Thursday, June 2, 2016

2:00 – 5:00 PM Conference Registration - BU Law Atrium

2:00 – 3:00 PM Reception for New Health Law Teachers
Hosted by ASLME Board of Directors
ASLME Offices, BU Law Tower, 17th Floor

3:00 – 5:00 PM Jay Healey Teaching Session - BU Law, McCausland Commons, 2nd Floor

Innovations in health law teaching: addressing the benefits and challenges of interdisciplinary teaching and community-engaged learning, and teaching about implicit bias

The format for this session is World Café roundtables, with plenty of opportunity for the collegial exchange of teaching ideas and insights among your colleagues and the panelists. Come prepared for a lively, interactive workshop.

World Café Hosts: Dayna Bowen Matthew, University of Colorado
Charity Scott, JD, Georgia State College of Law
Sidney Watson, Saint Louis University

Speakers: Christina Juris Bennett, JD, University of Oklahoma
Heather McCabe, Indiana University
Vernellia Randall, University of Dayton

5:00 & 5:15 PM Buses depart BU Law School & Hotel Commonwealth to Harvard Law School
5:30 – 9:00 PM Buses will continue to run on a loop between the Hotel Commonwealth and Harvard Law School

6:00 PM Lecture by Don Berwick
Radical Redesign of Health Care and its Implications for Policy

Don Berwick is one of the United States’ leading advocates for high-quality healthcare. From July 2010 to December 2011, he served as the Administrator of the Centers for Medicare and Medicaid Services. For 22 years prior to that, he was the founding CEO – and now President Emeritus and Senior Fellow – of
the Institute for Healthcare Improvement, a nonprofit dedicated to improving healthcare around the world.

7:00 – 9:00 PM  Reception at Harvard Law School

Don Berwick Lecture and Reception hosted by the Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics at Harvard Law School, cosponsored by the American Society of Law, Medicine & Ethics, the Boston University School of Law, and the Center for Bioethics at Harvard Medical School, with support from the Oswald DeN. Cammann Fund.

Friday, June 3, 2016

7:15 – 8:15 AM  Registration & Continental Breakfast - BU Law Atrium

8:15 – 9:30 AM  Concurrent Sessions 1

**ACA Concurrent Session 1A – Room 101**
Mary Pareja, University of New Mexico, *Inviting Everyone to the (Risk) Pool Party: A Proposal to Allow Reasonable Reliance on an Exchange’s Estimated Premium Tax Credit*
John Cogan, University of Connecticut, *The Puzzling Persistence of the Large and Small Employer Group Health Insurance Markets*
Allison Hoffman, UCLA, *How Economics Fails Health Law*
William Sage, MD, JD, University of Texas at Austin, *ACA: The Next Generation (of Ideas, Laws, and People)*

**Social Determinants of Health Concurrent Session 1B – Room 102**
*Health Justice: A Framework (and Call to Action) for the Elimination of Health Inequity and Social Injustice*
Emily Benfer, Loyola University Chicago
Scott Burris, Temple University
Ross Silverman, Indiana University
Lindsay Wiley, American University

**Public Health Concurrent Session 1C – Room 103**
James Holt, HHS Office of General Counsel, Laws Concerning the Possession, Use, and Transfer of Biological Agents and Toxins
Aurora Plomer, University of Sheffield, *Overlapping Jurisprudence and Divisions on Fundamental Rights in European Supranational Courts*
Byron Carson, George Mason University, *Private Property Rights and Public Health: Lessons from Ebola*

**Practice of Medicine Concurrent Session 1D – Room 209**
Valerie Gutmann Koch, University of Chicago
Elizabeth Yang, American Bar Association

**Autonomy & Privacy Concurrent Session 1E – Room 211**

*New Disability Challenges in Health Law*

- Valerie Blake, West Virginia University, *Disability and a Civil Right to Health Care*
- Kelly Dineen, Saint Louis University, *Stigmatized Disabilities: Substance Use Disorders and Chronic Pain*
- Elizabeth Pendo, Saint Louis University, *Confronting Disability Health Inequities*
- Jessica Roberts, University of Houston, *Wellness Programs and Disability Bias*

**Food, Drug, and Device Regulation Concurrent Session 1F – Room 212**

Nicholson Price, University of New Hampshire, *Promoting Healthcare Innovation on the Demand Side*
Lori Knowles, University of Alberta, *Precision Medicine: Regulatory Barriers and Policy Recommendations*
David Orentlicher, Indiana University, *Off-Label Drug Marketing*

**“Late-Breaking” Concurrent Session 1G – Room 410**

Emily Parento, University of the Pacific, *1115 Medicaid Expansion Waivers: A Framework for Consideration*
Leslie Meltzer Henry, University of Maryland, *Conducting Research with Pregnant Women: Ethical and Legal Challenges in the Zika Pandemic*
Seema Mohapatra, Barry University, *Love in the Time of Zika*
Fazal Kahn, University of Georgia, *GMO Labeling: Informed Consent vs. Scientific Correctness*

10:45 – 11:00 AM BREAK

9:30 – 9:45 AM Welcoming Remarks – BU Law Auditorium
Ted Hutchinson, Executive Director, American Society of Law, Medicine & Ethics
Kevin Outterson, Boston University School of Law

9:45 AM Opening Plenary Session – BU Law Auditorium

*Remembering the Early Years of the Health Law Professors’ Conferences*
George Annas, Boston University

10:00 AM Plenary Session: *FDA: Getting Better or Worse?*
Sidney M. Wolfe, MD, Founder & Senior Adviser, Health Research Group, Public Citizen

11:00 AM – 12:30 PM Concurrent Sessions 2
ACA Concurrent Session 2A – Room 101

Health Care Consolidation, Competition, and Prices
Thomas L. Greaney, Saint Louis University, The Sumo Wrestler Theory and Countervailing Market Power
Erin C. Fuse Brown, Georgia State University, The Double-Edged Sword of Health Care Integration
Anne Marie Helm, UC Hastings, How and Why to Use Private Litigation to Address Health Care Prices

Social Determinants of Health Concurrent Session 2B – Room 102

Dayna Bowen Matthew, University of Colorado, Teaching From Just Medicine: A Cure for Racial Inequality in American Health Care
Ruqaiijah Yearby, Case Western Reserve University, Race-Based Medicine, Colorblind Disease: How Racial Preferences in Violation of the 14th Amendment are Killing Us All
Mary Crossley, University of Pittsburgh, Black Health Matters: Disparities, Community Health, and Interest Convergence
Kimberly Cogdell Boies, North Carolina Central University, Mistrust by Blacks in the Health Care System
Elizabeth Sepper, Washington University, Remedying Healthcare Citizenship Inequality in the Administrative State

Public Health Concurrent Session 2C – Room 103

Efthimios Parasidis, Ohio State University, Parental Refusal of Childhood Vaccines and Medical Neglect Laws
Y. Tony Yang, George Mason University, The Effects of SB277’s Grandfather Clause on California Schools: An Empirical Analysis
Jada Fehn, Mitchell | Hamline, Will Citizens United be the Death of Public Health?
Robert Field, Drexel University, Legal Determinants of Syndromic Surveillance

Practice of Medicine Concurrent Session 2D – Room 209

Reconceptualizing the Legal Doctrine of Informed Consent
Valerie Gutmann Koch, IIT Chicago-Kent, Duty: Can (and Should) Research Participants Sue Investigators for Failure of Informed Consent?
Nadia N. Sawicki, Loyola University Chicago, Breach: Expanding the Boundaries of Materiality
Evelyn Tenenbaum, Albany Law School & Albany Medical College, Causation: The Importance of Moving to a Subjective Standard to Protect Individual Preferences and Priorities
Erin Sheley, University of Calgary, Harm: Redefining the Limits of Physical Injury to Reflect the Reality of the Mind-Body Connection
Elizabeth Pike, Presidential Commission for the Study of Bioethical Issues, Remedies: the Challenges Informed Consent Poses to Damage Recovery for Injured Research Participants

Autonomy & Privacy Concurrent Session 2E – Room 211
Benjamin Berkman, NIH Department of Bioethics, *Prenatal Whole Genome Sequencing*
Yvonne Lindgren, Indiana Tech, *The Doctor Requirement: Privacy and At-Home Reproductive Care*
Radhika Rao, UC Hastings, *Egg-freezing, Gametogenesis, and Uterine Transplants: Technologies of Liberation or Oppression?*
Barbara Noah, Western New England University, *Informed Consent and Shared Decision Making at End of Life*

**Food, Drug, and Device Regulation Concurrent Session 2F – Room 212**
Richard Saver, UNC, *The Physician Payments Sunshine Act: What’s Been Learned So Far and the Limits of Transparency*
Jesse Goldner, Saint Louis University, *Conflicts of Interest, the Sunshine Act and Comparative Regimes*
Kristen Underhill, Yale University, *Motivational Crowding-out with Financial Incentives*
Christopher Robertson, University of Arizona, *Effect of Physician Conflicts of Interest Disclosures on Patients: A Field Experiment*
Marc Rodwin, Suffolk University, *Conflicting Conceptions of Conflicts of Interest*

**Concurrent Session 2G – Room 410**
*Why I use social media*
Moderator: Ed Silverman, Pharmalot
Nic Terry, *Podcasts*
Rachel Sachs & Nick Bagley, *Blogs*
Frank Pasquale & Ross Silverman, *Twitter*

12:30 – 12:45 PM    Walk to BU Trustees Center
12:45 – 2:15 PM    Lunch & Plenary Session - Metcalf Trustees Center, 9th Floor, 1 Silber Way
*The Quarantine of Kaci Hickox*
Welcome by Wendy Parmet, Northeastern University
Wendy Mariner, Boston University
David Soley, Bernstein, Shur, Sawyer & Nelson, P. A.

*Presentation of the 2016 Jay Healey Teaching Award*
Lunch Sponsored by Northeastern University School of Law

2:15 – 2:30 PM    Walk to BU Law
2:30 – 3:30 PM    Concurrent Sessions 3

**ACA Concurrent Session 3A – Room 101**
Laura Hermer, Mitchell | Hamline School of Law, *Competing Visions of Medicaid*
Sidney Watson, Saint Louis University, *The Cost of Medicaid Expansion: Premiums & Section 1115 Waivers*
Sallie Sanford, University of Washington, *Medical Students on Medicaid: Campuses as Harbingers of Medicaid Universality*

**Social Determinants of Health Concurrent Session 3B – Room 102**

Nan Feyler, Temple University, *Regulatory Enforcement to Address Health and Housing*

Jason Smith, CSU East Bay, *Climate Change, Health and Health Law*

Christina Ho, Rutgers University, *Are We Suffering from an Undiagnosed Right to Health*

**Public Health Concurrent Session 3C – Room 103**

Audrey Lebret, Panthéon-Assas University, Paris & Boston University School of Law, *The European Court of Human Rights and the Rights of Relatives in Post Mortem Organ Donation*

Michael Ulrich, Yale University, *The Right to Bear Arms: A Public Health Law Approach*

Matthew Penn, Public Health Law Program, CDC, *Legal Epidemiology*

**Practice of Medicine Concurrent Session 3D – Room 209**

*Law at the Bedside: Ethical Challenges*

Margot Eves, Cleveland Clinic

Lauren Flicker, Montefiore Einstein Center for Bioethics

Jed Gross, Cleveland Clinic

**Autonomy & Privacy Concurrent Session 3E – Room 211**

Catharine Schiller, University of Northern British Columbia, *Carter v. Canada: End of Life Care in Canada*

Sharon Hoffmann, Case Western Reserve University, *Driving While Elderly*

Craig Konnoth, University of Pennsylvania, *Taxation as an Analogy for Big Data Collection*

**Food, Drug, and Device Regulation Concurrent Session 3F – Room 212**

*Novel Solutions to High Drug Prices*

Amy Kapczynski, Yale University, *Patent Buy-Outs: A Legal Approach to Reduce Drug Spending*

Aaron Kesselheim, Harvard Medical School, *Can March-In Rights Ensure Access to Medical Products Arising from Federally-Funded Research?*

Kevin Outterson, Boston University, *How Medicare Can Get Better Prices on Prescription Drugs*

3:30 – 3:45 PM  BREAK

3:45 – 4:45 PM  Concurrent Sessions 4

**ACA Concurrent Session 4A – Room 101**

Wendy Epstein, DePaul University, *Revisiting Incentive-Based Contracts*

Barry Furrow, Drexel University, *From Patient Safety to Pay-For-Performance: What Has the Patient Gained from the ACA?*

Nick Bagley, University of Michigan, *Legal Limits and the Implementation of the ACA*

**Social Determinants of Health Concurrent Session 4B – Room 102**

Josh Hyatt, USC, *Transgender Health Issues in Risk Management*
Lauren Roth, NYU, Poor People, Sick Babies: Preimplantation Genetic Diagnosis and Inequality
Courtney Anderson, Georgia State University, Smoking Bans in Public Housing

Public Health Concurrent Session 4C – Room 103
Football Players Health Study at Harvard
  I. Glenn Cohen, Harvard University
  Holly Fernandez Lynch, Harvard University
  Jessica Roberts, University of Houston

Practice of Medicine Concurrent Session 4D – Room 209
Bruce White, Albany Medical College, Teaching Practitioners about Medical Marijuana in New York: An Innovative Joint Continuing Education Program for Bioethicists, Lawyers, Physicians, Nurses, and Pharmacists
John Tingle, Nottingham Trent University UK, Patient Safety and Clinical Negligence in the UK
Jennifer S. Bard, University of Cincinnati, The Role of Professional Licensing Boards in Protecting the Public from Quackery on the Witness Stand

Autonomy & Privacy Concurrent Session 4E – Room 211
Anya Prince, UNC-Chapel Hill, Social v. Actuarial Fairness
Jalayne Arias, University of California San Francisco, An Insurance Law Canyon: Biomarkers in Alzheimer's Disease as a Paradigm
Tara Adams Ragone, Seton Hall University, Legal Barriers to the Sharing of Patient Health Information among Integrated Behavioral and Physical Health Providers

Food, Drug, and Device Regulation Concurrent Session 4F – Room 212
Jordan Paradise, Seton Hall, The Precision Medicine Initiative
Katherine Drabiak, University of South Florida, The Impact of a Developing Regulatory Framework Governing Diagnostic Tests in Precision Oncology: Trading Risks, Imperfect Information, and Deficient Informed Consent
Liz McCuskey, University of Toledo, A Body of Preemption

4:45 – 5:00 PM         BREAK

5:00 – 5:45 PM         Afternoon Plenary Session – BU Law Auditorium
Introduction by Kathy Zeiler, Boston University School of Law

Dr. John E McDonough, DrPH MPA, is a professor of practice at the Harvard TH Chan School of Public Health in the Department of Health Policy & Management. He served as a senior adviser on national health reform for the US Senate Committee on Health, Education, Labor and Pensions between 2008-10 during the writing and passage of the Affordable Care Act. Between 1985-97,
he served as a member of the Massachusetts House of Representatives where he played in leading role in health policy.

6:00 PM Buses depart for Boston Tea Party Museum & Ships
6:30 – 9:30 PM Reception at the Boston Tea Party Museum

Saturday, June 4, 2016

7:00 AM Boston “Mini-Marathon” – 2-mile fun run/walk
8:00 – 9:00 AM Breakfast at ASLME Offices
BU Law Tower, 17th Floor
9:00 – 10:20 AM Concurrent Sessions 5

ACA Concurrent Session 5A – Room 101
Katrice Copeland, Penn State, Regulating the Individual Mandate’s Exception for Health Care Sharing Ministries
Ann Marie Marciarille, University of Missouri, Kansas City, The Stand-Alone Not for Profit Community-Based Hospital: Public Resource or Public Good?
Susan Channick, California Western, The Costs of High out-of-Pocket Costs
Nicole Huberfeld, University of Kentucky, Health Care and the Myth of Self-Reliance

Social Determinants of Health Session 5B – Room 102
Medical-Legal Partnerships Based Clinics: Building Community through Concepts of Care
Tomar Nicole Brown, University of Pittsburgh
Laura McNally-Levine, Case Western Reserve University
Medha D. Makhlouf, Pennsylvania State University

Public Health Concurrent Session 5C – Room 103
Ebola on the Homefront – the Federal, State, and Private Sector Response
Paula L. Kocher, HHS Office of the General Counsel
David E. Benor, HHS Office of the General Counsel
Sid Barrett, Georgia Department of Public Health
Rob Gatter, Saint Louis University
Jane Jordan, Deputy General Counsel, Emory University

Practice of Medicine Concurrent Session 5D – Room 209
Kathy Zeiler, Boston University, Communication and Resolution Programs: The Numbers Don’t Add Up
Thaddeus Pope, Mitchell-Hamline, Decline and Fall of Informed Consent Law: Empowering Patients with Certified Decision Aids
Michelle Mello, Stanford University, New York Federal Demonstration Project on Medical Malpractice
Howard Zwickel, SUNY Empire State College, *How Better Communication and Collaboration among Healthcare Providers, Insurers, and Patients together with More Comprehensive State Apology Laws Can Reduce the Number and Scope of Medical Malpractice Claims*

**Autonomy & Privacy Concurrent Session 5E – Room 211**
Gaia Bernstein, Seton Hall University, *HIPAA: A Road to Patient Empowerment?*
Julie Agris, Stony Brook University, *Training under the HIPAA Privacy Rule*
Kristin Madison, Northeastern University, *Consent in the Context of Health Information Exchange*
John Robertson, University of Texas, Austin, *Legal and Ethical Challenges in Gene-Editing*

**Food, Drug, and Device Regulation Concurrent Session 5F – Room 212**
*Alternative Approaches to Pharmaceutical Innovation*
Yaniv Heled, Georgia State University
Cynthia Ho, Loyola Chicago
Cass Brewer, Georgia State University
Liza Vertinsky, Emory University

10:20 – 10:40 AM BREAK

10:40 AM – 12:00 PM Concurrent Sessions 6

**ACA Concurrent Sessions 6A: Fraud & Abuse – Room 101**
Elizabeth Weeks Leonard, University of Georgia, *Recent Developments in Fraud & Abuse: the Practitioners’ Perspective*
Zack Buck, Mercer University/University of Tennessee College of Law, *Furthering the Fiduciary Metaphor*
Sam Halabi, University of Tulsa, *Collective Corporate Knowledge in the False Claims Act*

**Human Subjects Research Concurrent Session 6B – Room 102**
*State of the Data: Assessing the Appropriate Legal and Ethical Divide between Biospecimens and Derived Data*
Paul Lombardo, Georgia State University
Kayte Spector-Bagdady, University of Michigan
Patricia J. Zettler, Georgia State University

**Public Health Concurrent Session 6C – Room 103**
*New (and Recurring) Developments in Vaccination Law*
Peter Jacobson, University of Michigan, *Raising the Public Health Voice: Engaging Anti-Vaxxers without Succumbing to Despair*
Linda Fentiman, Pace University, *Are Parents Who Fail to Vaccinate their Children the new Faith Healers? Should the Failure to Vaccinate One's Children be Treated - Civilly or Criminally -- As Child Abuse?*
Wendy E. Parmet, Northeastern University, *Vaccines and Religious Liberty: From Jacobson to Little Sisters of the Poor*
Ross Silverman, Indiana University, *All Politics is Loco: Protecting Public Health in Polarized Times*

**Practice of Medicine Concurrent Session 6D – Room 209**
Mary Anne Bobinski, University of British Columbia, *The Limits to Consumerism in Health Care*
Jennifer Moore, Stanford University and University of Otago, *An Empirical Approach to Coroner’s Inquests and Recommendations*
Oliver Quick, University of Bristol, *Leaving Patients to their Own Devices? Smart Technology and Regulating Safety*

**Autonomy & Privacy Concurrent Session 6E – Room 211**
*Big Data Comes of Age in Health Care*
Frank Pasquale, University of Maryland, *Data Acquisition and Consent in Learning Health Care Systems*
Nicolas Terry, Indiana University, *Big Data, Regulatory Disruption and Arbitrage*
Kristin Madison, Northeastern University, *Employer Wellness Programs: Data Collection, Discrimination, and Regulation*
Nathan Cortez, SMU, *Regulation of Medical Software and Algorithms*

**Food, Drug, and Device Regulation Concurrent Session 6F – Room 212**
Micah Berman, Ohio State University, *Tobacco Regulatory Science*
Joanna Sax, California Western School of Law, *The Utilization of Mood in Decisions Regarding Health and Safety*
Bob Bohrer, California Western, *A Rawlsian Approach to Big Data: We’re Still Behind the Veil So What’s the Deal?*
Gary Marchant, Arizona State University, *Anti-Aging Technologies and the FDA*

12:00 – 1:00 PM Lunch & Passing of the Torch to Georgia State University - McCausland Commons, 2nd Floor
Wendy Mariner, Boston University School of Law
Announcement of the 2016 Health Law Scholars

1:00 – 2:00 PM Concurrent Sessions 7

**ACA Concurrent Session 7A – Room 101**
*Integration of the Individual Health Care and Population/Public Health Systems in Regard to Delivery, Financing, Prevention, Wellness, and the Critical Role of the Affordable Care Act*
Deirdre Golden, University of Detroit Mercy
Peter D. Jacobson, University of Michigan
Mark Hall, Wake Forest University, *Private Health Insurance Exchanges for Large Employers*
Human Subjects Research Concurrent Session 7B – Room 102
Mark Rothstein, University of Louisville, Citizen Science Health Research
Jonathan Todres & Leslie Wolf, Georgia State University, Legal and Ethical Issues in Research Involving Human Trafficking Survivors

Public Health Law Concurrent Session 7C – Room 103
Crafting Messages and Law Competencies
Gene Matthews, Network for Public Health Law, UNC, Crafting Richer Stories for Public Health
Montrece McNeil Ransom, Centers for Disease Control and Prevention, Public Health Law Competency Model

Practice of Medicine Concurrent Session 7D – Room 209
Perspectives on Legal-Medical Interprofessionalism
Marilyn Uzdavines, Nova Southeastern University
Kathy Cerminara, Nova Southeastern University
Amy Campbell, University of Memphis

Autonomy & Privacy Concurrent Session 7E – Room 211
Eugenics at the Movies: Abortion and Birth Control in Where Are My Children? (1916) Paul Lombardo will lead a one hour presentation and discussion of the film, including several extended clips. Current debates over the governmental subsidies for birth control and the medical risks of abortion, and questions about the accuracy of labeling any such practices as “eugenics” regularly echo the same arguments that surfaced in the dramatic context of 1916’s Where Are My Children? The centennial of the film offers a timely opportunity to explore the historical origins of these themes.

Food, Drug, and Device Regulation Concurrent Session 7F – Room 212
Rebecca Haffajee, Harvard University, Preventing Prescription Drug Abuse
Ryan Meade, Loyola University Chicago, Misalignment of Regulations: A Case Study of FDA, NIH, and CMS
Diane Hoffmann, University of Maryland, Microbiota-Related Therapies and the Challenges They Create for FDA

2:00 – 2:15 PM BREAK
2:15 – 3:15 PM Concurrent Sessions 8

ACA Concurrent Session 8A – Room 101
Seth Chandler, University of Houston, Learning about Health Insurance Using data.healthcare.gov
Govind Persad, Johns Hopkins University, Paying Patients: Legal and Ethical Dimensions
Abigail Moncrieff, Boston University, Statutory Realism, ACA Exchanges, and the Court’s Opinion in King

Human Subject Research Concurrent Session 8B – Room 102
Maxwell Mehlman, Case Western Reserve University, *Ethical, Legal, Social, and Governance Issues in Non-Traditional Genetics and Genomics*
Eileen Kane, Penn State, *Human Gene Editing: Emerging Regulatory Landscape*

**Public Health Concurrent Session 8C – Room 103**
Melissa Alexander, University of Wyoming, *Ethics of Providing IUDs to Minors without Parental Consent*
Taleed El-Sabawi, Ohio State University, *The State of Mental Health Parity Enforcement*

**Concurrent Session 8D – Room 209**
Carl Coleman, Seton Hall University, *Regulating Physician Speech*
Ron Paterson, University of Auckland, *From Prosecution to Rehabilitation – New Zealand’s Response to Health Practitioner Negligence*
Leo Beletsky, Northeastern University, *The Doctor’s Secret: Surveillance, Confidentiality, and the Public’s Health*

**Food, Drug, and Device Regulation Concurrent Session 8F – Room 212**
Iris Goldner Lang, University of Zagreb, *Antibiotics in Animal Feed*
Erika Lietzan, University of Missouri, *A Framework for Thinking About Biologics Innovation and Competition*
Dena Davis, Lehigh University, *Religious Exemptions to Vaccinations*

3:30 PM Red Sox Game