CHHS Exercise & Training Program Director Christina Crue leads emergency management officials during a terror drill.

The Center for Health and Homeland Security and Health Law Certificate Students: a Win-Win Relationship

For almost as long as the Law and Health Care Program (L&HCP) at the University of Maryland Francis King Carey School of Law has been granting the Health Law Certificate, the University of Maryland Center for Health and Homeland Security (CHHS) has been employing students with the certificate. In addition, CHHS has employed a number of students who gained health law experience working on the L&HCP’s Journal of Health Care Law & Policy. This edition of the newsletter focuses on the contributions that Maryland’s health law graduates have made to CHHS and the unique opportunity that CHHS has given health law graduates to practice in the critical area of public health and emergency preparedness.

The Center for Health and Homeland Security

In response to the terrorist attacks of September 11, 2001, Professor Michael Greenberger and then-University of Maryland Baltimore President David Ramsey founded CHHS in 2002. CHHS is a non-profit academic center and consulting firm that works side-by-side with the nation’s leading emergency responders in the public and private sector to develop plans, policies, and strategies that ensure the safety of citizens in the event of natural or man-made catastrophes. In other words, CHHS provides a range of services to improve the security and emergency preparedness of government and other institutions. Building on the scholarly expertise at the law school, CHHS develops new strat-
egies and creative approaches to fulfill its clients’ needs for a variety of plans and programs in disaster preparedness and emergency management.

In addition to the various technical assistance and program support that CHHS staff provide, it is also a university academic center, dedicated to expanding the field of knowledge in homeland security and emergency management. Professor Greenberger and other staff members publish academic pieces that appear in leading emergency management and legal publications.

Since it was founded in 2002, CHHS has grown to a staff of 64 full-time professionals, supported by a variety of student research assistants and externs. The background of staff members is diverse - in addition to 40 lawyers, other staff members have graduate degrees in public health, homeland security and emergency management, public administration, business, accounting, and English. Half of the staff work out of one of four university offices (three on the UM Baltimore campus, and one at the University of Maryland Shady Grove campus), while the other half work on-site at client offices in Maryland and DC.

Current projects that are the focus of CHHS work include continuity of operations planning and emergency operations planning in the areas of mass evacuation and sheltering, public health and hospital operations, and vulnerable populations. In addition to these projects, CHHS is expanding its mission in a number of new directions. The Center is increasingly taking on projects that relate to international crisis management, preparedness efforts for populations with functional needs, and cybersecurity.

As an example of a public health related project undertaken by CHHS, in 2005, the Center wrote the Maryland Public Health Emergency Preparedness Handbook for the Maryland Department of Health and Mental Hygiene (DHMH). The Handbook provides information and guidance to public health officials, hospital administrators, and county attorneys regarding the legal issues associated with a public health emergency. The document was tailored to address Maryland state and local law, Maryland procedures, and Maryland state and local governmental structure. In 2009, DHMH asked CHHS to revise the Handbook to address new issues and concerns of public health officials. As part of the revision process, CHHS, along with DHMH, organized and presented a symposium entitled “Legal Issues Concerning Public Health Emergencies 2009.” Issues addressed in the Handbook include quarantine and isolation; liability and immunity of medical professionals, volunteers and private sector players; compulsory medical examination, testing, vaccination, and treatment; privacy of information and communicable disease reporting; property and contract issues; and professional licensing and compelled service of health professionals.

CHHS Staff

Over the years, CHHS has reached into the ranks of UM Carey Law graduates to staff its multiple projects. Of the 64 full-time professionals at the Center now, 32 are alumni of the School of Law. In addition, six current and five former staff members of CHHS were on the staff of the Journal of Health Care Law & Policy while students, and four current and eleven former staff members received the Health Law Certificate.

According to Professor Greenberger “CHHS could not fulfill its central mission of providing on a worldwide basis legal advice, emergency planning, contingency planning, policy development, training and conducting field exer-
Professor Michael Greenberger, Director of CHHS

As director of CHHS, Michael Greenberger supervises work on a broad range of homeland security and emergency response issues at the international, federal, state, and local levels of government. In addition to serving as CHHS’s founder and director, Greenberger is a Professor at the School of Law, where he teaches two courses focused on counterterrorism and emergency response: “Homeland Security and The Law of Counterterrorism” and “Law and Policy of Emergency Public Health Response.”

Professor Greenberger currently serves as a member of the Commission on Maryland Cybersecurity Innovation and Excellence and has been appointed by the President of the American Bar Association (ABA) to the Advisory Committee of the Standing Committee on Law and National Security. He has also served as Chairman of the Maryland Governor’s Emergency Management Advisory Council.

Prior to directing CHHS, in 1999, Professor Greenberger began service as Counselor to the United States Attorney General, and then became the United States Department of Justice’s Principal Deputy Associate Attorney General. In the latter capacity, Greenberger assisted the United States Attorney General and Associate Attorney General in supervising the work of the Justice Department’s Civil, Civil Rights, Environmental, Antitrust, and Tax Divisions. Also within his portfolio of responsibilities were several counterterrorism projects concerning both law enforcement and public health policy, including organizing a nationwide counterterrorism war game (“TOPOFF I”).

Prior to entering government service, Professor Greenberger was a partner for over 20 years in the Washington, D.C. law firm of Shea & Gardner, where he served as lead litigation counsel before courts of law nationwide, including the United States Supreme Court.

Amy Major is a Senior Law and Policy Analyst with CHHS. A 2007 graduate of the University of Maryland School of Law, Amy did not obtain the Health Law Certificate while she was a student but has become a part of the Law & Health Care Program as an alumna and teacher. Amy is serving as a co-instructor for the law school’s “Law and Policy of Emergency Public Health Response Seminar,” a course exercises relating to governmental responses to public health catastrophes without the incomparable support of the nationally ranked Law & Health Care Program. Moreover, our CHHS staff has been well served by our many hires with the Health Law Certificate. We are very grateful for this extremely productive academic partnership.”

As an Associate Director at CHHS, Adrian Wilairat reports directly to Michael Greenberger. In his role, he has managed several different projects, including the drafting of Maryland’s energy assurance plan, a legal analysis of a federal court’s application of the Americans with Disabilities Act to functional needs populations in disasters, and an emergency operations plan for the Frederick Douglass House National Historic Site. He also oversees and edits much of the written work of CHHS staff including academic articles on public health, deliverables for clients, and Professor Greenberger’s Congressional testimony. According to Wilairat, “I couldn’t have done all this without my time on the Journal of Health Care Law & Policy. Not only did the Journal really prepare me for leadership and management at CHHS, but it also provided a strong foundation for the public health projects and issues we’ve worked on at the Center.” Adrian has also been interviewed on television on a number of topics including public safety after the death of Osama Bin Laden: http://vimeo.com/23203522.

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which she helped Professor Michael Greenberger develop for the Spring 2010 semester.

When she’s not helping develop a new generation of public health attorneys, Amy’s work at CHHS focuses on public health issues through projects performed for both public and private sector clients, including the Maryland DHMH, the Baltimore City Health Department, the Maryland Judiciary, the Maryland Emergency Management Agency, and the Region III Health and Medical Taskforce. She assisted with the revision of the Maryland Public Health Emergency Preparedness Legal Handbook for the Office of the Attorney General at the Maryland DHMH, as well as coordinating with representatives from the Maryland Judiciary to prepare the final draft of the Maryland Public Health Emergency Bench Book.

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**Nishamarie Sherry** and **Michael Ulrich** earned the Health Law Certificate in 2011 and, in addition, Nisha completed an MPH as part of the dual degree program between the School of Law and the Johns Hopkins Bloomberg School of Public Health. Nisha and Michael were very active members of the Student Health Law Organization – Nisha served as Vice President and Michael as Co-President. During their time at the law school, both Nisha and Michael met Professor Greenberger in a number of different capacities – as a professor, externship supervisor, and advisor. Upon graduation, both were offered positions at CHHS by Greenberger and have found their natural home practicing public health law for the Center.

Nisha is now working on behalf of CHHS with the District of Columbia’s Homeland Security and Emergency Management Agency on Continuation of Operations Plans for District of Columbia agencies. Earlier this year, Nisha participated in the annual emergency management Capital Shield Exercise conducted throughout the National Capital Region. The purpose of the exercise was to assess the region’s ability to respond to a crisis situation in an effective and synchronized manner. Nisha was placed at one of the Maryland hospitals CHHS worked with to assess their capacity to respond to a critical care medical surge event.

Michael, who interned at the Attorney General’s Office in the Medicaid Fraud Control Unit, the Maryland Stem Cell Research Fund, the Maryland Healthcare Ethics Committee Network, and the O’Neill Institute for National and Global Health Law during law school, is a Law and Policy Analyst at CHHS. He has assisted with a Business Impact Analysis of Montgomery County’s electronic security infrastructure and worked on a Continuity of Operations Plan for agencies in Prince George’s County. Currently, he is working on various research projects that touch on important public health issues such as mandatory influenza vaccination programs for health care workers and the legal and ethical implications of dual-use research.

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If a public health emergency comes to Baltimore, we will all depend on two former UM Carey health law students to get us through the emergency—**Megan Bustasek** and **Jennifer Martin**. These alums who started their careers at CHHS are now running the Office of Public Health Preparedness and Response (OPHPR) at the Baltimore City Health Department. Meghan, who also has an MPH, is the Director of OPHPR and Jennifer is the office’s Deputy Director. During her time at the law school, Meghan worked for CHHS as a law fellow and provided public health emergency planning support to the Baltimore City Health Department for its Cities Readiness Initiative and Strategic National Stockpile plan. As the OPHPR Director, she oversees emergency planning, training, coordination, and outreach for the City health department. Meghan is also a member of the Governor’s Emergency Management Advisory Council. Prior to coming to law school, Meghan got her feet wet as a first responder by serving as a professional firefighter and emergency medical technician for the Charlottesville, Virginia Fire Department.

Jennifer, who got her start in the world of public health as a Peace Corps Volunteer, was an active health law student. She externed at CHHS and was able to work on issues related to port security, homeland security training and exercise, and pandemic flu planning. In addition to her CHHS fellowship, Jennifer was a member of the Journal of Health
Care Law & Policy and externed in the Health and Human Rights division of the World Health Organization in Geneva. As Deputy Director of OPHPR, Jennifer assists with program implementation and project management within the office. Prior to becoming a full time employee at the City health department, she was a law fellow at CHHS and worked at the Maryland Emergency Management Agency and at the Baltimore City Health Department.

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Jessica Hurst had a fulltime job at CHHS before she graduated from the law school. Jessica, a Senior Law & Policy Analyst, began working fulltime at CHHS when she was a second-year evening student. Shortly after graduating from Boston University in 2003, Jessica moved to Washington, D.C. to join Booz Allen Hamilton’s Global Security Division as a management consultant and to explore law schools that offer both an evening program and an excellent public service program. She was drawn to the University of Maryland Carey School of Law because of the Law & Health Care Program. During her second year of law school, she was able to end a very long commute when she was hired as a Policy Analyst at CHHS. Jessica earned the Health Law Certificate and, within the certificate program, focused on emergency public health through courses and externships.

After law school graduation, Jessica became a Senior Law & Policy Analyst at the Center. Throughout her nearly four years at CHHS, Jessica has worked on issues of emergency public health through her work on the Health Emergency Law Bench book (a handbook for judges) and state-wide mock hearings; through after-action reports for the Baltimore City Health Department Pandemic Influenza Senior Leadership Tabletop Exercise and for the Montgomery County H1N1 Health Incident Tabletop Exercise. She is currently assigned to the Maryland Emergency Management Agency as a National Capitol Region Planner, exploring initiatives to enhance public health responses for the National Capitol Region.
Leslie Meltzer Henry

Professor Leslie Meltzer Henry’s article “The Jurisprudence of Dignity” was recently published by the University of Pennsylvania Law Review (Volume 160, p. 169). According to Henry, few words play a more central role in modern constitutional law without appearing in the Constitution than dignity. The term appears in nearly one thousand Supreme Court opinions, but despite its popularity, dignity is a concept in disarray. Its meaning and functions are commonly presupposed, but rarely articulated. The result is a cacophony of uses so confusing that some critics argue that the word ought to be abandoned altogether. Henry’s article fills a void in the literature by offering the first empirical study of Supreme Court opinions that invoke dignity, and then proposing a typology of dignity based on a Wittgensteinian analysis of those opinions. The dataset reveals three important findings. First, the Court’s reliance on dignity is increasing, and the Roberts Court is accelerating that trend. Second, in contrast to its past use, the more conservative Justices on the Court are now as likely to invoke dignity as their more liberal counterparts. Finally, the dataset demonstrates that dignity is not one concept, as other scholars have theorized, but rather that dignity admits of five related conceptions, including dignity as institutional status, equality, liberty, personal integrity, and collective virtue.

Professor Henry joined the law school community as an Assistant Professor in 2008 and is an associate faculty member at the Johns Hopkins Berman Institute of Bioethics. She teaches Constitutional Law II: Individual Rights; Advanced Bioethics and the Law; Bioethics Seminar; Public Health and the Law; and Reproductive Justice and the Law. Her scholarly interests include constitutional theory and interpretation, health policy and social justice, bioethics, military ethics, and clinical research ethics. You can read Professor Henry’s article at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1928768.

Amanda Pustilnik

Amanda Pustilnik, an Assistant Professor in the Law & Health Care Program, recently had an article published in the Cornell Law Review. The article, “Pain as Fact and Heuristic: How Pain Neuroimaging Illuminates Moral Dimensions of Law,” is one of a number of articles that Pustilnik has written about the legal implications of neuroimaging. This article relates to the legal significance of the presence and degree of physical pain. According to the article, in legal domains ranging from tort to torture, pain and its degree do important definitional work by delimiting boundaries of lawfulness and of entitlements. The omnipresence of pain in law suggests that the law embodies an intuition about the ontological primacy of pain but the lack of external verifiability complicates the use of pain in legal settings and discourse. This emerging ability to ascertain and quantify subjective states is prompting a “hedonic” or a “subjectivist” turn in legal scholarship, which has sparked a vigorous debate among scholars as to whether, and why, the quantification of subjective states might affect legal theory and practice. Subjectivists argue that neuroimaging will lead to broad changes in legal theory. Pustilnik argues the converse - that pain discourse in law frequently is a heuristic for values. She sets forth the current limitations of pain quantification through neuroimaging and then presents close readings of statutes, case law, and treatises in two sets of case studies to show the heuristic role of pain discourse.

At the law school, Pustilnik teaches Criminal Law, Evidence, and Law and Neuroscience. Her current research includes work on models of mind in criminal law, evidentiary issues presented by neuroscientific work on memory, and the role of pain in different legal domains. Prior to joining the University of Maryland, she was a Climenko fellow and lecturer on law at Harvard Law School. You can read Professor Pustilnik’s article at http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2130&context=fac_pubs.
PROFESSOR LESLIE MELTZER HENRY ON THE CONSTITUTIONALITY OF THE INDIVIDUAL MANDATE

Just before the Supreme Court convened to hear arguments challenging the Affordable Care Act, Law & Health Care Program Assistant Professor Leslie Meltzer Henry vigorously defended the constitutionality of the individual mandate in various forums. Henry recently published an article along with UM Carey Law Professor Maxwell L. Stearns titled “Commerce Games and the Individual Mandate” (100 GEORGETOWN LAW JOURNAL 1117 (2012)). In the article, they note that litigants, judges, and academic commentators have focused on whether the Supreme Court’s “economic activity” test, as set forth in United States v. Lopez, permits the individual mandate. Their article approaches the constitutionality of that provision from the novel perspective of game theory and exposes common features of games that have resulted in limiting state powers on the dormant side of the Commerce Clause doctrine, and in sustaining and restricting Congressional powers on the affirmative side. Applying such games as “the prisoners’ dilemma,” “the driving game,” and “the battle of the sexes,” the article yields critical insights about the nature and limits of state and federal regulatory powers. Henry and Stearns also published an op-ed in the Baltimore Sun in which they argued that the real issue is not that the mandate violates the Commerce Clause by allowing unfettered federal regulation, but that striking down the individual mandate would prevent Congress’ crucial authority in matters with a ‘substantial economic effect on commerce,’ which the authors trace to the Court’s 1942 decision in Wickard v. Filburn. States are not capable of regulating the health insurance market on their own, Henry and Stearns argue, because health insurance companies can always pull out of a state with unfavorable laws or deny coverage to high-risk applicants. Henry also spoke on the individual mandate at a seminar at the Johns Hopkins University on Monday, March 26.

PROFESSOR KAREN ROTHEMBERG STUDIES THE USE OF THEATRE TO CONVEY ETHICAL ISSUES RAISED BY GENOMIC RESEARCH

This year Professor Karen Rothenberg is on leave from the law school and serving as a special advisor to the National Human Genome Research Institute and as a visiting scholar at the National Institutes of Health Department of Bioethics. Along with Dr. Lynn Bush, an Adjunct Associate Research Scientist at Columbia University Medical Center’s Department of Pediatrics, Division of Clinical Genetics, Rothenberg has written two plays to help convey the complexity of ethical issues raised by genomic research.

Throughout her career, Rothenberg has studied the challenging ethical issues that pervade genetic and genomic research. These concerns range from returning research findings to individuals to maintaining the privacy of genomic information. How a person perceives and responds to the ethical, legal and social issues (ELSI) of genomic research depends on his or her values and perspectives. These complex, sometimes emotionally charged issues are ripe for innovative approaches to enhance greater understanding and respect for different points of view. In response, Rothenberg and Bush decided that the common language of plays might be a vehicle to foster discussion about these complex ethical issues.

The first play focuses on whole genome sequencing (a laboratory process that determines the complete DNA sequence of a person’s genome at a single time) and the informed consent process (the process by which a fully informed patient/participant can decide whether to participate) in the context of personal and professional relationships. The first play, It’s Not That Simple, was published with an article the two academics wrote titled “Genes and Plays: Bringing ELSI Issues to Life.” (Genet. Med., 2012, 14(2):274-7) The second play highlights dilemmas involved with returning research results and incidental findings to study participants in the course of whole genome sequencing. It will be published with accompanying commentary in the March issue of the same journal.

Read the play and article on the NIH website at http://www.genome.gov/27547182.
On April 27, 2012, the Law & Health Care Program (L&HCP) and the Johns Hopkins Berman Institute of Bioethics co-sponsored their second annual Health Law and Bioethics Roundtable. L&HCP Professor Leslie Meltzer Henry, who has a joint appointment at the Berman Institute, took the lead in organizing the Roundtable. The Berman Institute, directed by Dr. Ruth Faden, conducts advanced scholarship on the ethics of clinical practice, biomedical science, and public health, both locally and globally, and engages students, trainees, the public, and policymakers in serious discourse about these issues. Unlike more formal conferences, the Roundtable was intended to provide scholars with an opportunity for informal dialogue on current topics at the intersection of health policy, law, and ethics. This year the discussion focused on Human Subjects Research Regulations: Proposals for Reform, a topic that is on the minds of many as the U.S. Department of Health and Human Services (DHHS) has proposed the first changes to the Common Rule since it was published in 1991.

A number of prominent scholars in the area of health law and bioethics spoke at the Roundtable. The speakers and the titles of their talks included:

- Dan O’Connor, Ph.D. (Research Scholar, Johns Hopkins Berman Institute of Bioethics and Adjunct Faculty, UM Carey School of Law) *Time for Horizontal Ethics? Social Media and Human Research Regulations*
- Seema Shah, J.D. (NIH Joint appointment, Department of Bioethics and Division of AIDS at the National Institutes of Health) *Outsourcing Ethical Obligations: Should the Revised Common Rule Incorporate Investigators and Sponsors?*
- Charles Lidz, Ph.D. (Research Professor of Psychiatry at the University of Massachusetts Medical School) *Following the Rule*
- Nancy Neveloff Dubler, L.L.B. (Director, Division of Bioethics, Department of Epidemiology and Social Medicine, Montefiore Medical Center and Professor of Epidemiology and Social Medicine, Albert Einstein College of Medicine) *Deliberation and Decisions in IRB Process*
- Leslie E. Wolf, J.D., MPH (Professor of Law at Georgia State University College of Law) *Biobanking, Consent, and Certificates of Confidentiality: Does the ANPRM Muddy the Water?*
- Gail Javitt, J.D., MPH (Research Scholar, Johns Hopkins Berman Institute of Bioethics) *Take Another Little Piece of My Heart: Reexamining Consent to Human Biospecimens Research*
- Diane Hoffmann, J.D., M.S. (Professor and Director, Law & Health Care Program, University of Maryland Francis King Carey School of Law) *Informed Consent Issues Related to Research on the Human Microbiome*

In addition to Leslie Meltzer Henry and Diane Hoffmann, other attendees from UM Carey Law included Professor Deborah Hellman, as well as Maryland Healthcare Ethics Committee Network Coordinator Anita Tarzian and Center for Health and Homeland Security analyst Michael Ulrich. In addition to Dan O’Connor, a number of faculty from the Berman Institute also participated including Ruth Faden, Director of the Institute, and Yoram Unguru, Michelle Lewis, Jeremy Sugarman, Nancy Kass, Jeff Kahn, Joe Ali, Holly Taylor, and Maria Merritt.

A series of articles based on the Roundtable talks will appear in a forthcoming issue of the *Journal of Law, Medicine & Ethics*. The Roundtable was supported by the UM Carey Law Dr. Richard H. Heller Fund.
A team of researchers at the University of Maryland Baltimore is wrapping up a three-year project funded by NIH’s Human Microbiome Project (HMP). The project – Federal Regulation of Probiotics: An Analysis of the Existing Regulatory Framework and Recommendations for Alternative Frameworks – is looking at how probiotics should be regulated in the United States and is being funded by the Ethical, Legal, and Social Implications (ELSI) Research Program at NIH. The Probiotics Project is an interdisciplinary collaboration between faculty members from the University of Maryland Schools of Law, Pharmacy and Medicine – with Diane Hoffmann, Director of the Law & Health Care Program, serving as the Principal Investigator.

The University of Maryland research team has brought together a group of stakeholders and experts three times to work with them on the project. The Working Group includes NIH-funded researchers and administrators, food and drug law attorneys, government regulators, legal academics, bioethicists, consumer advocates and industry representatives. The goal of this collaborative project is to create a healthy debate among the experts, study the legal and regulatory issues surrounding probiotics, and make discrete recommendations about how probiotics should be regulated. The third and final meeting of the group took place on February 16-17, 2012.

At the most recent meeting, the Working Group looked at international models for regulation of probiotics – with a specific focus on Canada and the European Union. The group also went “outside the box” of current regulations and discussed the future of probiotics and whether future clinical and consumer applications might impact how probiotics should be regulated. John Huss, a professor in the Department of Philosophy at the University of Akron and a scholar in the area of the philosophy of science spoke to the Working Group about whether the HMP will lead to a new paradigm in our understanding of human health. The group also considered the recent Agency for Healthcare Research and Quality (AHRQ) report on the safety of probiotics and the implications it had for any recommendations the group might make at the conclusion of the project.

For more information about the project, visit http://www.law.umaryland.edu/programs/health/events/probiotics/.

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**UM Carey Law’s Assisted Outpatient Treatment Project Moving Forward**

As we reported in prior editions of the newsletter, the L&HCP and UM Carey Law’s Center for Dispute Resolution (C-DRUM), in conjunction with the UM Schools of Medicine and Social Work, have held a series of interdisciplinary meetings of stakeholders and academics to discuss the emotional and controversial topic of assisted outpatient treatment (AOT) - also known as “mandatory outpatient treatment.” The impetus for the project came from the Maryland Public Policy Conflict Resolution Fellows Program, a joint effort of C-DRUM and the Maryland Mediation and Conflict Resolution Office (MACRO) that brings together an influential group of Maryland leaders each year to expand their negotiation, conflict resolution, and consensus building skills. Graduates of the Fellows Program are encouraged to suggest critical public policy issues or conflicts that could benefit from deeper analysis and discussion. Dr. Steven Sharfstein, CEO Sheppard Pratt Health System and graduate of the 2011 Fellows Program, wanted to convene a collaborative discussion on the status of AOT in Maryland.

Following a large educational conference on the issue in May 2011, the AOT Project has moved forward through the work of Program, Legal and Data subcommittees to develop a model program. Following many months of dedicated work by the subcommittees, in January, Baltimore Mental Health Systems submitted a grant application for a CMS Health Care Innovation Challenge Grant to fund a pilot program developed by the UM AOT Project called “Individual Options.” Individual Options is an innovative program designed to voluntarily engage and serve frequent users of inpatient hospital care. The grant requested $7 million to pilot the project for three years in Baltimore City. Individual Op-
tions clients will be engaged in intensive, person-centered, evidence-based services aimed at producing a better experience of care, improved outcomes in health and related domains, and significantly lower costs. AOT team members Jane Plapinger, President and CEO of Baltimore Mental Health Systems, UM School of Social Work Professor Jay Unick, and UM Carey Law Adjunct Professor Larry Fitch (also a Maryland Assistant Attorney General) took the lead in designing the pilot project.

Law & Health Care Program Professors Diane Hoffmann, Richard Boldt, Roger Wolf, and Amanda Pustilnik, working along with Dr. Sharfstein and Dr. Anthony Lehman, Chairman of the Department of Psychiatry at the UM School of Medicine, organized the AOT Project.

As background, AOT refers to laws and regulations that permit courts to require certain individuals with mental illness to take medication or to comply with other restrictions or face the risk of involuntary inpatient commitment in a psychiatric facility. This concept of involuntary commitment often goes beyond the traditional concept which only permits involuntary commitment of an individual if he or she presents a harm to himself or others. While most individuals benefit greatly from treatment in the community, a small number of patients fall through the cracks and are noncompliant with their medication for various reasons. Noncompliance can lead to frequent relapses, repeated visits to emergency departments, repeated inpatient psychiatric admissions, and frequent contact with the criminal justice system.

Since the 1980s, all but a few states have passed some form of AOT law although the states that have such laws vary considerably in their willingness and ability to implement and fund necessary community treatment once an individual is placed under a legal requirement to access care. Notwithstanding evidence of its effectiveness and the arguments on behalf of AOT proponents that outpatient commitment improves mental health outcomes, increases the effectiveness of treatment, and reduces costs – a vocal number of opponents argue that these laws punish individuals with mental illness, unnecessarily limit freedom, force people to ingest dangerous medications, or are applied with racial and socioeconomic biases. The goal of the AOT Project was to bring interested stakeholders with varying viewpoints on this issue together to see if areas of consensus can be reached and, if so, develop policy recommendations that reflect the areas of consensus.

**PROFESSOR DEBORAH WEIMER TAKES PART IN UNIVERSITY OF MARYLAND HIV SUMMIT**

On April 16, Professor Deborah Weimer, who runs UM Carey Law’s AIDS Legal Clinic, joined with faculty from the Schools of Medicine, Nursing, Dentistry, and Pharmacy at the first University of Maryland Leadership in HIV Summit: Preparing For The Future. The goal of the summit was to educate the community of current and future leaders at the university of their role in national and local HIV/AIDS advocacy efforts. The initiative is focused on the “five pillars” of the war against HIV/AIDS: prevention, HIV testing and linking comprehensive care, treatment and supportive services, community engagement (academic, civic, social, arts & entertainment, faith, media, and business), and advocacy.

In the afternoon, Professor Weimer hosted an affinity forum for faculty and students from the law school to identify how lawyers can address the goals of the National HIV and AIDS Strategy. In a later session, the action items from each of the schools’ affinity forums were combined to identify a strategy to facilitate National HIV and AIDS Strategy goals across the five pillars.

Professor Weimer has been a member of the law school’s clinical faculty since 1988. She helped create the law school’s innovative AIDS Legal Clinic. She also developed a successful long-term partnership with the outpatient pediatric AIDS clinic at the University of Maryland Medical System. Through this partnership, clinical law students participate in weekly seminars with medical and social work providers to address the special needs of clients with HIV illness. This partnership has received funding from the Ryan White Foundation.
In the summer of 2011, the Global Health Interprofessional Council (GHIC) at the University of Maryland (UM) in Baltimore sent an interdisciplinary team of six graduate students to the Chikhwawa District of Malawi for six weeks to evaluate health care utilization practices with regard to malaria. One of the six students was Lucy Mac Gabhan ‘12. Professor Diane Hoffmann, Director of the Law & Health Care Program, was the law school’s faculty advisor for the trip.

GHIC, created in 2004 by UM to promote international health education, research and multidisciplinary cooperation, includes interdisciplinary projects among its initiatives. The 2011 trip was the second GHIC student trip to Malawi. The UM team consisted of one student each from the Schools of Dentistry, Law, Medicine, Nursing, Pharmacy and Social Work. Lucy was selected on the basis of her interest in international research and commitment to interdisciplinary work.

The 2011 Malawi project was conducted in cooperation with the Blantyre Malaria Project in Malawi and undertaken as a sub-study of malaria research currently underway in Malawi under the auspices of the International Center for Excellence in Malaria Research (ICEMR). UM School of Medicine Professor Miriam Laufer is the Principal Investigator of the Malawi study and the Director of GHIC. Malawi is one of more than twenty countries worldwide in the ICEMR program, a global network of independent research centers with the objective to “identify, understand, and evaluate malaria interventions,” and funded by the National Institute of Allergy and Infectious Diseases.

The goal of the UM student’s sub-study was to better understand what proportion of malaria-like illnesses are evaluated at the Chikhwawa District Hospital as compared to other local formal and informal health care services. The sub-study was conducted during the dry season in the Chikhwawa district, a low-lying rural area of Southern Malawi located in the Lower Shire Valley. Malaria transmission is known to be high in this region due to its lower elevation, thereby rendering it hotter and more humid than highland areas. These factors provide an environment conducive to mosquito breeding and the subsequent spread of malaria. The team surveyed four villages in the catchment area of the Chikhwawa District Hospital.

This summer, GHIC is sending another interprofessional student team to Malawi. UM Carey Law Professor Peter Danchin, along with Virginia Rowthorn, Managing Director of the Law & Health Care Program, are the law school advisors for these upcoming trips. The Malawi trip will focus on maternal mortality and the human right to health.
In January 2012, eleven law students had the opportunity to go to Mississippi and work with the Mississippi Center for Justice (MCJ) to create pamphlets on two pressing health law and policy issues – understanding the Affordable Care Act (ACA) and the legal needs of individuals with HIV disease. The trip was led by health law students Maggie Davis and Lucy Mac Gabhann and supervised by Managing Director of the Law & Health Care Program, Virginia Rowthorn. This is the third time a group of health law students has partnered with MCJ for a week-long service trip.

The group split their time between Jackson and the Delta. In the Delta they worked closely with the new Indianola branch of the MCJ. Funding for this new branch was secured in part because of research UMD students did for MCJ in 2011. During the 2011 trip, students surveyed Delta residents on the unmet needs of individuals with HIV disease.

The ACA group designed its pamphlets after gathering information in several steps. First, the group conducted interviews to determine how familiar Mississippians are with the ACA. Second, they researched the resources available to Mississippians who face issues accessing health care. Third, they spoke to stakeholders to determine the best method of dispensing information about the ACA to the general public.

Through their interviews, the ACA group learned that the Mississippi Delta’s economic and educational challenges and its lack of public transportation create unique barriers to disseminating information about the ACA and implementing the changes the ACA will bring. Based on this information, the ACA group decided to create a fact sheet and three separate pamphlets — one concerning general ACA information, one with information about children’s rights under the ACA, and one about how people with preexisting conditions can benefit from ACA provisions. The fact sheet and pamphlets are geared towards community organizations and leaders and try to break down information about the ACA into digestible portions. The pamphlet is designed for general distribution and as a tool that MCJ can modify to fit the audiences it hopes to reach.

Mississippi is a particularly hard place to be a person living with HIV disease. Funding for HIV/AIDS programs is minimal and primarily comes from federal resources. The plight of HIV/AIDS sufferers is made worse by the stigma associated with HIV infection. The HIV group met with a variety of advocates in Jackson and in the Delta concerning the problems people with HIV disease face daily. They heard heartbreaking stories of people being fired when their HIV/AIDS status was disclosed or being ostracized from their families when the truth came out. There are few treatment centers in the state and without access to reliable transportation many cannot get the treatment that they so desperately need.

The HIV/AIDS team split up into three groups to create pamphlets dealing with the following topics: employment, privacy issues and housing. One of the biggest struggles was making the language in the brochures accessible, which required getting to know the target population. Another challenge involved differentiating those issues where there is a legal remedy available and those where there is not.

The group was fortunate enough to learn about the culture and history of Mississippi during their week in the state. One of the most poignant moments during the trip occurred when the group visited Medgar Evers’s home in Jackson. Coincidentally, Myrlie Williams Evers, Medgar’s wife and civil rights activist, was in Jackson to speak for Martin Luther King Jr.’s birthday and had stopped by the home. It was truly an incredible experience where the group was lucky enough to have been in the right place at the right time. The group left Mississippi with a sense of accomplishment and the experience was truly rewarding both educationally and culturally.
HHS OIG Daniel Levinson Gives 2012 Stuart Rome Lecture (March 22, 2012)

On March 22, the Inspector General for the Department of Health and Human Services, Daniel Levinson, gave this year’s Stuart Rome Lecture on “A New Era in Medicare Oversight.” In his position as Inspector General, Mr. Levinson is responsible for audits, evaluations, investigations, compliance initiatives, and law enforcement efforts to combat fraud and abuse in Medicare, Medicaid, and more than 300 other public health and human services programs. The Law & Health Care Program regularly sponsors the Stuart Rome Lecture which was established in 1984 to honor the memory of Stuart Rome, who was a Baltimore native and an attorney, a community activist, a patron of the arts, and a humanitarian. Mr. Rome passed away in 1983 and his family and friends established this lecture in his memory. Past Rome lecturers have included Lawrence Gostin of Georgetown University; R. Alta Charo of the University of Wisconsin at Madison, who also served on the President’s Commission for Bioethics; Robert Burt of Yale University; and Nancy-Ann DeParle, the former director of the Centers for Medicare and Medicaid Services. The event was moderated by Jaime Doherty. Doherty is a partner in the firm of Pecore & Doherty, a well-regard boutique firm located in Columbia, Maryland with a practice focusing on hospitals, physicians, and other health care providers. Doherty is also a beloved adjunct professor who teaches Health Care Law & Policy and Legal Issues in Managed Care at the School of Law.

The Health Law Regulatory and Compliance Competition (March 28, 2012)

On March 28, the Law & Health Care Program and the Student Health Law Organization hosted the inaugural Health Law Regulatory and Compliance Competition. A novel idea for law students, particularly those interested in health law, the Health Law Regulatory and Compliance Competition challenged students to apply federal health regulations and rules, policies, and federal agency documents to a hypothetical fact pattern involving a federal health agency and healthcare stakeholders. The Competition was designed to immerse law students in the complex regulatory and legal environment health law attorneys practice in everyday and give them practical experience interpreting and applying federal health regulations and policies to situations that are closely modeled after recent healthcare regulatory issues and cases. Twelve teams of students from eight law schools competed before a panel of practicing health law attorneys and adjunct professors. The judges included:

- Jason Christ, an honors graduate of UM Carey Law and Associate in the Health Care and Life Sciences group at Epstein Becker Green’s Washington, DC, office.
- Anjali Downs, an honors graduate of UM Carey Law and Associate in the Health Care and Life Sciences group at Epstein Becker Green’s Washington, DC, office.
- Christina McGarvey, a graduate of UM Carey Law and Senior Counsel with the Office of the Inspector General for the U.S. Department of Health and Human Services.
- Frank Palumbo, Professor at the University of Maryland School of Pharmacy, Executive Director of the Center on Drugs and Public Policy, and an Adjunct Professor teaching Food and Drug Law at UM Carey Law.
- Sanford Teplitzky, Chair of Ober Kaler’s Health Law Group and an Adjunct Professor teaching Fraud and Abuse Law at the law school.

The following schools sent teams to the competition:

- American University School of Law
- George Mason School of Law
- George Washington University School of Law
- Saint Louis University School of Law
- Georgia State University School of Law
- Seton Hall University School of Law
- Temple University School of Law

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Balancing Science and Politics: The Challenges of Implementing Medical Marijuana Laws (April 13, 2012)

On April 13, the Law & Health Care Program, the Network for Public Health Law - Eastern Region, and the University of Maryland School of Pharmacy Center on Drugs and Public Policy hosted a conference to discuss the legal and policy issues that confront states that have passed medical marijuana decriminalization statutes, including:

- Preemption Issues in State Decriminalization Efforts
- Legal Issues Relating to Marijuana Dispensaries
- Public Health Implications of Medical Marijuana Decriminalization
- Monitoring and Medical Marijuana in Health Care Facilities

The goal of the conference was to bring together state regulators, public health officials, legal academics, health scientists and academics, legislators and others to discuss lessons learned from efforts to decriminalize medical marijuana over the past several years and recommendations for future legislative efforts in this area. Details about the conference can be found at http://www.law.umaryland.edu/faculty/conferences/detail.html?conf=118

For more information about any of the events on this list, contact Virginia Rowthorn, Managing Director of the Law & Health Care Program at vrowthorn@law.umaryland.edu

NEW L&HCP COURSE EXAMINES BUSINESS ASPECTS OF HEALTH LAW

Carl Jean-Baptiste, a 1997 graduate of the law school, is teaching a new L&HCP seminar called Business Aspects of Health Law. The seminar examines several different health care business transactions, including acquisitions, joint ventures and other arrangements with physicians from a corporate, tax and regulatory standpoint with an emphasis on transaction structure, regulatory compliance, and understanding the provisions of the transaction documents. It also covers legal issues that directly relate to the operations and finances of health care entities outside of the transactional context. The seminar fills a growing demand for students with expertise in health law related transactions by law firms and the industry.

In his day job, Jean-Baptiste is Hospital Counsel to MedStar Health and advises MedStar Health Corporate and its subsidiaries on a wide variety of matters. His areas of expertise include complex business transactions, regulatory compliance, medical staff matters and physician contracting/employment. Jean-Baptiste served as Chair of the Health Law Section of the Maryland State Bar Association in 2009. He currently serves on the Board of Directors and Executive Committee of The Casey Cares Foundation, which provides uplifting programs for critically ill children. During his time at the law school, Jean-Baptiste interned for U.S. District Court Judge Andre M. Davis and at the General Counsel’s Office of the University of Maryland Medical System. After graduation, he received an MBA from Loyola University Maryland.
UM Carey Law Grad at the Hilltop Institute

The Hilltop Institute at the University of Maryland Baltimore County (UMBC) recently selected UM Carey Law graduate Martha H. Somerville, JD, MPH, to serve as the new Director of its Hospital Community Benefit Program. Somerville has been at Hilltop for 15 years, where she has authored or contributed to state administrative regulations, program evaluations, state agency reports to legislative committees, and policy briefs. In addition, she has led or participated in various Hilltop projects, including tax return-based outreach to Medicaid/CHIP-eligible but uninsured children, Medicaid cost sharing, nonprofit hospital governance, regulatory oversight of private health insurance premiums, qualification review of managed care organization applicant health plans, and support for Maryland health care reform.

The Hilltop Institute at UMBC is a non-partisan health research organization with an expertise in Medicaid and in improving publicly financed health care systems. Hilltop uses interdisciplinary teams to conduct research on health services delivery, data systems design, and public policy analysis. Hilltop has renowned expertise in Medicaid and in improving publicly financed health systems to increase access and positive outcomes for vulnerable populations. Hilltop’s Hospital Community Benefit Program is the central resource created to ensure that tax-exempt hospital community benefit activities are responsive to pressing community health needs.

Anita Tarzian Wins the American Society for Bioethics and Humanities Distinguished Service Award

Anita Tarzian, Program Coordinator for the Maryland Healthcare Ethics Committee Network (MHECN), was recently awarded the American Society for Bioethics and Humanities Distinguished Service Award. MHECN is a membership organization, established by the Law & Health Care Program (L&HCP), to facilitate and enhance ethical reflection in all aspects of decision making in health care setting by supporting and providing informational and educational resources to ethics committees serving health care institutions in the state of Maryland. As MHECN’s Program Coordinator, Tarzian works closely with L&HCP Director Diane Hoffmann, founder of the Network. Tarzian and Hoffmann serve as a resource for healthcare ethics committee members in Maryland and the Mid-Atlantic region and are responsible for organizing relevant conferences and producing the Network’s newsletter.

In addition to her work with MHECN, Tarzian is co-chair of the institutional review board at Chesapeake Research Review, Inc., in Columbia, Maryland. Her service to the American Society for Bioethics and Humanities includes co-chairing the Clinical Ethics Consultation Affairs Standing Committee, chairing the Core Competencies Update Task Force from 2006 to 2010, and serving as a Board Member-at-Large and as Secretary.

Tarzian, a former surgical oncology and hospice nurse, is also an Associate Professor at the University of Maryland School of Nursing in the Department of Family and Community Health. Her professional focus is in clinical and research ethics, including clinical ethics consultation in acute and long-term care settings, ethics education, palliative care, hospice, the influence of culture on healthcare decision making, and disability rights. Tarzian received a doctorate in nursing research (ethics track) and a masters in intercultural nursing from the University of Maryland School of Nursing. She served for 2 years as a Peace Corps volunteer in La Descubierta, Dominican Republic, where she remains involved as a volunteer for the nonprofit organization, Building Homes, Building Hope.
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Comments and letters should be forwarded to the above address.