

WASHINGTON COLLEGE OF LAW HEALTH LAW BULLETIN

A QUARTERLY PUBLICATION

ISSUE 3, VOLUME 1, JANUARY 2005

NEW YEAR'S GREETINGS TO ALL WCL STUDENTS!!

WHO WE ARE

WCL's **Student Health Lawyers Association** ("SHLA"), a student organization dedicated to creating a forum to discuss issues relevant to the health care industry especially as they relate to legal theory and practice, is committed to improving the understanding and development of the discipline of health law. SHLA intends to provide an informational and professional resource to students pursuing a career in health law, as it simultaneously promotes awareness on a variety of health care topics through events and discussion panels. Under the guidance of Professor Corrine Parver (WCL 1982), retired partner and former head of the Health Law Services Practice at Dickstein Shapiro Morin & Oshinsky LLP, SHLA is working both to expand the law school's health law curriculum and establish a health law project as part of the law school's LLM Program in Law and Government that would bring WCL to the forefront of emerging health law issues.

***LOOK IN THE DOCKET FOR INFORMATION ABOUT OUR FIRST MEETING IN 2005!**

OFFICERS & COMMITTEE MEMBERS

Lisa Lockwood, *Co-Founder; President*

Christine Naglieri, *Co-Founder; Editor, Newsletter*

Eric Liang, *Treasurer*

Prof. Corrine Parver, *Faculty Advisor*

SPRING 2005 COURSES IN HEALTH LAW

Current Trends in Health Policy: Provides an overview of coverage and reimbursement issues, the legislative and regulatory processes governing the U.S. health care system, the new Medicare Reform Act and prescription drug benefits, employer-sponsored health care, the problem of the uninsured, federal ERISA law and state regulation of insurance. Also considered are HIPAA and patient privacy protections, health care reform proposals (past and present),



AIDS, advances in biotechnology, and other recent developments in health care policy. Parver, T/TH 6:00-7:20pm

Advanced Issues: Reproductive & Genetic Technology: During the past two decades, advances in technology and science have stretched our legal principles and definitions, and outpaced our existing laws. Legislators and the public grapple with complex ethical and legal questions as they seek to create public policy that will balance society's interests; the needs of science and technology; individual rights; and the common good. This course on advanced issues in international policy will examine four areas of current controversy and concern those involved in reproductive technologies, genetics, organ donation and issues at the end of life. It will compare policy and legislative responses in three different jurisdictions, (Canada, the United States and Great Britain), to learn how these western countries with three different health care systems have handled the challenges of science and technology in these areas. McTeer (Visiting Professor from Canada), T 1:00-2:50pm

Health Law: Bioethics: Considers legal, ethical, and public policy problems posed by developments in health care financing, allocation, and delivery. Seminar topics include bioethics, fraud and abuse in the health care industry, federal reform on health policy, health care dispute resolution, health care transactions, and managed care. Forster, W 6:00-8:40pm

Mental Health Law: Schmeiser, T 3:00-4:50pm

Biotechnology and the Law: Cohen, T/TH 4:00-5:20pm

ARTICLES OF INTEREST

"AN UNLIKELY BUT HEALTH CONSCIOUS PARTNERSHIP"

Karine Mauprivez, 2L

Johns Hopkins University Bloomberg School of Public Health and the D.C. Prisoner's Legal Services Project recently joined together to study the health of female prisoners. The study will examine significant health issues, such as: preventive care, treatments for ongoing conditions, available



treatments for in-house conditions, and the overall impact of incarceration on health. The study seeks to determine whether incarcerated women are disconnected from health care and treatment services. The study's current statistics for incarcerated women reveal that 41% of female inmates are known to be HIV positive, compared with 3% of male inmates.

The project is recruiting volunteers to visit the D.C. Prison Detention Center and interview women prisoners. Johns Hopkins developed a questionnaire that asks the women about basic demographics and specific health care issues. Upon completion of the questionnaire, Johns Hopkins will run an analysis on the data and provide a comprehensive evaluation of the women's health and access to health care within the D.C. Prison Detention Center. **If you are interested in the project and would like to volunteer your time, please contact Karine Mauprivez at kmauprivez@yahoo.com.**

***INTERACTIVE POLITICS & HEALTH CARE DEBATE:
WCL STUDENTS ASK THE TOUGH QUESTIONS***

Eric Liang, 3L

On October 20, 2004, the WCL hosted a C-SPAN-televised interactive debate where students had a chance to ask representatives of President Bush and Senator Kerry about their candidate's health policy plans for the next four years. The 2004 Presidential Politics and Health Debate was co-sponsored by the Student Health Law Association, Health and Human Rights Initiative, Lambda Law Society, Black Law Students Association, WCL Democrats, Federalist Society, and the AU College Republicans.

After opening remarks from Professor Corrine Parver (Project Director, Health Law Project, LLM Program on Law and Government) and student liaison Ellee Walker (Health and Human Rights Initiative, SHLA), representatives of President Bush presented their thoughts on health policy. Dr. Rex Cowdry, a former advisor both to the White House Economic Council and the President for the Domestic Council on Health care Matters, discussed issues including the president's plans to lower health care costs and provide health care coverage for the uninsured in the U.S. Dean A. Rosen, Esq., the health policy director for Senate Majority Leader Bill Frist, added to Dr. Cowdry's discussion.



Rosen pointed out what he perceived as flaws in the Kerry health platform. Following this discussion, student representatives asked Dr. Cowdry and Mr. Rosen questions regarding their remarks.

Two equally distinguished personalities introduced Senator Kerry's health policy ideas. Dr. N. Thomas Connally, a member of the Organizers of National Doctors for Kerry, discussed Senator Kerry's plans for providing more Americans with health insurance, along with ideas to lower the cost of prescription drugs. Andy Rosenberg, Esq., a health policy advisor for Kerry and an attorney with Patton Boggs, presented Kerry's plan to lower overall health care costs for Americans and discussed tort reform. In addition, Rosenberg pointed out what he perceived as the flaws of the Bush health care plan.

A question and answer session followed, where members of the student groups and the general audience had an opportunity to ask questions of the panel. At the conclusion of the event, students, guest speakers, and others had a chance to mingle at a networking reception.

U.S. Dept. of Health and Human Services' Chief Counsel Visits WCL

Christine Naglieri, 3L

During the Fall semester, Lewis Morris, Esq., Acting Inspector General and Chief Counsel to the Inspector General of the HHS Office of Inspector General (OIG) spoke to a group of students enrolled in the health law course on "Fraud and Abuse in the Health Care Industry." Mr. Morris gave a dynamic overview of the area of health care fraud and the OIG's work in anti-fraud enforcement. He discussed the history of the OIG and several anti-fraud laws such as the False Claims Act, Stark and the Anti-Kickback Statute. He gave a vivid description of the government's enforcement mechanism, and the civil and criminal penalties faced by health care entities that violate federal laws. Students had an opportunity to question Mr. Morris about his position as Acting Inspector General, the role of government attorneys in anti-fraud enforcement and the effects of federal enforcement on health care entities, such as: physicians, hospitals, nursing homes and home health care agencies.

[INSERT PICTURES FROM PRESENTATION]



***BEN COTTEN PUBLIC POLICY FELLOWSHIP
NATIONAL KIDNEY FOUNDATION OF THE NATIONAL CAPITAL AREA***

Lisa Lockwood, 3L

Working as a public policy fellow for the National Kidney Foundation (NKF) is a rewarding, challenging position. I am responsible for setting the public policy agenda for a local NKF affiliate and tracking legislative initiatives at both the federal and state level. In addition, I perform extensive research on areas affecting patients living with varying levels of kidney disease. Currently, I am working on the issue of whether Virginia, Maryland, and D.C. have a certification requirement for Dialysis Technicians, and if they do, to what extent are they enforcing these requirements. I've learned that just because there is a law in place doesn't necessarily mean that the regulating agency is properly enforcing that law. Unfortunately, there has been a rise in infection rates of kidney dialysis patients stemming from improper technique and misuse of medical equipment. It is important that certification requirements are in place because infection rates are so high, and if they are in place already, an agency must ensure enforcement of the requirements and protect patients.

I've also been working on the implementation of several new laws, such as: Medicare's Part D Prescription Drug Benefit, Medicaid for the states of Virginia, Maryland and D.C., and the Organ Donor Leave Act. The Organ Donor Leave Act affords living organ donors thirty (30) days of paid leave in addition to other accrued leave. It also offers seven (7) days of paid leave for bone marrow donors. This Act's vision is to provide support for those who generously donate the gift of life to families and loved ones. In addition to the Organ Donor Leave Act, which President Clinton had signed into law, President Bush signed a supplemental law called the Organ Donation and Recovery Improvement Act to help offset the incidental costs associated with organ donation. I am working on a patient advocacy program on the NKF website to promote patient involvement.

There are also many NKF fundraising events that take place throughout the year. So far, I have helped out with the annual Chili Cook-off and the Kidney Ball Black Tie event. Both events were a lot of fun and raised a considerable amount of money for kidney disease research. Next semester NKF will sponsor a Casino Night!



If you're interested in learning more about health policy and health law in general, then this is the perfect fellowship for you. This is a paid fellowship, the hours are flexible and it is only offered to WCL students. My position at NKF will be vacant starting in Fall 2005. **Any student, preferably a rising 2L, that is interested in learning about NKF and applying for the position should contact me at lisalockwood@mac.com.**

HEALTH & HUMAN RIGHTS INITIATIVE

Ellee Walker, 2L

Health goes beyond the physical health of an individual or population and intersects with broad societal dimensions. Likewise, human rights go beyond the issue of access to health care and involve the legal parallels for protection of physical, mental, and societal well-being. Linking these two fields advances the human well-being beyond which could be reached by either the health or the human rights approach independently. The right to health, as enshrined in the Universal Declaration of Human Rights, has been recognized in numerous international and regional human rights treaties. Lawyers can use such international human rights principles as a framework for health care reform in the U.S and around the world.

In October, students formed the Health & Human Rights Initiative (HHRI), with the goal of increasing awareness of the links between health and human rights and issues facing the D.C. community, nation, and the world. The group's goals also include encouraging professional development and exploring career opportunities in this field. Currently, twenty-five (25) students with diverse backgrounds are members of the HHRI. Their work experiences and interests include women and children's health, HIV/AIDS, environmental health, reproductive health, immigrant health, and many others.

HHRI is planning a number of "downtown practitioner meetings," where students in small groups meet practicing lawyers at their places of work to discuss their current projects and career development. For the spring, HHRI has arranged meetings with the Planned Parenthood Federation of America, Pan-American Health Organization, and Whitman-Walker Clinic. Additionally, members are promoting the development of curriculum and programs at WCL and hope to soon have a course specifically on health and human rights taught by a human rights lawyer.



In the future, HHRI members will also develop professional skills by participating in local, national, or international conferences on health and human rights, such as the annual Intensive Course in Health and Human Rights presented by Harvard University and Boston University and conferences at Emory University. Lastly, HHRI plans to eventually create and host a national conference following a model-UN structure that brings together law, medical, public health, and public policy students and practitioners to practically increase their experience and skills in this field.

HHRI is collaborating with WCL's Center for Human Rights and Humanitarian Law and the Student Health Lawyers Association. **For more information or to join, please contact Ellee Walker at ellee.walker@american.edu.**

SPOTLIGHT ON PROFESSOR ROBERT DINERSTEIN



MENTAL HEALTH AND HUMAN RIGHTS

Jessica M. Smith, 3L

Recently, there has been a shift in the way lawmakers view disabilities. In the past, disability issues were considered synonymous with health issues. Now, however, disability issues are viewed as raising many human rights concerns. This comes at a time when the international world is focusing more on human rights and disabilities and the United Nations is considering a "Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities."



The World Health Organization's Department of Mental Health and Substance Dependence has a Mental Health Policy and Service Development Unit. The Unit's current initiative is to consider human rights issues in connection with mental health legislation. In November 2003, Professor Robert Dinerstein attended WHO's Second International Training Forum in Geneva, Switzerland. Experts from around the world addressed substantive aspects of mental health legislation when viewed from a human rights perspective, and devised a strategy for drafting new legislation, getting it enacted, and ultimately implementing it once enacted. Professor Dinerstein was one of three Americans at the training forum. After the forum, the experts were available to assist countries interested in drafting new mental health laws or revising their current mental health laws.

Ghana was one of the first countries to indicate that it wanted assistance in revising its 1972 mental health laws. The 1972 laws were similar to American laws, in that they focused more on treatment rather than on due process or human rights. Due to his knowledge in civil rights, human rights, and mental health advocacy, WHO asked Professor Dinerstein to travel to Ghana in June 2004 to assist in this revision process. Professor Dinerstein, along with Dr. Dixon Chibanda, a psychiatrist at the University of Zimbabwe Medical School, Professor Melyn Freeman, a psychologist at the Human Services Research Council in South Africa (and a former official in the South African government), and Dr. Michelle Funk, the Coordinator for Mental Health Policy and Service Development of WHO's Department of Mental Health and Substance Abuse and a psychologist by training, participated in a four-day workshop advising the Ghanaian officials how to be consistent with human rights while revising their mental health legislation and how best to revise their laws. While Professor Dinerstein was in Ghana, he was asked to provide the same assistance to policy-makers in Malawi. In October 2004, Professor Dinerstein contributed his mental health and human rights expertise at a similar workshop in Malawi.

In Africa, WHO is trying to get additional countries to take advantage of these expert services while the funding is still available. Professor Dinerstein noted that Ghana and Malawi are committed to this cause, however it is hard to keep the momentum going once the workshops are over. Currently, Ghana has drafted two revisions of its law and Malawi has also completed a revision. Their efforts are promising because even though the workshops are over, they are still working diligently at adding human rights considerations to their mental health legislation.



Currently, Professor Dinerstein is involved in follow-up activities in Ghana and Malawi. According to Professor Dinerstein, the process in Ghana is going well, and if any additional revisions to the proposed legislation occur, he will likely be called upon to comment on them. The Malawi team is still in the process of commenting on their initial effort. Finally, it is possible that Professor Dinerstein will be headed to Zimbabwe next year to assist in revising some of their more current mental health legislation.

A NEW DISABILITY RIGHTS CLINIC

A new health-related clinic will be offered to students in the Fall 2005 semester. Professor Dinerstein, who served as Associate Dean for Academic Affairs for the past seven years, is establishing a Disability Rights Clinic. While he is still determining what types of cases the clinic will represent -- some likely areas include: the Americans with Disabilities Act, special education, human rights, and guardianship. Professor Dinerstein stresses that experience in disability law is not required. Rather, he hopes that the first group of student attorneys will help to shape the future of the clinic.

Professor Dinerstein is no stranger to the world of clinical education. From 1983 through 1996, he taught and directed WCL's Criminal Law Clinic. In addition, from 1988 through 1996, he directed the overall Clinic Program. Professor Dinerstein envisions the Disability Rights Clinic as a learning vehicle for students that will address the needs of people with disabilities in the local communities. **Look for more information regarding the new Disability Rights Clinic this Spring.**

BE ON THE LOOKOUT FOR FUTURE SHLA ACTIVITIES:

Legislative, regulatory, case law updates; Alumni-student-professor networking events; externships; scholarships; employment possibilities; volunteer placements.

INTERESTED IN HEALTH LAW? QUESTIONS ABOUT SHLA?

Contact: Lisa Lockwood at lisa_lockwood@hotmail.com or 727-692-4946; and Christine Naglieri at christine_naglieri@yahoo.com or 631-664-4416.