



PROFESSOR ROTHENBERG'S SCHOLARSHIP TAKES A *DRAMATIC* TURN

Dr. Hardy: So I need to share the seriousness of the finding [of a genetic predisposition to Long QT syndrome that may cause arrhythmia and sudden cardiac arrest] with Sam and tell her we very strongly recommend that competitive athletics be forsaken.

Mom: Oh no, you can't tell her anything is wrong. Remember you just said doctors don't tell kids Sam's age. And anyway, remember you told me these tests aren't certain!

Dr. Hardy: You are correct that for kids we typically do not report most disease susceptibility that may affect them later in life. This however has immediate implications. There is the potential for sudden death without treatment and an excellent outcome with treatment – including taking a medication to protect the heart. We've already confirmed this result in a CLIA lab. Because of the severe ramifications for some kids – and we don't know who – I must inform her so she'll give up competitive swimming.

Mom: No . . . that would devastate her . . . let's wait till high school then I can just say I have to go to work earlier so can't take her to 6 am swim practice.

Dr. Hardy: She should be closely followed by a cardiologist, who may also consider beta blockers or an implantable defibrillator. We really need to bring Sam into this discussion now . . .

This difficult conversation is from the play “It’s So Complicated” co-authored by Law & Health Care Program Professor Karen Rothenberg and Columbia University Medical Center faculty member Dr. Lynn Bush. The play is included in their new book *The Drama of DNA: Narrative Genomics*. The scene depicts a situation in which whole genome sequencing (a genetic laboratory process that determines the complete DNA sequence of a person's genome at a single time) revealed genetic information that was unrelated to the reason the family sought genetic testing in the first place. Given the rapid growth in our understanding of the human genome and the decreased costs of whole genome sequencing, patients and researchers will have to have these difficult conversations about “incidental findings” and other complex concerns much more frequently.



Professor Karen Rothenberg

ALSO IN THIS ISSUE:

Network for Public Health Law Eastern Region Directed by Professor Kathleen Hoke Takes on Problem Gambling.....	5
Rome Lecture and Roundtable Organized By Professor Amanda Pustilnik Focus on Neuroimaging and the Law.....	6
Law & Health Care Program Honors Adjunct Professors Sanford Teplitzky and Kevin McAnaney.....	8
Health Law Regulatory & Compliance Competition.....	9
Professor Hoffmann's NIH-Funded Probiotics Project Takes a Dramatic Turn as Well.....	10
Law & Health Care Program Mourns the Passing of Adjunct Professor Robert Phillips.....	12

Cont. on page 2

The *Law & Health Care Newsletter* is published by the Law & Health Care Program at the University of Maryland Francis King Carey School of Law
500 West Baltimore Street
Baltimore, MD 21201

L&HCP Faculty

Diane E. Hoffmann, JD, MS
Director, L&HCP and Professor of Law

Richard Boldt, JD
Kathleen Hoke, JD
Sara Gold, JD

I. Michael Greenberger, JD
Leslie Meltzer Henry, JD, MSc
Frank Pasquale, JD, MPhil
Amanda Pustilnik, JD
Karen Rothenberg, JD, MPA
Ellen M. Weber, JD
Deborah J. Weimer, JD, LLM

Adjunct Faculty 2013-2014

Stephen Carney
Funk & Bolton, PA

Marc Charmatz, JD
National Assn. of the Deaf

James Doherty, Jr., JD
Pecore & Doherty, LLC

W. Lawrence Fitch, JD
Maryland Dept. of Health
and Mental Hygiene

Carl Jean-Baptiste, JD, MBA
MedStar Health, Inc.

Janet Klein Brown, JD
Office of the Attorney General

Janet Lord, LLB, LLM
Blue Law, LLC

Kevin McAnaney, JD
Law Office of Kevin G. McAnaney

John S. Nugent, JD
Office of the Attorney General

Frank Palumbo, PhD, JD
University of Maryland
School of Pharmacy

Jack Schwartz, JD

Sanford Teplitzky, JD
Ober|Kaler

L&HCP Managing Director
Virginia Rowthorn, JD

Prof. Rothenberg

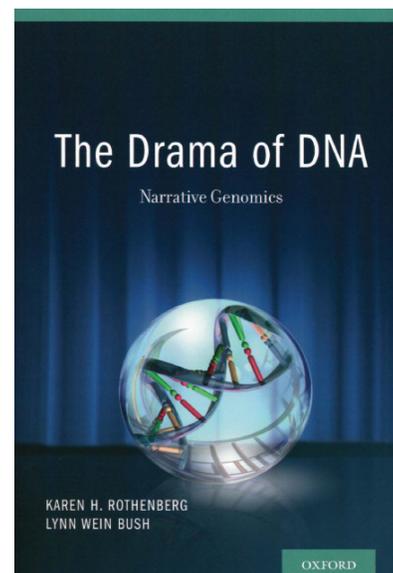
Cont. from p. 1

Finding ways to confront and address these concerns has always been at the heart of Rothenberg's scholarship, but using drama to do so has been Rothenberg's consuming passion for the last five years. Rothenberg and Bush's new book brings together their collaborative work on the use of dramatic narrative to understand and facilitate conversations about genomics. The book uses excerpts from Rothenberg and Bush's original plays as well as plays by other authors to examine the implications of genomic technologies in today's society and to foster a greater understanding of how genomic information should be evaluated, processed, and shared. In his foreword to the book, Dr. Eric Green, Director of the National Human Genome Research Institute (NHGRI), comments that this "novel approach successfully generates a constructive dialogue about the ethical, psychological, and societal challenges that develop with the infusion of genomics into real-world situations." The book, which links readers to online versions of the plays, promises to be an invaluable resource to health care providers and researchers and ultimately to patients. As Dr. Green notes in his introduction, a great deal of interest has already been expressed by members of the scientific community in early versions of the plays in the book.

The Drama of DNA is the culmination of Rothenberg's long-time work studying the social implications of genetic

research and her personal love of theatre. After serving as the Dean of UM Carey Law for 10 years, Rothenberg spent academic year 2009-2010 on sabbatical to focus on theatre as a structured and stimulating avenue to engage students and the public in identifying and discussing complex health and science policy issues. She spent her sabbatical year as a Visiting Professor at the Berman Institute for Bioethics at the Johns Hopkins University, Scholar-in-Residence at Columbia Law School, and Senior Sabbatical Fellow at Columbia University Law School's Center for the Study of Law and Culture. She also began her collaboration with Dr. Lynn Bush, Ph.D., M.S., M.A., who shares Rothenberg's interest in exploring the use of plays and musicals as a way to encourage dialogue on complex health and science issues and to identify issues of concern that should be taken into consideration by health policy makers.

In spring 2010, Professor Rothenberg was asked to give the Robert L. Levine Lecture at Fordham University School of Law. The talk, which formed the basis for the article "From Eugenics to the 'New' Genetics: The Play's The Thing," published in the *Fordham Law Review*, focused



Professor Karen Rothenberg's new book: *The Drama of DNA*

on the way theatre engages viewers in a dialogue about the society they live in. The talk and the subsequent article examined the relationship between public opinion and social policy to explore connections and parallels between the eugenics studies of yesteryear and modern genetic science, especially with respect to the role of women and their accountability to future generations through their reproductive choices. This article provided a historic perspective on how science has been portrayed in theatre which led Rothenberg to consider whether, and how, plays can be used as a vehicle to engage stakeholders in the present.

Returning to the law school in 2010-11, Rothenberg continued her focus on how best to bring to life the ethical and societal issues raised by emerging genomic technologies. She created an innovative course together with National Institutes of Health (NIH) bioethicist Ben Berkman called the “Health and Science Policy Workshop: The Regulation of Genomic Research” in which Maryland law students studied the cutting edge bioethical issues raised by whole genome sequencing and presented their findings to a group of NIH researchers, including NHGRI Director Eric Green (see Law and Health Care Newsletter, Fall 2011).

In the meantime, Professors Rothenberg and Bush continued their long distance collaboration and co-authored two short plays to help convey the complexity of ethical issues raised by genomic research that were presented at the 2011 Ethical, Legal, and Social Implications (ELSI) Congress sponsored by NHGRI. The first play, “It’s Not That Simple,” focused on whole genome sequencing and the informed consent process in the context of personal and professional relationships. The second play, “It’s So Complicated!” highlighted dilemmas involved with returning research results and incidental findings to study participants in the course of whole genome sequencing. The first play was published in the February 2012 issue of *Genetics in Medicine* along with a corresponding article on the theory and process of developing the play, followed by the second play and accompanying commentary in the March 2012 issue of the same journal. These two plays and several others they have co-authored have been welcomed by professionals who work in the area of genomics, including bioethicists, doctors, researchers, and NIH staff. The plays are designed to be acted out by these professionals and students who take roles in the play that are different from what they do in “real life.” Rothenberg believes this is critical in order for people to “hear the other voice” on a particular issue. The plays have been performed by interdisciplinary groups of professionals in Australia, the Netherlands, and London and at the annual meetings of the American Society of Human Genetics, the American Society for Bioethics and Humanities, and several institutes within NIH. Recently Rothenberg engaged the staff of the Presidential Commission for the Study of Bioethical Issues in reading one of the plays aloud.

Following Rothenberg’s return to the law school, she was asked to join NHGRI to study innovative ways

Selected Works on Genetics and Genomics by Professor Rothenberg

- *The Drama of DNA: Narrative Genomics*, (with L.W. Bush) Oxford Univ. Press (2014)
- “Finding Fault? Exploring Legal Duties to Return Incidental Findings in Genomics Research,” (with E.R. Pike and B.E. Berkman), 102 Georgetown L.J. 795 (2014)
- “Setting the Stage: Enhancing Understanding of Bioethical Challenges with Theatre,” 11 Ind. Health L. Rev. 1 (2014)
- “Manipulating Fate: Medical Innovations, Ethical Implications, Theatrical Illuminations,” 13 Houston Journal of Health Law & Policy 1 (2012)
- “Teaching Students to be Policymakers: The Health and Science Policy Workshop on Genomic Research,” in “Teaching Health Law,” J Law Med Ethics, (with B. Berkman) 2012 Spring;40(1):147-53
- “Dialogues, dilemmas, and disclosures: genomic research and incidental findings,”(with L.W. Bush) Genet Med, 14(3):293-5 (2012)
- “Genes and plays: bringing ELSI issues to life.” (with L.W. Bush) Genet Med, 14(2):274-7 (2012)
- “From Eugenics to the ‘New Genetics’: The Play’s the Thing,” 79 Fordham Law Review 407 (2010)

Cont. on page 4

to engage professionals and the public in the very complex – and potentially unsettling – work of genomic research. This is not the first time Professor Rothenberg has worked with NIH. During sabbaticals and leaves from the UM Carey School of Law, she worked in the NIH Office of Research on Women's Health and the National Institute for Child Health and Human Development. She now serves as Senior Advisor on Genomics and Society to the Director of NHGRI, and as a visiting scholar at the NIH Department of Bioethics on leave from the University of Maryland Francis King Carey School of Law. Her work at NIH is a logical next step for Rothenberg who has spent the last two decades focused on the ethical, legal and social implications of genetic testing and research, including legislative approaches to genetic information in the health insurance and employment context, the impact of genetic research on racial and ethnic populations and women's health care, and the use of genetic information in the courtroom. At NIH, one of her goals was to find a common language with which the many stakeholders in the field of genomics could communicate.



Panel Discussion with Playwrights at Smithsonian

By 2012, Professor Rothenberg's research and collaboration with Dr. Bush led to a joint article that examined 46 plays — spanning three centuries — to enhance understanding of the ethical and social impact of medical technology on society. The article, "Manipulating Fate: Medical Innovations, Ethical Implications, Theatrical Illuminations," which appeared in the *Houston Journal of Health Law & Policy*, was divided into six "acts" that highlighted different ways that theatre has dealt with science – from expressing our fear of science, to justifying bad science, to tackling complex bioethical issues raised by new science. The plays discussed in the final section of the article, "Genomes & Unknowns," spotlight how the new genomics revolution intensifies human hopes and expectations for medical innovations, treatments and cures. The plays featured in the article explore such ethical dilemmas as:

- Who should or can control the fate of future generations through the use of emerging prenatal technology?
- Should there be limits on how cutting edge genomic technologies are used to change the fate of others?
- How should we decide who gets access to emerging medical technologies?

In February 2013, Professor Rothenberg was recognized for her outstanding contributions to the health law field by Indiana University School of Law. She was asked to give the McDonald Merrill Ketcham Award Lecture and facilitate a panel discussion called "Setting the Stage: Enhancing Understanding of Bioethical Challenges with Theatre," which led to a 2014 article in the *Indiana Health Law Review* by the same title. This discussion, that included faculty members from the Indiana University School of Medicine, the artistic director of the Indiana Repertory Theater, and a medical historian, was designed to show how theatre can be used to identify and resolve our ethical challenges in health care.

Recently, Rothenberg had another chance to discuss her work in a setting outside the walls of NIH – at the Smithsonian. On April 10, Rothenberg moderated a discussion with several contemporary playwrights who have used theatre to examine the ethical, legal, and social issues that genomics have introduced into our lives, as well as to stimulate conversations about biomedical research. Playwrights Dorothy Fortenberry (*The Good Egg*), Lisa Loomer (*Distracted*), Cassandra Medley (*Relativity*), and Anna Ziegler (*Photograph 51*) discussed

Cont. on page 11

NETWORK FOR PUBLIC HEALTH LAW EASTERN REGION DIRECTED BY PROFESSOR KATHLEEN HOKE TAKES ON PROBLEM GAMBLING

The Network for Public Health Law's Eastern Region, housed at the UM Carey School of Law, is working with the University of Maryland School of Medicine's Center for Excellence in Problem Gambling to reduce the negative public health issues associated with gambling. The Network's Eastern Region, which is directed by UM Carey Law Professor Kathleen Hoke, is providing the Center with legal guidance and policy research, with a particular emphasis on prevention of underage and compulsive gambling. The Center is funded by the Maryland Department of Health and Mental Hygiene (DHMH) and is supporting the salary of Special Projects Fellow Athena Cymrot '11.



Professor Kathleen Hoke

Underage gambling is a growing concern in the United States and the legalization of casinos offering slot machines and table games in Maryland has brought the issue to the forefront. To help the Center respond to legislative proposals on the subject, the Network drafted a policy brief on underage gambling and the public health issues it raises, as well as an overview of gambling and gaming laws across the United States. The policy brief outlined the negative physical, mental, and social consequences of gambling, especially in young people. The report noted that the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) lists "Gambling Disorder" as an addictive disorder that disrupts personal, family, and vocational pursuits.¹ Additionally, problem and pathological gamblers experience other psychological issues, such as mood disorders and other addictions, as well as interpersonal issues like lying, stealing, and poor work or school performance.² Gambling is also linked with an unusually high risk of suicide.³ The report noted that the prevalence of gambling problems is higher in adolescents than in adults.⁴ In fact, the prevalence of gambling problems in youth may be up to three times the prevalence in adults⁵ with an estimated 4 to 8% of adolescents suffering a serious gambling problem and another 10 to 15% of youth at-risk of developing a gambling problem.⁶

The field of youth gambling prevention is relatively new and very little has been done in terms of studying and preventing the problem. As a result, not much is known about the efficacy of programs and policies to prevent problem gambling in youth.⁷ This gap in scholarship is where the Center for Excellence in Problem

Cont. on page 11

1 THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, § 312.31(Am. Psychiatric Ass'n 5th ed.) (2013).

2 J. Nick Badgerow, *Apocalypse at Law: The Four Horsemen of the Modern Bar - Drugs, Alcohol, Gambling, and Depression*, 77-FEB J. KAN. B.A. 19, 22; Judy Herriff, *Gambling: The Hidden Addiction*, 88-MAY MICH. B.J. 54, 54.

3 Sanju George & Vijaya Murali, *Pathological Gambling: An Overview of Assessment and Treatment*, 11 ADVANCES IN PSYCHIATRIC TREATMENT 450, 451 (2005).

4 Carmen Messerlian et al., *Youth Gambling Problems: A Public Health Perspective*, 20 HEALTH PROMOTION INT'L 69, 70 (2005).

5 Jeffrey Derevensky et al., *Adolescent Problem Gambling: Legislative and Policy Decisions*, 8 GAMING L. R. 107, 108 (2004). Jeffrey Derevensky et al.

6 Judy Herriff, *Gambling: The Hidden Addiction*, 88-MAY MICH. B.J. 54, 54.

7 *Prevention Efforts Toward Reducing Gambling Problems*; Jeffrey Derevensky, Rina Gupta, Laurie Dickson, Anne-Elyse Deguire (213); Jeffrey Derevensky & Rina Gupta, *Adolescents with Gambling Problems: A Synopsis of Our Current Knowledge*, ELEC. J. OF GAMBLING ISSUES, 9 (2004), available at <http://youthgambling.mcgill.ca/en/PDF/Publications/2004/ejgi-issue10.pdf>.

ROME LECTURE AND ROUNDTABLE ORGANIZED BY PROFESSOR AMANDA PUSTILNIK FOCUS ON NEUROIMAGING AND THE LAW

On April 24 and 25, the Law & Health Care Program (L&HCP) held two events focusing on neuroimaging and the law. Both were the result of efforts by L&HCP Professor Amanda Pustilnik, a national expert on legal issues presented by neuroscientific work on memory and pain. The first event was the L&HCP's annual Rome Lecture which was given this year by Stanford Law Professor Hank Greely on the topic of "Neuroimaging, Mindreading, and the Courts." The annual Rome Lecture is presented each year by a scholar renowned in health law and policy. Professor Greely is the Director of the Center for Law and the Biosciences at Stanford School of Law and Director of the Stanford Interdisciplinary Group on Neuroscience and Society. Professor Greely's Rome Lecture is available at <https://www.youtube.com/watch?v=s7PwDahionk>.

Professor Greely's talk was a kick off to the interdisciplinary roundtable that took place the following day on the topic of "Imaging Brains, Changing Minds: Chronic Pain Neuroimaging and the Law." The roundtable was designed to create a dialogue between the fields of law and neuroscience and to make legal actors aware of recent breakthrough work in neuroimaging that has led to a paradigm shift in understanding chronic pain. This new science has the potential to change legal doctrines and shift legal and cultural norms about chronic pain diseases and their sufferers. Professor Pustilnik organized and moderated the roundtable in collaboration with Dr. David Seminowicz from the Department of Neural and Pain Sciences at the University of Maryland School of Dentistry, and with the support of the American Association for the Advancement of Science's Human Rights and Law program. Prominent legal academics, scientists and judges attended the roundtable which will result in, among other outcomes, a symposium issue of the L&HCP's *Journal of Health Care Law & Policy* next year.



*Rome Lecturer
Professor Hank Greely*



Professor Amanda Pustilnik

The roundtable was divided into four panel sessions that focused on different topics relating to the overall theme of the roundtable. Speakers in the first panel, including Hank Greeley, Dr. Karen Davis who heads the Division of Brain, Imaging and Behaviour-Systems Neuroscience at Toronto Western Hospital, and Judge Andre Davis of the U.S. Court of Appeals for the Fourth Circuit, introduced legal actors to the neuroimaging-based breakthroughs in chronic pain science and described the primary legal areas where chronic pain is at issue. The panel also discussed the differences between the models of chronic pain in pain science versus in law and how chronic pain neuroimaging could affect three legal domains: legal doctrine, judicial interpretation, and courtroom practice.

The second panel focused on the ways in which disability law struggles with claims of "excess pain" – where the claimant alleges more pain than would be expected for the injury or disease. Roundtable participants and the panelists, who included Professor Adam Kolber of Brooklyn Law School, Judge Morris Hoffman of the Denver District Court, Joel D. Greenspan who chairs of the Department of Neural and Pain Sciences at the University of Maryland School of Dentistry, and

Professor Michael Pardo of University of Alabama, discussed how neuroscience can help us make sense of individual variability in pain and how policymakers and legal actors can exercise judgment about whether a claimant is credible.

The third panel focused on links between emotion and chronic pain and the legal consequences of considering chronic pain as “physical” or “emotional”. Panelists Professor Robert Dinerstein of American University, Dr. Jennifer A. Haythornthwaite of the Department of Psychiatry and Behavioral Sciences at Johns Hopkins University School of Medicine, Professor Jennifer Chandler of University of Ottawa Law School, and Dr. Tor D. Wager of the Department of Psychology and Neuroscience at University

of Colorado, discussed the current scientific and clinical importance of distinctions between organic and psychogenic pain and when legal doctrines do – and when they should – distinguish between these pain etiologies.

The final panel addressed the use of scientific evidence to make a legal case or reach a legal decision. The panel members, Judge Nancy Gertner (ret.) of the U.S. District Court for the District of Massachusetts, Professor Stacey Tovino of the University of Nevada’s Boyd School of Law, and Dr. Martha J. Farah who directs the Center for Neuroscience and Society at the University of Pennsylvania, explored why attorneys and adjudicators may want to use neuroimaging as evidence of chronic pain in court but why neuroimaging can be reliable in aggregate to educate legal actors, i.e. judges, juries and policy makers, about brain conditions but not (or not currently) as reliable proof of individual conditions.



*Professor Pustilnik and Participants
at Neuroscience Roundtable*

Professor Amanda Pustilnik is an Associate Professor of Law at the University of Maryland School of Law, where she teaches Criminal Law, Evidence, and Law & Neuroscience. Prior to joining the University of Maryland, she was a Climenko fellow and lecturer on law at Harvard Law School. Before entering the legal academy, she practiced litigation with Covington & Burling and with Sullivan & Cromwell, where she focused on white collar criminal matters. Professor Pustilnik also clerked for the Hon. Jose A. Cabranes on the United States Court of Appeals for the Second Circuit. She graduated Yale Law School and Harvard College, and has been a visiting scholar at the University of Cambridge, Emmanuel College, in the History and Philosophy of Science department. Professor Pustilnik has also worked at McKinsey & Company as a management consultant and is a member of the board of directors of the John Harvard Scholarships.

More information about the roundtable and complete bios of the participants are available at the roundtable website: <https://www.law.umaryland.edu/faculty/conferences/detail.html?conf=166>.

The roundtable was generously supported by a gift from Alan & Nancy Eason, as well as proceeds from the Reuben Shiling Mental Health Law Fund, the Leonard C. Homer/Ober|Kaler Law and Health Care Fund, and the Dr. Richard H. Heller Fund.

LAW & HEALTH CARE PROGRAM HONORS ADJUNCT PROFESSORS SANFORD TEPLITZKY AND KEVIN MCANANEY

Next year will be the first time in over a decade that the Law & Health Care Program (L&HCP)'s Fraud and Abuse Seminar will not be taught by the adjunct teaching duo of Sanford (Sandy) Teplitzky and Kevin McAnaney. The two beloved professors have taught the seminar nine times, starting in 2002. In addition to bringing the complex issues of fraud and abuse to life in the classroom, Teplitzky and McAnaney have mentored students through health law competitions, externships and the process of entering the job market. They are well known for their mastery of the subject matter and their great humor in the classroom. Although the seminar will be taught by well-qualified replacements who are certain to gain a following of their own, L&HCP alums who have worked with Teplitzky and McAnaney reacted with sadness at the news of their (well-deserved) break from teaching:



Sanford Teplitzky

- “I am very grateful that I had the privilege to be a student in Professors McAnaney and Teplitzky's class. Their energy and passion for teaching made every class a pleasure to attend, and the subject of fraud and abuse that much more interesting to learn. I hope that they will teach again so that other students may have the opportunity to learn from their insights and experiences.” – Melanie Dang '14
- “Learning the fundamentals of healthcare fraud and abuse from two professors who helped write, develop, and litigate many of the statutory and regulatory provisions health lawyers practice with every day was truly priceless. I continue to use many of the materials, notes, and outlines I prepared in Professors Teplitzky and McAnaney's class, and the paper I wrote during my semester with them was published by ABA's Health Lawyer as a runner up in their 2012 competition.” Abe Gitterman '13, Associate, Arnold & Porter
- “Professors McAnaney and Teplitzky taught our class the fundamentals we needed to start our careers as health lawyers. They taught beyond the law, using their extensive experiences to give us keen insights few other health law students received. Potential employers trusted that I was well trained because they knew I had been taught by these esteemed practitioners.”- Hannah Levinson '13, Associate, Broad & Cassel



Kevin McAnaney

Teplitzky is Principal and Co-Chair of the Health Law Practice Group at the Baltimore law firm of Ober|Kaler. His clients are primarily large health care companies and delivery networks for whom he provides advice on a variety of fraud and abuse issues. He is one of the most prominent health lawyers in the U.S. and is a former president of the American Health Lawyers Association which awarded him the prestigious David J. Greenburg Award in 2008. Prior to joining Ober|Kaler, Teplitzky served as an attorney for the Office of the General Counsel of the Department of Health, Education and Welfare, where he provided legal advice to the Health Care Financing Administration and was the primary author of policies and regulations relating to the Medicare and Medicaid Anti-Fraud and Abuse Amendments of 1977. About his departure from the law school, Teplitzky said, “It has been a privilege and an honor to be a part of the faculty at the University of Maryland School of Law for the last 12 years. There were many people who served as mentors for me (many years ago) and I am thrilled that I played even a small role in the education of the next generation of health lawyers.”

McAnaney is a nationally recognized expert on health care fraud and abuse. His solo practice concentrates on fraud and abuse matters, including compliance reviews, transactional work, and civil and administrative litigation. He served as the Chief of the Industry Guidance Branch of the Office of Counsel to the Inspector General from its creation in 1997 until May, 2003 where he worked closely with the Department of Justice to develop cases involving the anti-kickback and Stark statutes, including the use of such claims as predicates for False Claims Act litigation. Prior to joining the federal government, McAnaney was a partner in the Washington, D.C. law office of Dewey Ballantine where he practiced health care, food and drug, and environmental law. While there he mentored Diane Hoffmann who went on to become Professor of Law and Director of the L&HCP at Carey Law. About teaching his last class, McAnaney said “[w]hile I will not miss the commute from Washington, I will miss the students. They are uniformly bright, knowledgeable, and well-spoken. Given all the doom and gloom being spread about the current practice of law, I hope Sandy and I conveyed to them how much sheer fun it can be to practice in a field you love.”

Professor Hoffmann, who brought McAnaney and Teplitzky together in 2001, said that “Maryland has been extremely fortunate to have this dynamic duo teach our fraud and abuse course and to have them as part of our health law program faculty. Every year the course had a waiting list and Kevin and Sandy were always very generous in their willingness to accept students into the class from off the list. They have enriched our students and our Program and they will be sorely missed.”

HEALTH LAW REGULATORY & COMPLIANCE COMPETITION

On February 8, 2014, the Law & Health Care Program (L&HCP) held the 3rd Annual Health Law Regulatory and Compliance Competition. The Competition is designed to put students in the shoes of health law attorneys and regulators who handle complex regulatory and compliance questions. This year, twelve teams from around the country participated in the competition including teams from the law schools at Loyola University Chicago, Saint Louis University, Southern Illinois University, Catholic University, Drexel University, University of Texas, American University, University of Pennsylvania, Georgia State, Seton Hall, and Cardozo (and a UM Carey Law team). This year, the team from Seton Hall gained first place honors.



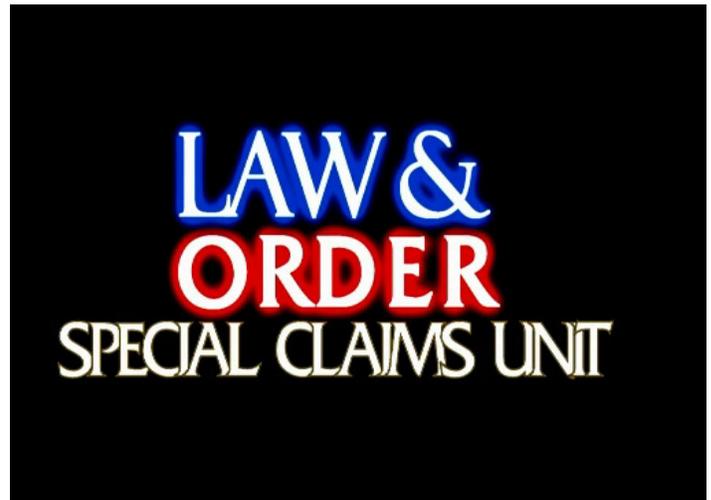
Professor Frank Pasquale (right) talks to students at reception after competition

During the competition, teams of three students analyzed a fact pattern using federal health regulations, rules, and agency documents, and presented a legal and policy solution and/or recommendations to a panel of regulatory and compliance attorneys. This year’s competition, which was organized by L&HCP Professor Frank Pasquale, Abe Gitterman (UM Carey ’13 now an associate at Arnold & Porter) and Sean Gugerty (2L), focused on clinical research in the long term care setting. The competition, which was sponsored by the law firm of Ober|Kaler, included judges from some of the country’s most prominent health law firms including Arnold & Porter, Ober|Kaler, Epstein Becker & Green, and Hyman, Phelps & McNamera, as well as the Department of Health and Human Services Office of the Inspector General, FDA, CMS, and private industry. More details about the competition and judges is available at this link: <https://www.law.umaryland.edu/regulatorycompetition>.

PROFESSOR HOFFMANN'S NIH-FUNDED PROBIOTICS PROJECT TAKES A DRAMATIC TURN AS WELL

This month, the National Institutes of Health (NIH) is holding a symposium to commemorate 10 combined years of research funded by the NIH Roadmap and the NIH Common Fund, two grant programs that were created to encourage innovation in biomedical research. L&HCP Director Diane Hoffmann was funded by the Common Fund's Human Microbiome Project in 2010, along with an interdisciplinary group of researchers at the University of Maryland Baltimore (UMB), to examine and make recommendations regarding the regulation of probiotics. As part of the 10 year commemoration of the NIH Roadmap/Common Funds, the NIH Office of Strategic Coordination organized a video competition to encourage creative descriptions of Roadmap/Common Fund programs to be shared with the general public. Hoffmann and her UMB co-investigators submitted a humorous video about their probiotics project based on the television program *Law & Order: Special Victims Unit*. The video depicted a day in the life of the "Special Claims Unit" that was investigating an egregious false claim on a package of a fictitious probiotics called "Probiotic Cure-All." In addition to law students, Diana-Lynne Hsu and Bill Rader, Hoffmann acted in the video with co-investigators Dr. Frank Palumbo (School of Pharmacy), Dr. Jacques Ravel (Institute of Genome Sciences, School of Medicine), and Virginia Rowthorn (School of Law).

Hoffmann's video depicts a young man buying a probiotic formula because of the exaggerated claims on the package, having an adverse reaction, and subsequently reporting it to a physician who calls in the Special Claims Unit to investigate the false claims. The action then shifts to a court room where the manufacturer of Probiotic Cure-All is being raked over the coals by an indignant judge who decries the lack of substantiation behind the product's claims. The video appears at the following YouTube link: <https://www.youtube.com/watch?v=Ani0bEORweY>.



Opening Screen of NIH Video Contest Submission by L&HCP



Bill Rader ('14), Adjunct Professor Frank Palumbo, and L&HCP Director Diane Hoffmann

Prof. Rothenberg

Cont. from p. 4

why and how they used complex topics rooted in genetics—including issues of identity, the power of genetic information, and the impact of health decisions on family dynamics—in their work, all discussed in the article "Manipulating Fate" and the book, *The Drama of DNA*. The program was designed to complement the National Museum of Natural History exhibition "Genome: Unlocking Life's Code," which is co-sponsored by NHGRI and for which Rothenberg was asked to conduct public outreach. The exhibit opened on June 14, 2013 and will close on September 1, 2014 to travel throughout North America. On the morning of the event, Rothenberg also organized an NIH workshop for playwrights and scientists to talk about the process and challenges of writing about complex scientific issues and the opportunities for enhancing collaborations between the artistic and scientific communities in the future.

What's next for Rothenberg? In addition to her work on theatre and genomics, she has continued to study the legal and ethical ramifications of genetic testing and serve as a resource to policy makers who make decisions about how best to protect patients and foster responsible and creative science. She recently co-authored a paper "Finding Fault? Exploring Legal Duties to Return Incidental Findings in Genomics Research," which goes back to the scenario that started this article – how to deal with the issue of incidental findings that come up when the whole genome of an individual is sequenced. As science continues its inevitable march forward, Professor Rothenberg will have ample opportunity to apply the lessons she has learned through legal study and theatre to ensure that we meet new science together with a shared approach to what is best for all members of society.

Problem Gambling

Cont. from p. 5

Gambling comes in. Most recently the Network provided legal and policy guidance to the Center in its support of Maryland House Bill 275 and Senate Bill 481, which would prohibit individuals under the age of 21 from entering a casino or participating in any casino games, making a violation a civil offense punishable by a fine. The General Assembly passed the legislation during the 2014 session and Maryland Governor Martin O'Malley recently signed the bill that will go into effect on October 1, 2014. The Network will produce an informational brochure for Maryland's judiciary and local law enforcement officials to explain the new law and its purpose and to let those officials know about the resources the Center provides for those experiencing gambling problems.

The Network and Center are now beginning work on the topic of Internet gambling, specifically looking at whether and how Internet gambling could be regulated to prevent underage and compulsive gambling. Other projects will be developed in collaboration with the Alcohol and Drug Administration at DHMH and the Maryland Council on Problem Gambling.

LAW & HEALTH CARE PROGRAM

500 West Baltimore Street
Baltimore, MD 21201
www.law.umaryland.edu/healthlaw

*Comments and letters should be
forwarded to the above address.*

The Law & Health Care Program mourns the loss of Adjunct Professor Robert T. M. Phillips, who died April 18th after a long battle with myelofibrosis. He was 62.

Professor Phillips began teaching at UM Carey Law in 1996. He was also an adjunct associate professor of psychiatry at the University of Maryland School of Medicine, and a lecturer and former assistant clinical professor of psychiatry at Yale University School of Medicine. This semester, he was co-teaching the Mental Disability and Criminal Law Seminar at the School of Law.

Professor Phillips was the medical director for Forensic Consultation Associates, Inc., which specializes in psychiatric consultations in civil and criminal litigation, and counted the U.S. Department of Justice and the U.S. Secret Service among his regular clients. He was also frequently enlisted by Stephen Bright of the Southern Center for Human Rights to evaluate the mental status of death row inmates.

Phillips was a distinguished fellow of the American Psychiatric Association, and served as its deputy medical director from 1993 to 1998. Lawrence Fitch, with whom Phillips co-taught for 19 years, says that throughout the long and prosperous career that followed that difficult moment, “his moral compass never deviated” and “his commitment to social justice endured.”

**AMERICA'S # 1
HEALTH LAW PROGRAM**

- U.S. News & World Report

