

2018 Health Law Teachers Conference
Draft Agenda
American Society of Law, Medicine & Ethics
&
Case Western Reserve University School of Law

Thursday, June 7, 2018

Case Western Reserve University School of Law

Roundtrip Shuttles provided

2:30 – 5:30 PM Conference Registration

3:00 – 5:30 PM Jay Healey Teaching Session: *Poverty Simulation*

This highly experiential session offers the Poverty Simulation, in which participants take on the roles of family members who face significant, yet typical, challenges that are the day-to-day experience of people living in poverty. The simulation engages participants directly in issues of health equity, income inequality, bias, and the institutional systems and structures that disadvantage the poor, and it offers a means through which to introduce broader discussions about law, policy, and the social determinants of health.

Co-Conveners:

Laura E. McNally-Levine, Case Western Reserve University School of Law

Ross D. Silverman, Indiana University Richard M. Fairbanks School of Public Health

Charity Scott, Georgia State University College of Law

Dayna Bowen Matthew, University of Virginia School of Law

Sidney D. Watson, Saint Louis University School of Law

5:30 – 7:30 PM Welcome Reception at Case Western

Friday, June 8, 2018

Sessions will take place at the Hilton Cleveland Downtown Hotel

8:00 – 8:45 AM Registration & Continental Breakfast

8:45 – 9:00 AM Conference Welcome

9:00 – 9:30 AM Group Discussion: Teaching Health Law in the Shadow of Trump
Discussion Leader: Kevin Outterson, Boston University School of Law

9:30 – 11:00 AM Concurrent Sessions 1

A: Panel - *Gaps in Federal Regulation of Human Subject Research after the New Common Rule*

Jennifer Bard, University of Cincinnati College of Law & College of Medicine

Mark Barnes, Ropes & Gray & Yale Law School

Leslie Wolf, Georgia State University School of Law

B: Right to Die

Lauren Flicker, Montefiore Einstein Center for Bioethics, *One Last Time: Clarifying Temporal Statutory Language in Clinical Settings*

Megan Wright, Yale Law School, *Organizational Mediation of Physician Aid in Dying Laws*

C: Health Insurance

Jalayne Arias, University of California San Francisco, *The Last Hope: How Starting Over Could Save Long-Term Care Insurance*

Sharona Hoffman, Case Western Reserve University School of Law, *Step Therapy: Legal, Ethical, and Policy Implications of a Cost-Cutting Measure*

Barak Richman, Duke University, *Administrative Costs Associated With Physician Billing and Insurance-Related Activities*

D: Maternity Care

Elizabeth Kukura, Drexel University Kline School of Law, *Toward a Better Birth: Examining Regulatory Barriers to Improving Maternity Care*

Jessica Roberts, University of Houston Law Center & Valerie Blake, University of West Virginia, *Maternal Care Gap*

Alyson Zureick, New York University School of Law, *“Preventive” Law and the Specter of the Drug-Using Pregnant Woman*

E: Marijuana and Other Drug Issues

Lewis Grossman, American University Washington College of Law, *Life, Liberty, [and the Pursuit of Happiness]: Medical Marijuana in Historical Perspective*

Daniel Orenstein, University of California, San Francisco, *Regulating Cannabis Packaging and Manufacturing: Public Health Best Practices from Tobacco Control*

Tara Ragone, Seton Hall University School of Law, *Medication Administration in Schools: Addressing Scope of Practice and Disability Law Tensions*

F: Medicalization

Craig Konnoth, University of Colorado Law School, *Medicalization and the New Civil Rights*

Solangel Maldonado, Seton Hall University School of Law, *Physicians' Liability for Genital Normalizing Surgeries on Children*

G: Panel: *Rethinking Health Care Law and Public Health Law: New Resources for Teachers*

Micah Berman, The Ohio State University Moritz College of Law & College of Public Health

Erin Fuse Brown, Georgia State University College of Law

Scott Burris, Temple Law School

Jaime S. King, University of California Hastings College of Law

11:00 - 11:15 AM Break

11:15 - 12:45 PM Concurrent Sessions 2

A: Panel: *Regulating Hybrid Entities*

Nicolas Terry, Indiana University School of Law

Wendy Epstein, DePaul University College of Law

Ann Marie Marciarille, UMKC School of Law

B: Medicaid, Rural Health

Karen Shaw, Loyola University Chicago School of Law, *Decreeing by Consent: Judicial Decision Making in Medicaid Institutional Reform Litigation*

Elizabeth Weeks, University of Georgia School of Law, *Rural Health Care Sustainability*

C: Public Health

James Hodge, Arizona State University Sandra Day O'Connor College of Law, *Constitutional Cohesion and Promotion of the Public's Health*

Renee Landers, Suffolk University Law School, *Developments in Administrative Law and the Impact on Public Health and Health Care*

Elizabeth Van Nostrand, University of Pittsburgh, *Stroke of a Pen, Law of the Land: Using Executive Orders to Effectuate Change in Public Health*

D: Drug Prices

Zack Buck, University of Tennessee, *A State of Emergency: Unconscionable Pharmaceutical Pricing*

Rebecca Wolitz, Stanford Law School, *State Efforts to Address Drug Pricing Controversies: What Ought Their Role to Be?*

Rachel Zuraw, UC Berkeley School of Law, *Drug Pricing: Distributing the Ethical Duties*

E: Panel: *A Critical Examination of the Legal and Public Policy Responses to the Opioid Crisis*

Kelly Dineen, Creighton University School of Law

Jennifer Oliva, West Virginia University

Kristen Underhill, Columbia Law School

F: Teaching

Debra Chopp, University of Michigan Law School, *Experiential Health Law Opportunities through the Medical Legal Partnership Model*

Kate Mitchell, Loyola University Chicago School of Law, *Experiential Health Law Opportunities through the Medical Legal Partnership Model*

Katherine Schostok, DePaul University College of Law, *The Importance of Specialized Job and Externship Placement Programs in the Law School Setting*

G: Genetics

James Barbeau, Brown University Alpert Medical School, *The Context of Consent: Informed Consent and Incidental Findings in Whole Genome Sequencing*

Ken Gatter, Oregon Health & Science University, *Variants of Uncertain Significance (VUS) or "The Certainty of Misery Is Better Than the Misery of Uncertainty"*

12:45 - 2:00 PM

Lunch

Presentation by U.S. District Judge Dan Polster

Presentation of the 2018 Jay Healey Teaching Award

2:00 - 3:45 PM Concurrent Sessions 3

A: Antitrust, Health Insurance

Tim Greaney, University of California Hastings College of Law, *New Directions in Mergers and Competition Policy*

Arti Rai, Duke Law School, *Navigating Antitrust and Area-Specific Regulation: Lessons from Pharma*

Matthew Lawrence, Dickinson Law, Pennsylvania State University, *Health Insurance's Secondary Cost Problem*

Christopher Robertson, University of Arizona, *Distinguishing Moral Hazard from the Access Function of Health Insurance*

B: Drug and Food Regulation

Jonathan Darrow, Harvard Medical School, *Breakthrough Drugs: The First Four Years*

Yaniv Heled, Georgia State University College of Law, *Why Follow-On Biologics Are Set Up to Fail*

Rachel Sachs, Washington University, *Regulating Intermediate Technologies*

C: Patient Decision-Making

Doriane Lambelet-Coleman, Duke Law School, *The State of the Mature Minor Rule in Law and Medicine*

Thaddeus Pope, Mitchell Hamline School of Law, *Informed Consent Law: Top 10 Most Consequential Legal Developments of 2017*

Gil Siegel, University of Virginia School of Law, *Dealing with Hunger Strikes - Overview and Overseas Experience*

D: Opioids

Barbara Andraka-Cristou, University of Central Florida, College of Health & Public Affairs, *Pain Clinic Definitions in the Medical Literature and State Laws: Review & Comparison*

Taleed El-Sabawi, The Ohio State University, *Morally Diseased? Or Disease of the Brain? The Opioid Epidemic, Problem Definition & Pressure Group*

Abbe Gluck, Yale Law School, *The Role of Litigation in the Opioid Crisis*

E: Public Health, Wellness

Rob Gatter, Saint Louis University School of Law, *Evidenced-Based Public Health Law in the Era of Alternative Facts*

Ana Santos Rutschman, DePaul University College of Law, *The Vaccine Race in the 21st Century*

Charity Scott, Georgia State University College of Law, *The Path to Lawyer Well-Being Is Through the Law School: Should Health Law Professors Lead the Way?*

Tony Yang, George Mason University, *Why Stricter Immunization Laws? Empirical Evidence of Nonmedical Exemptions' Contagiousness*

F: Panel: *Teaching and Researching Comparative Health Law*

Tamara Hervey, University of Sheffield School of Law

Patti Zettler, Georgia State University College of Law

Natalie Ram, University of Baltimore School of Law

G: Patients and Physicians

Kevin L. Antoine, SUNY Downstate Medical Center, *Cultural Competency in Patient Care*

Mary Anne Bobinski, Allard School of Law, University of British Columbia, *Assessing the Impact of Physicians as Fiduciaries*

Diane Hoffmann, University of Maryland School of Law, *Physicians and the Supreme Court*

Wei Li, Albert Einstein College of Medicine, *Contemporary Legal Issues and the Aging Physicians*

3:45 - 4:15 PM Break

4:15 – 6:10 PM Concurrent Sessions 4

A: Artificial Intelligence, Medical Malpractice

Tim Hall, Louis D. Brandeis School of Law at the University of Louisville, *Artificial Intelligence in Geriatric Medicine and Caregiving: Legal and Ethical Challenges*

Fazal Khan, University of Georgia School of Law, *The FDA and Medical Artificial Intelligence: Regulating the Black Box Problem*

Michelle Mello, Stanford University Law School and School of Medicine, *Does Tort Liability Deter Medical Malpractice? A Fresh Look at the Evidence*

Nadia Sawicki, Loyola University Chicago School of Law, *Conscience as a Defense to Medical Malpractice*

B: Disabilities, Mental Health

John Jacobi, Seton Hall University School of Law, *Coordinating Law and Coordinating Care: People with Intellectual/Developmental Disabilities*

Medha Makhlof, Penn State Dickinson Law School, *Destigmatizing Disability Under U.S. Immigration Law: From Dependency to Dignity*

Tara Sklar, University of Arizona James E. Rogers College of Law, *Vulnerability in the Legal Profession: Complaint-Prone Lawyers with Mental Health Impairments*

C: Reproduction

Mark Fadel, The University of Toledo College of Law, *Insurance Practices and Disparities in Access to Assisted Reproductive Technologies*

Jessie Hill, Case Western Reserve University School of Law, *The Geography of Abortion Rights*

Wynter Miller, National Institutes of Health, Department of Bioethics, *(Un)Reason(able)-Based Abortion Bans: PWGS, Physician Speech, and the First Amendment*

Barbara Pfeffer Billauer, Institute of World Politics, Haifa University, *Sperm Bank Accidents: The Result of Chaotic Policy and Law in Sperm Bank Regulation*

D: Research

Carl Coleman, Seton Hall University Law School, *Reining in IRB Review in the Revised Common Rule*

Holly Fernandez Lynch, University of Pennsylvania Perelman School of Medicine, *Characterizing the Nature of the Relationship between IRBs and the Federal Government*

Emily Largent, University of Pennsylvania Perelman School of Medicine, *Legal and Ethical Aspects of Offering Payment to Research Participants*

Joseph Ochieng, Makerere University, *Enhancing Research Integrity Through Training, Experiences and Perspectives*

E: Data and Privacy

Melissa Goldstein, Milken Institute School of Public Health, George Washington University, *Effects of Recent Regulatory Changes on Health Information Privacy and Interoperability*

Jessica Mantel, University of Houston, *Barriers to Sharing Patient-Client Information among Medical Legal Partnership Professionals*

Arnold Rosoff, The Wharton School, University of Pennsylvania & Anthony Orlando, California State Polytechnic University, *Protecting Personal Health Information in the Digital Age*

Charlotte Tschider, Mitchell Hamline School of Law, *The Hidden Market Impacts of Digital Healthcare: Evaluating Cybercrime Costs in Healthcare Savings*

F: Disparities

Stacie Kershner, Georgia State University College of Law, *Incorporating the Exhibit "Health as a Human Right: Race and Place in America" in Health Law Classes*

Gwendolyn Majette, Cleveland Marshall College of Law, *Retrenchment: Reducing Health Care Disparities for People of Color in the Age of a New Presidency*

Jennifer Oliva, West Virginia University, *Waging Class Warfare: The Social Determinants of Veteran Diseases of Despair*

Ruqaiyah Yearby, Case Western Reserve University School of Law, *Separate and Unequal: Health Care in the Past, Present, and Future*

G: Panel: *The Intersection of Law and the "Appropriate" Prescribing of Drugs*

Adriane Fugh-Berman, Georgetown University

Justin E. Herdman, U.S. Attorney for the Northern District of Ohio

Paula Kocher, US Department of Health and Human Services, CDC

Liza Vertinsky, Emory University School of Law

6:30 – 10:30 PM Reception at the Rock & Roll Hall of Fame

Saturday, June 9, 2018

Sessions will take place at the Hilton Cleveland Downtown Hotel.

8:00 – 9:00 AM Continental Breakfast

9:00 – 10:30 AM Concurrent Sessions 5

A: Panel: *Disability, Diversity, and Decisions across the Lifespan*

Kathy Cerminara, Nova Southeastern University Shepard Broad College of Law

Elizabeth Pendo, Saint Louis University

Stacey Tovino, UNLV School of Law

Marilyn Uzdavines, Nova Southeastern University Shepard Broad College of Law

B: Research

John Barugahare & Charles Buuzza, Makerere University, Kampala – Uganda, *From Bioethical Formalism to Bioethical Realism in International Research Ethics: A juridical Analog*

Lauren Sankary, Cleveland Clinic, *Post-Study Access to Investigational Brain Implants: Legal, Ethical and Policy Considerations*

C: Health Policy

Katherine Drabiak, College of Public Health, University of South Florida, *Roundup Litigation: Using Discovery to Dissolve Doubt*

Hosea Harvey, Temple University, *Ten Years of Policy Surveillance: What We Can Learn from the Evolution of Concussion Law Reform*

Evelyn Tenenbaum, Albany Law School, *Kidney Vouchers: A New Innovation in Kidney Transplantation with Novel Legal and Ethical Concerns*

D: End of Life Decision making

Dena Davis, Lehigh University, *Alzheimer's Disease and Advance Directives*

Nancy King, Wake Forest School of Medicine, & Christine Coughlin, Wake Forest University School of Law, *Science, Society, and Charlie Gard*

E: Panel: *Medicaid Matters*

Lindsay Wiley, American University Washington College of Law, *Medicaid-for-All: State-Level Single-Payer Health Care*

Brietta R. Clark, Loyola Law School, *Medicaid Innovation Beyond the Medical Center: Structuring Successful Social Interventions*

Nicole Huberfeld, Boston University, *Rural Health, Universality, and Legislative Targeting*

Sidney D. Watson, Saint Louis University School of Law, *Medicaid Waivers, Work and Litigation: The Struggle for the Soul of Medicaid (and how to teach it in 2017-2018)*

F: Panel: *Immigration and Health Care*

Jennifer Huer, Northeastern University

Wendy Parmet, Northeastern University

Maya Prabhu, Yale University

10:30 - 10:45 AM Break

10:45 - 12:15 PM Concurrent Sessions 6

A: Panel: *The Medicalization of Poverty*

Mary Crossley, University of Pittsburgh School of Law

Dayna Matthew, University of Virginia

Bill Sage, University of Texas at Austin School of Law

Robin Wilson, University of Illinois College of Law

B: Genetics

Paul Lombardo, Georgia State University College of Law, *How the Women's Christian Temperance Union Joined Eugenic Reformers to Pass the 18th Amendment*

Efthimios Parasidis, Ohio State University and Max Mehlman, Case Western Reserve University School of Law, *Genetic Sequencing in the Military Health System: Legal and Ethical Issues*

Natalie Ram, University of Baltimore School of Law, *Forensic Biobanking*

C: Health Care Reform

Christina Bennett, The University of Oklahoma, *Did the Legislature Just Delegate?? Analyzing TennCare's Creation under the Non-Delegation Doctrine*

Mark Hall, Wake Forest University, *Stabilizing the Individual Health Insurance Market*

Elizabeth McCuskey, University of Toledo College of Law, *A Unified Theory of Health Law Waivers*

D: Public Health

Aila Hoss, Indiana University Robert H. McKinney School of Law, *State Requirements for Tribal Consultation: Opportunities for Public Health*

Montrece Ransom, Public Health Law Program, CDC, *Introducing the Public Health Law Academy*

Michael Ulrich, Boston University School of Public Health, *Concealed Carry Reciprocity: A Threat to Public Health and Federalism*

E: Drug Regulation

Dmitry Karshtedt, George Washington University Law School, *For Better or Worse: The FDA's Role in Regulating Pharmaceutical Improvements*

Myrisha Lewis, Howard University School of Law, *Improving Life Sciences Regulation: Solutions to the Current Impasse*

Jordan Paradise, Loyola University Chicago School of Law, *21st Century Citizen Pharma: The FDA & Patient-Focused Product Development*

F: Informed Consent

Melissa Alexander, University of Wyoming College of Law, *What the Patient Needs to Know: Minority Practice and Heightened Informed Consent*

Robert Dinerstein, American University, Washington College of Law, *Supported Decision Making for People with Intellectual Disabilities and Informed Consent*

Valerie Guttman Koch, University of Chicago; DePaul University College of Law, *The Buck Stops Here: Delegating Informed Consent*

12:15 - 1:15 PM Lunch –
 John Robertson Memorial
 Passing of the Torch

1:15 – 2:45 PM Concurrent Sessions 7

A: Panel: *Power, Prejudice, and Prosecution: Public Health Legal Implications of the Flint Water Crisis*

Peter Jacobson, moderator, University of Michigan School of Public Health

Lance Gable, Wayne State University Law School

Peter J. Hammer, Wayne State University Law School

Colleen Healy Boufides, Network for Public Health Law; University of Michigan School of Public Health

B: Drug Regulation

Rebecca Feinberg, DePaul University, *When Regulation to Prevent Abuse Results in Lack of Access for Medical Need: Human Growth Hormone*

Nicholson Price, University of Michigan Law School, *Drug Approval in a Learning Health System*

Michael Sinha, Brigham and Women's Hospital; Harvard Medical School, *The FDA and Off-Label Promotion: Regulating Commercial Free Speech in an Era of Skepticism*

C: Genetics

Robert Bohrer, California Western School of Law, *The Future of Human Evolution in the New Era of Gene Therapy: A New Frontier for Equitable Access*

Eileen Kane, Penn State Law School, *The Evolution of Genetic Therapies*

Anya Prince, University of Iowa College of Law, *Redux at 26: Survey of State Insurance Commissioners Concerning Genetic Testing and Life Insurance*

D: Health Care Reform

John Cogan, University of Connecticut School of Law, *Partial Equilibrium and Partial Coverage: The Failed Economics of Consumer Directed Health Plans*

Allison Hoffman, University of Pennsylvania Law School, *Health Care's Market Bureaucracy*

Charles Weller, Patient Value, LLC, *There is Now a Fundamental Flaw that Threatens Everyone's Health Care, and the Recurring Provider Payment for Patient Outcomes Solution*

E: Opioids

Leo Beletsky, Northeastern University School of Law, *(Almost) Everything You've Heard about the 'Opioid Epidemic' is Wrong*

Rebecca Haffajee, University of Michigan School of Public Health, *Effects of State-Level Opioid Misuse and Overdose Prevention Policies on Overdose*

Christopher Webster, University of Maryland at Baltimore, *Declaring the Opioid Overdose Crisis an Emergency*

F: International

Robert Field, Drexel University Kline School of Law and Dornsife School of Public Health, *Hospital Collaboration in the United States and France: Government Nudges and Cultural Values*

Cynthia Ho, Loyola University Chicago School of Law, *Promoting the Human Right to Health in International Investment Disputes*

Benjamin Mason Meier, University of North Carolina at Chapel Hill, *Human Rights Law as a Normative Framework for Global Health Governance*