework Convention process will activate all those areas of governance that have a direct impact on public health. Science and economics will mesh with legislation and litigation. Health ministers will work with their counterparts in finance, trade, labour, agriculture and social affairs ministries to give public health the place it deserves. The challenge for us comes in seeking global and national solutions in tandem for a problem that cuts across national boundaries, cultures, societies and socio-economic strata."*

Dr. Gro Harlem Brundtland  
Director-General, World Health Organization

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became WHO's Director General. Following her appointment, the FCTC became the first convention (similar to a treaty) ever to be developed under WHO auspices in its 54-year history. Other organizations, such as the UN, have developed hundreds of international treaties.

On behalf of WHO, Taylor recently attended the International Conference on Illicit Tobacco Trade (ICITT) which focused on one of many subjects covered by the negotiations conducted under the FCTC. The ICITT was organized by the United

negotiating session of the FCTC to be held in Geneva, Switzerland, in October 2002. One of the School of Law students, Andrew Bokan, has been asked by the WHO to participate in the Geneva session.

Taylor also represents WHO on an ad hoc committee to prohibit reproductive cloning of human beings, an initiative begun by the UN. She also hopes to participate in a separate UN initiative on disabilities and human rights. Beginning this fall, Taylor will maintain her local WHO office at the School of Law.



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## L&HCP Student is WHO Intern at Conference on Illicit Tobacco Trade

by Susan Bankowski '03

Two years ago, in an initiative spearheaded by Maryland Adjunct Law Professor Allyn Taylor, the 191 states of the World Health Organization ("WHO") launched an effort to address "the spectacular rise and spread of tobacco consumption around the world." The effort is called the Framework Convention on Tobacco Control ("FCTC") and is a legally binding, incremental approach to international lawmaking. As part of the FCTC, WHO held its International Conference on Illicit Tobacco Trade ("ICITT") at the United Nations Headquarters in New York City in July 2002. This past summer, I was chosen to be a WHO intern at this Conference.

The ICITT was hosted by the United States through the Bureau of

Alcohol, Tobacco and Firearms (BATF) and was held to expand the expertise brought to the FCTC by encouraging member states to bring delegates that represent their nations'

revenue, customs, and law enforcement departments. Through these experts, the ICITT worked to develop solid approaches, ideas, and recommendations for effective measures or

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*"The WHO legal staff was extremely impressed by the high caliber and the professionalism of the Maryland law students. All of the students were given highly demanding legal work during the conference, including drafting and coordinating summary reports and conference proceedings as well as drafting proposed text for the Framework Convention. The students performed extraordinarily well during this fast-paced conference that included rapidly changing priorities and corresponding legal tasks."*

Allyn Taylor, World Health Organization, and Adjunct Professor, University of Maryland School of Law



A group of interns at the International Conference on Illicit Tobacco Trade at the United Nations Headquarters in New York City. Second from right: Susan Bankowski. Fifth from right: Allyn Taylor.

best practices to address illicit tobacco trade. The three working groups focused on:

- 1) Labeling, Tracking and Tracing, Border Controls, Counterfeit and Contraband;
- 2) Information Sharing, Mutual Assistance and International Cooperation; and,
- 3) Licensing and Record Keeping.

I, along with two other Maryland Law interns, Gemma Vestal and Andrew Bokan, served on a team of lawyers, international relations specialists, economists and interns to provide note-taking, legal drafting and summary writing at the convention's various sessions. This conference was a unique effort to bring different organizations together in order to

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# L&HCP Faculty Notes . . .

## **ASSOCIATE DEAN DIANE HOFFMANN**

### **Selected Presentations:**

"Laws Regarding Genetic Testing: Who Can Require Testing or Obtain Access to Genetic Test Results," Inaugural Symposium: Genetic Privacy and Discrimination, University of Rochester Medical Center, Rochester, NY (2002)

"State Efforts to Expand Health Insurance Coverage," 26th Annual Health Law Teacher's Conference, Indiana University of Law & The Center for Law and Health, Indianapolis, Indiana (2002)

### **Awards/Appointments:**

Appointed to Editorial Advisory Board, Food and Drug Law Journal (2002)

### **In the News:**

Hoffmann's article: "The Girl Who Cried Pain: A Bias Against Women in the Treatment of Pain," 29 *Journal of Law, Medicine & Ethics* 13 (2001) (with A. Tarzian) was the basis for a feature story in the New York Times: "Hurting More, Helped Less?: When it Comes to Enduring Pain, Women Have Cause for Complaint," NY Times, June 23, 2002, at Sec. 15, p. 1.

## **PROFESSOR DAVID A. HYMAN**

### **Publications:**

"HIPAA and Health Care Fraud: An Empirical Perspective," *Cato Journal*, Vol. 22, No.1, 151 (2002)

"Medical Malpractice and the Tort System: What Do We Know and What (If Anything) Should We Do About It?," *Texas Law Review*, Vol. 80, No.7, 1639 (2002)

"Health Care Fraud and Abuse: Market Change, Social Norms, and the Trust 'Reposed in the Workmen'," *Journal of Legal Studies*, Vol. XXX (2001)

## **ASSOCIATE PROFESSOR JOAN O'SULLIVAN**

### **Publications:**

"The Role of the Attorney for the Alleged Incapacitated Person," Stetson University School of Law, XXXI *Stetson Law Review* (2002)

"In Memoriam: Stanley S. Herr," 8 *Clinical Law Review* 307 (2002)

*Adult Guardianship Bench Book* (with Andrea Imredy Saah, JD), The Maryland Institute for Continuing Professional Education of Lawyers (2002)

### **Selected Presentations:**

"Informed Consent, Surrogacy and Informed Consent for Sexual Situations," The Association of Retarded Citizens of Florida, Cocoa Beach, FL (2002)

## **ASSISTANT PROFESSOR THOMAS PEREZ**

### **Publications:**

"The Civil Rights Dimension of Racial and Ethnic Disparities in Health Status" in BD Smedley, AY Stith, and AR Nelson (Eds.), *Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care*, Washington, D.C.: National Academy Press (2002)

## **DEAN KAREN ROTHENBERG**

### **Publications:**

"Before It's Too Late - Addressing Fear of Genetic Information," (with Sharon F. Terry) 297 *Science* 196 (2002)

"Eulogy for Stan Herr," 8 *Clinical Law Review* 293 (2002)

"Building Community, Recognizing Dignity: Beyond the ADA," (with Professor Alan Hornstein) 25 *Mental & Physical Disabilities Law Reporter* 709 (2002)

### **Presentations:**

"Grimes v. Kennedy Krieger Institute: Implications of the Decision for the Duty of Researchers," at Research with Children: The New Legal and Policy Landscape Conference sponsored by The American Society of Law, Medicine & Ethics, The University of Maryland School of Law, and the University of Maryland School of Medicine, Baltimore, Maryland (2002)

### **Honors and Appointments:**

Fellow of the American Bar Foundation (2002)

The Daily Record Maryland's Top 100 Women Award (2002)

Honorary Fellow of the American College of Legal Medicine (2002)

### **In the News:**

Guest, WUSA-TV Channel 9 News, "Genetic Discrimination" (July 17, 2002)

Guest, ABC News, "Living Longer," (ABC News special about the societal implications of people living longer lives) (August 30, 2002)

## **ASSISTANT PROFESSOR ELLEN WEBER**

### **Appointments:**

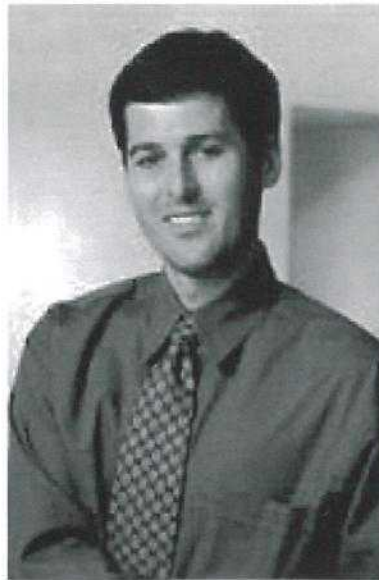
Institute of Medicine Committee on Vaccines Against Drugs of Addiction. (2002-2003)

# UM Professor David Hyman Serving as Special Counsel to Federal Trade Commission

Last fall, School of Law Professor David Hyman was asked to serve as Special Counsel in the FTC's Office of General Counsel. The FTC has had a long history in developing and implementing competition policy for health care. The FTC has brought significant cases against physicians, hospitals, professional associations, and a wide range of other entities in the health care market. In the past year, the FTC has pursued several important cases against pharmaceutical companies for anti-competitive conduct that restricted the availability of generic versions of particular drugs. The FTC has also pursued price-fixing cases against a number of physician groups and obtained consent orders in those cases.

Health care is a particular interest of FTC Chairman Timothy Muris. On November 7, 2001, Muris told the Subcommittee on Commerce, Trade and Consumer Protection of the House Energy and Commerce Committee that, in addition to continuity of the FTC's enforcement initiatives, the FTC is committed to studying the evolving health care marketplace and developing antitrust policy. The FTC intends to hold public hearings, conduct studies, and issue reports to Congress and the public on its findings. Hyman was called upon to help effect that mission.

Since November 2001, Hyman has been working with the FTC's General Counsel, William Kovacic, on a number of projects concerning the role of competition law and policy in dealing with the health care marketplace. In July, the FTC made public the first of Hyman's projects, a Workshop on Health Care and Competition Law and Policy. The Workshop, held September 9-10, 2002, in Washington, D.C., considered the impact of competition law and policy on the cost, quality and



David Hyman, MD, JD

availability of health care and the incentives for innovation in the field. Representatives of federal agencies and state governments, academics, and private individuals presented on topics including: competition and antitrust in health care; recent developments in the health care market; health care initiatives of the FTC, DOJ, and state attorneys general; and an empirical perspective on health care competition policy. Panel presentations included: provider integration; health insurance payor/provider issues; hospital group purchasing organizations; generics and branded pharmaceuticals; and direct-to-consumer advertising of pharmaceuticals. School of Law students were invited to attend the Workshop.

Hyman is also busy at the School of Law this fall teaching Health Care Finance and Regulation, an upper level seminar that considers a variety of issues relating to the regulation and financing of health care in the United States, focusing on legal doctrines, institutions and policy choices that are the foundation of the current health care system. Hyman hopes that

students in the course will come to appreciate the complexity of the legal doctrine and framework affecting health care delivery in the United States. In addition, students will examine the conflicting ideas from which these laws and policies flow, exploring the "moral battleground" of health care.

In addition to his FTC and teaching activities, Hyman has written several recently published articles on fraud and abuse and result-based compensation for health care providers. In the June 2001 issue of the *Journal of Legal Studies*, Hyman examines health care fraud and abuse by looking at social norms—that is, what people think is appropriate behavior, regardless of what the law says. Hyman has also recently written on fraud and abuse as it is affected by the Health Insurance Portability and Accountability Act (see *Cato Journal*, Vol. 22, No. 1 (Spring/Summer 2002)). Both of these articles are available on Hyman's faculty website, [http://www.law.umaryland.edu/fac\\_hyman.asp](http://www.law.umaryland.edu/fac_hyman.asp). Hyman also published two articles on result-based compensation, one in the *Journal of Law, Medicine & Ethics* and the other in *Washington & Lee Law Review*. Both were co-authored with Professor Charles Silver of the University of Texas School of Law. A fifth article, looking at medical malpractice and the tort system, was published in the *Texas Law Review* in June 2002 (Vol. 80, No. 7).

Hyman's current appointment at the FTC (an intergovernmental "IPA" in which he spends one half of his time at the FTC and one half at the School of Law) runs until June 30, 2003.

# IN THE HEALTH LAW CLINIC

*The School of Law offers, as part of its regular curriculum, a nationally ranked clinical law program in which faculty members who are practicing attorneys supervise law students in the representation of actual clients. For those students with an interest in health law, the clinic represents clients in cases involving, among other things, health care for children, legal issues of the disabled, mental illness, AIDS, and the elderly. Clinics in which health law clients are served include Civil Rights of Persons with Disabilities; Economic, Housing and Community Development; Drug Policy and Public Health Strategy; Health Care Delivery and Child Welfare: The Challenge of the AIDS Epidemic; Elder Law; Tobacco Control; and Juvenile Law, Children's Issues and Legislative Advocacy. This issue of the L&HCP Newsletter focuses on the Drug Policy and Public Health Strategy Clinic.*

**T**he Drug Policy and Public Health Strategy Clinic is a new offering at the School of Law that explores drug and alcohol dependence—a significant national, state and local issue—from a public health perspective. According to Ellen Weber, who recently joined the law school faculty and who co-teaches the Clinic with Associate Dean and Professor of Law, Richard Boldt, the course will provide both a theoretical and practical understanding of alcoholism and drug dependence, the individuals who suffer from these complex diseases, and the rationale and value of pursuing a public health approach to address the substantial human, health, social and economic costs of these diseases.

The Clinic will provide students with a combination of policy projects and direct representation of clients who

have suffered discrimination because of their history of drug dependency. Although the Clinic is brand new this semester, the students have already jumped into their first project, attending a federal court hearing in which a substance abuse treatment center faced opposition to its request to open a program that would serve more of Baltimore County's large population of substance abusers. According to Weber, this case is an excellent example of the tension between two governmental policies: the need to expand resources to better treat Baltimore County residents with drug and alcohol dependence problems and the use of zoning laws to exclude certain individuals from the community. Students will continue to examine how zoning standards affect the delivery of health services by examining whether Baltimore City's standards for siting alcohol and drug treatment services comply with federal anti-discrimination statutes (e.g., the Americans with Disabilities Act and the Fair Housing Act) and crafting recommendations to correct any practice or standard that violates those laws.

Students in the Clinic will also work on a City-wide legal needs assessment of individuals who are participating in alcohol and drug treatment programs in Baltimore City. This project will provide the context for learning about and applying the federal rules which protect the confidentiality of information regarding persons who are treated in a qualifying substance abuse treatment program (42 C.F.R. Part 2). These regulations were intended to attract people to treatment and ensure that they were not placed in a more vulnerable legal, economic or social position by coming forward for treatment and acknowledging their status as an alcohol or drug user.

Although the housing, child care and other similar needs of persons in treatment have been studied, these individuals may also have specific legal needs that the Clinic students will study. After determining the gaps in legal services available to persons receiving alcohol and drug treatment, the students may provide educational programs or make referrals. Future Clinics may provide direct legal services to these individuals.

One project Weber believes students will find particularly appealing is the direct representation of individuals who, on account of their history of alcoholism or drug dependence, have faced employment, licensure, housing or another form of disability-based discrimination. In order to represent these clients, "students must look across many different systems and regulations with which these persons come into contact." In addition, students must look at their clients' needs from a health perspective rather than the historical punitive or criminal justice perspective.

Weber joined the School of Law faculty in June 2002 after 17 years at the Legal Action Center where she examined the panoply of issues that arise from alcohol and drug abuse. She served as an advocate on Capitol Hill and on behalf of her clients before agencies that are responsible for providing services to individuals with substance abuse problems. She has studied various options to address issues related to substance abuse, including the expansion of Medicaid and stand alone programs. Weber will continue the Drug Policy and Public Health Strategy Clinic in the spring semester. She will also co-teach the Mental Disability Law course with Professor Boldt.

# Spotlight on . . .

## HEALTH LAW PRACTICUMS AND

### EXTERNSHIPS: Centers for Disease Control

by Karen Smith Thiel '04

One of the reasons I chose the University of Maryland School of Law was because of its Law & Health Care Program (L&HCP). I have worked for the U.S. Department of Health and Human Services for the past twelve years; first as the Chief Evaluator in the Office of Population Affairs, and then as a Senior Fellow in the Health Resources and Services Administration's Office of Planning and Evaluation. During most of that time, I either directed or consulted on the design of the evaluation of large, public health programs serving mothers and infants. More recently, however, I have become involved with health law. I am the Agency's representative to the Robert Wood Johnson's Turning Point Initiative's Modernization of the Public Health Law Committee, and, a year ago, I assumed responsibility for the coordination of the Agency's State Children's Health Insurance Program activities. Both of these responsibilities have given me the opportunity to apply what I have learned in courses in the L&HCP.

Recently, I began a practicum placement with the Centers for Disease Control and Prevention/Agency for Toxic Substances and Disease Registry Branch of the Public Health Division of the DHHS Office of the General Counsel. I am working with two Senior Attorneys in that office to examine the various roles the government has played in toxic tort remedies. For example, at times, the government has been a party to litigation, or responsible for enforcement of clean up efforts, or the administration of medical assistance funds for individuals who have been exposed to toxic substances. As part of my continuing



Karen Smith Thiel

practicum, I will be researching law review articles, opinions, and settlements. As a public health agency, the office is interested in the role of the federal government and the effectiveness of different legal response models in addressing community health concerns. My goals for the practicum are to learn about the practice of public health law in a federal government agency, learn more about the substantive area of toxic torts and their remedies, and co-author with my supervising attorneys a paper of publishable quality on the issue of the government's role in toxic tort remedies from a community public health perspective.

This past summer, I attended "The Public's Health and the Law in the 21<sup>st</sup> Century" in Atlanta, Georgia, a conference attended by over five hundred public health attorneys and health care professionals. One of the points made over and over during the three-day conference was that very few attorneys who currently practice public health law ever received formal training in health care law, let alone public

*The Law & Health Care Program's Health Law Practicums provide an opportunity for students interested in health law to obtain credit by working for organizations and government agencies dealing with health care issues. Students spend 10 to 20 hours at their placement and additional hours throughout the semester in the classroom participating in the Health Law Practice Workshop. Placements have included the American Nurses Association; the Equal Employment Opportunity Commission; Johns Hopkins Health System; Legal Services to the Elderly; Med-Chi of Maryland; the Maryland Board of Physician Quality Assurance; MedStar Health; the National Health Law Program; NIH; U.S. Senate Subcommittee on Aging; University of Maryland Medical System, Office of the General Counsel; and the Maryland Office of the Attorney General, Department of Health and Mental Hygiene and the Medicaid Fraud Unit.*

*The Program also offers several full semester externships—The National Health Law Program externship in Washington, D.C.; The University of Maryland Medical System; The Maryland Office of the Attorney General; and the NIH General Counsel's Office.*

health law. Practicing attorneys picked it up as they went along or learned from their colleagues in the field. Having an opportunity to learn health care law in a program such as the University of Maryland's, as well as an opportunity to interact with public health attorneys during this practicum, are both excellent experiences.

I should confess that even though most of my career has involved health care research and public health program evaluation, prior to coming to the

*Cont. on page 15*

# L&HCP Plans Full Conference Schedule During Fall Semester

As the University of Maryland School of Law begins its first semester in its new building, it also commences a school year filled with a number of exciting conferences and events. As part of this "year of celebration," the Law & Health Care Program will host four conferences and a lecture during the fall 2002 semester.

On October 4, 2002, the Program is hosting, along with the Maryland Law Review, the "Stanley S. Herr Memorial Conference on Disability Rights and Social Justice." Herr was a legal scholar and professor in the L&HCP whose thirty year career focused on ensuring better lives for many of this country's disabled citizens. He died in September 2001, just hours before the first disability rights symposium was to take place. This year's symposium is a tribute by Herr's colleagues, who will speak on disability and international human rights, disability in the context of employment and education, the legal definition of disability, legal strategies to protect the rights of the disabled and teaching disability law to current law students.

Speakers will include Harold Koh, Yale Law School; Lawrence Gostin, Georgetown University; Laura Rothstein, Dean, University of Louisville Law School; Paul Steven Miller, Commissioner, U.S. Equal Employment Opportunity Commission; Mark C. Weber, DePaul University; Robert Dinerstein, American University; Arlene S. Kanter, Syracuse University College of Law; Beth Pepper, an attorney with the law firm of Beth Pepper, Esq.; Marc Charmatz, an attorney with the National Association for the Deaf; Ellen M. Weber, University of Maryland School of Law; Luciene Parsley, Skadden Fellow, Maryland

Disability Law Center; and Katie Corrigan, Legislative Counsel for the American Civil Liberties Union.

Papers written by several of the conference participants will be published in a symposium issue of the *Maryland Law Review*. The conference is being co-sponsored by The American Bar Association Commission on Mental and Physical Disability Law, with support from the Professor Stanley S. Herr Fund on Disability Rights and Social Justice and the Pearl, Lawrence I. and Lloyd M. Gerber Memorial Lecture Fund.

On October 10, 2002, The L&HCP is hosting the Stuart Rome Lecture. This year, Nancy-Ann DeParle will speak on "Medicare at 40: a Mid-Life Crisis." DeParle will bring her experience as a health policy official in the Clinton White House and as an administrator of the Health Care Financing Administration (HCFA, now the Centers for Medicare and Medicaid Services or CMS) to bear as she discusses Medicare's past, present and future. She will talk about Medicare's successes and failures, examine the challenges facing the program and explore some potential solutions. The Lecture is sponsored by the Stuart Rome Lecture fund, which celebrates Stuart Rome's life and work as an attorney, community activist, art patron and humanitarian.

"At The Crossroads—Public/Private Priorities Concerning Access to Genetic Information," an interdisciplinary symposium on the business, legal, scientific and social implications of regulating access to genetic data, will be held on October 21, 2002. This symposium will provide a forum to explore the development of a consensus model for balancing the benefits of free and unfettered public access to genetic information with those of protecting private investment-backed

expectations with regard to genetic research. Symposium faculty include international experts and scholars such as Steven L. Salzberg, The Institute for Genomic Research, Rockville, MD, Francis S. Collins, National Human Genome Research Institute, Bethesda, MD and Kari Stefansson, decode Genetics, Reykjavik, Iceland. Articles based on presentations made at the conference will be published in an upcoming issue of the *Journal of Health Care Law & Policy*.

Also in October, on the 28th, the Law & Health Care Program will be co-sponsoring, with the Maryland Healthcare Ethics Committee Network, a conference on "Spirituality, Health Care and the Role of Ethics Committees." The conference was made possible by a grant from the Foundation for Spirituality and Medicine and the Ethics Committee at Franklin Square Hospital. At the conference, to be held at Franklin Square Hospital in Baltimore, speakers and participants will explore issues related to spirituality in health care and ethics. The keynote speaker will be Dr. Courtney Scott Campbell, Associate Professor and Director, Program for Ethics, Science, and the Environment at Oregon State University. Other participating faculty include: Brian Childs, Director, Ethics and Organizational Development, Shore Health Systems; Sister Margaret Boler, Chaplain, Gilchrist Center for Hospice Care; Imam Dr. Mohamad Bashar Arafat, Muslim Chaplain, Johns Hopkins Hospital and University; Rev. William E. Johnson, Coordinator of Pastoral Care, Johns Hopkins Bayview Medical Center; and Rabbi Barry Freundel, Assistant Professor of Law, Baltimore Hebrew University, Adjunct Professor of Law, Georgetown University.

On November 18, 2002, the Program is co-hosting, with the Johns Hopkins

University Bloomberg School of Public Health, "State Efforts to Expand Health Care Coverage: Current Realities, Future Possibilities?" This conference will explore the role of the States in advancing health care coverage, the strategies for expanding such coverage, and the politics of State health care reform. Faculty (both invited and confirmed) include: Professor Ted Marmor, Yale University; John Holahan, the Urban Institute; William Hagens, Washington State Department of Social and Health Services; Paul Fronstin, Employee Benefit Research Institute (EBRI); John McDonough, Brandeis University; John Tighe, Tennessee Department of Finance and Administration; Diane Rowland, Kaiser Commission on Medicaid and the Uninsured; and Peter Beilenson, Commissioner of Health for Baltimore City. Papers from this conference will also be published in an upcoming issue of the *Journal of Health Care Law & Policy*.

### Spotlight on Practicums Cont. from page 13

School of Law, I had no formal training in health care. My doctoral degree was in Urban Sociology and my teaching background in research methods.

My first "health" course came in law school when I took Law & Medicine, taught by Professor Ellen Callegary, in the summer of 2001. Since that time I have completed most of the course work for the L&HCP's Health Law Certificate and have had other opportunities to learn health care law. Last fall, I took a wonderful seminar in Biomedical Research and the Law taught by Professor Jack Schwartz. (See "L&HCP Adjuncts: Jack Schwartz, JD, Spring 2002 L&HCP Newsletter.") I was able to complete my certification requirement in that

class with a paper titled "Parental Consent for Children's Participation in Biomedical Research: The ethical, regulatory, and judicial framework of *Grimes v. Kennedy Krieger, Institute, Inc.*"

I will be reading that paper in St. Louis in October on a children's health law panel at the International Law Student Association Conference. In November, I will join Susan Bankowski and Robyn Lee Meyer to represent the school in the Health Care Law Moot Court Competition at Southern Illinois University School of Law.

Two years ago, when I started law school, I never could have anticipated how well the Law & Health Care Program would have enabled me to combine my interests in research, health care, parents and children, and public health law.

## Fall 2002 Law & Health Care Program Conferences/Events

Date	Event Title	Contact
September 19	Panel: "What is Health Law?"	lohryn@law.umaryland.edu
October 4	The Stanley S. Herr Memorial Conference on Disability Rights and Social Justice	www.law.umaryland.edu/conferences.asp
October 10	The Rome Lecture: Medicare at 40: A Mid-Life Crisis (Nancy-Ann DeParle)	lmarshal@law.umaryland.edu
October 21	At the Crossroads: Public/Private Priorities Concerning Access to Genetic Information	www.law.umaryland.edu/conferences.asp
October 28	Spirituality, Health Care and the Role of Ethics Committees	aoneill@law.umaryland.edu
October 29	October meeting of the Health Law Section of the Maryland Bar Association	lohryn@law.umaryland.edu
November 18	State Efforts to Expand Health Care Coverage: Current Realities, Future Possibilities?	www.law.umaryland.edu/conferences.asp

## The Center for Tobacco Regulation, Litigation and Advocacy

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officials and community advocates, and testifying and assisting advocates at local and state legislative hearings. Although the focus of the clinic is primarily governmental and legislative, Dachille believes this will be an excellent chance for students to learn practical lawyering skills. For example, students will need to assess the needs of the particular client (local jurisdiction) with whom they are working. "One size fits all" will not work in tobacco regulation and control. Although the issue may be the same, for example, how to design an effective youth enforcement program, every client will be different and students will need to determine what can be accomplished for *their* client in the client's situation and time frame.

## L&HCP Student is WHO Intern

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promote WHO's public health goals and BATF's enforcement goals.

While working at the ICITT, I observed delegates from diverse nations debate the interplay (or lack thereof) between enforcement of trade laws and public health. Specifically, delegates discussed whether the goals of the enforcement and public health sectors are aligned and whether their cooperation is essential. In an evening drafting session, I was unexpectedly called upon to serve as the WHO legal staff for a working group when nearly 30 participants arrived to review issues related to illicit tobacco trade when only three were expected. The delegates generally supported the concept that curbing illicit tobacco trade was a means to achieve, among other things, lower consumption of tobacco products. I drafted the Chair's Report for my working group. The report was read by the Chair in the closing session to the full delegation and will be used as the basis for

the final report which will be issued by the BATF in September.

In addition to the work sessions, I attended two receptions for the delegates where I was able to speak with representatives of the WHO and its members from around the world. The internship was an invaluable experience which helped me to understand how transnational public health problems can be addressed with an international legal approach and that the present tobacco epidemic poses a range of transnational challenges that are best addressed through coordinated action.<sup>1</sup>

<sup>1</sup>*WHO Framework Convention on Tobacco Control: a global "good" for public health*, Allyn Taylor and Douglas Bettcher, *Bulletin of the World Health Organization*, 78(7), 2000.

*Susan Bankowski, MS, is a third year student at the School of Law. She came to the University of Maryland to pursue her interest in public health law after receiving her Masters Degree in Maternal and Child Health from the Harvard School of Public Health and working in the field of unintended pregnancy prevention.*

## LAW & HEALTH CARE PROGRAM

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