

Case Law-Med

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The Law-Medicine Center at Case Western Reserve



Celebrating 70 years

Law-Medicine Center reflects
on its history in health law—
and looks to the future



CASE WESTERN RESERVE
UNIVERSITY
School of Law



About health law at CWRU

Case Western Reserve University School of Law's top-ranked health law program offers students unique opportunities to play pivotal roles in emerging areas of law. Students engage with faculty in researching legal, ethical and policy issues raised by advances in human genetics, electronic medical records, artificial intelligence, biomedical research, novel threats to public health, new reproductive technologies, and historic changes in the regulation of government and private healthcare programs.

Outstanding campus resources support the health law program. Case Western Reserve is a leading research university, with a top-25 medical school and renowned health policy and bioethics programs. Collaborations with peers from our graduate schools of medicine, social sciences and management include shared courses, lectures, symposia and research teams.

The law school is close to multiple major hospital systems—Cleveland Clinic, University Hospitals, Louis Stokes VA Medical Center, MetroHealth Medical Center and Summa Health—which provide opportunities to work and learn in hospital legal environments.

Health Matrix Journal

Our students gain experience writing, editing and publishing scholarly work in our top-rated health law journal, *Health Matrix*. Each issue includes articles by national scholars as well as student notes, written under the supervision of a faculty member. The journal also features articles that grow out of a symposium on a significant health law topic, such as corporate wellness programs, reproductive rights, health disparities and medical big data.

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ON THE COVER:
*Sharona Hoffman and
Max Mehlman, co-directors
of the Law-Medicine Center
(Photo by Angelo Merendino)*

MESSAGE FROM THE CO-DIRECTORS



Sharona Hoffman and Max Mehlman (Photo by Angelo Merendino)

Seventy years ago, a lawyer and a forensic pathologist at Western Reserve University teamed up with a Cleveland coroner to do something unprecedented: create the first center for the study of health law in the United States.

As you'll read in this issue's cover story, these men—Alan Moritz, Oliver Schroeder and Samuel Gerber—established the Law-Medicine Center at what is now Case Western Reserve University to elevate the field of forensic science. They started out by teaching police officers, attorneys, judges and coroners. Eventually, over his long tenure as the center's director, Schroeder expanded its focus to include more areas of health law.

Today, under our leadership, the health law program they began continues to offer students unique opportunities in Cleveland, one of the world's preeminent healthcare hubs. And because Case Western Reserve is a leading research university, our students benefit from collaborations with peers elsewhere in the institution, such as at our top-25 medical school and our renowned health policy and bioethics programs.

Our expert faculty members play pivotal roles in many emerging areas of health law. Over the last few years, they have been quoted in hundreds of media stories by local, national and international news outlets. Their work has been published in the *New England Journal of Medicine*; *Journal of the American Medical Association*; *Yale Journal of Health Policy*; *Law and Ethics*; *U.C. Davis Law Review*; *Washington University Law Review*; *Iowa Law Review*; *Georgetown Law Journal*; *Indiana Law Journal* and others.

We hope you'll enjoy reading about the Law-Medicine Center and its accomplishments in this issue of *Case Law-Med* magazine, as we look forward to another 70 years of helping to shape the field of health law.

Sharona Hoffman

Edgar A. Hahn Professor of Law
Co-director of the Law-Medicine Center

Max Mehlman

Distinguished University Professor, Arthur E. Petersilge Professor of Law
Co-director of the Law-Medicine Center

NEWSFLASH

Faculty at the Law-Medicine Center are sought by well-known media outlets for their expert opinions on topical issues of the day. Here are just a few examples of what they've weighed in on over the last year.



“HIPAA isn’t that protective. Consumers need to know that HIPAA has exceptions for law enforcement and public health.”

—Sharona Hoffman, Edgar A. Hahn Professor of Law and co-director of the Law-Medicine Center, to Wired about the common misconception that HIPAA prevents healthcare providers from sharing patient medical information when appropriate



“The doctor has a legal duty to take reasonable steps to preserve the life and health of the patient. If they don’t, in the most egregious situations, this has led to criminal prosecutions.”

—Max Mehlman, Distinguished University Professor, Arthur E. Petersilge Professor of Law and co-director of the Law-Medicine Center, to Politifact on legal complications related to anti-abortion laws



“It really pushes the boundaries of what courts are capable of and effective at addressing.”

—Jonathan Adler, the Johan Verheij Memorial Professor of Law, to TIME about Held v. Montana, in which 16 youths argued that Montana officials violated their state’s constitutional right to a “clean and healthful environment”

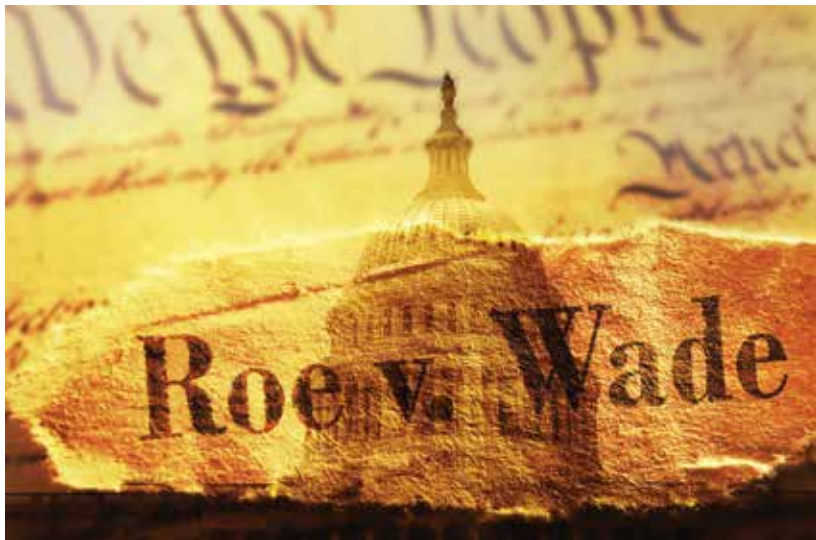


“Not to stock this medication in particular states is most likely to harm patients who would benefit from being able to use the medication for miscarriage, where it’s perfectly legal.”

—Jessie Hill, the Judge Ben C. Green Professor of Law, to CNN about Walgreens’ refusal to stock mifepristone

Bringing in the experts

Through conferences and seminars with leading experts, Case Western Reserve University's Law-Medicine Center advances the field of health law and provides both students and seasoned professionals opportunities to delve into current topics. Here's a look at some of the events hosted over the last year.



From left: Speakers Jessie Hill, Mae Kuykendall and Marc Spidelman were panelists during the Law-Med Symposium



Law-Med Symposium 2023: Reproductive Rights and Justice after Roe

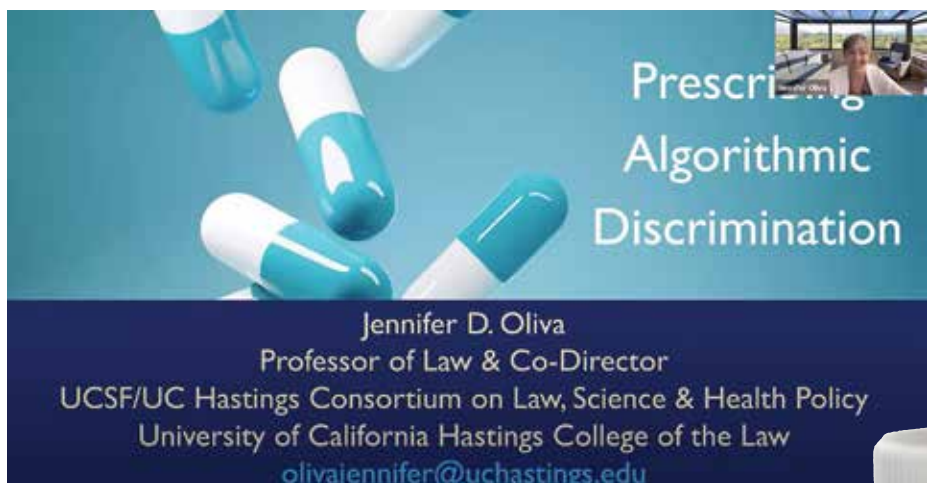
Last spring, the Law-Medicine Center held a daylong interdisciplinary symposium with a robust agenda of speakers who addressed legal and medical questions left unanswered after the overturning of *Roe v. Wade*. Foremost among them was whether and how it might be possible to create a legal path to reproductive autonomy from a “reproductive justice” perspective. Experts in law and medicine from CWRU; University of California, Berkeley; Northwestern University; Drexel University; Howard University and other institutions took on topics such as self-managed abortion, criminalization of pregnancy outcomes, reproductive justice-focused litigation, movement strategies and more.

A question-and-answer session followed each panel. During one, a participant asked panelists how legal scholars and advocates should be thinking about their work post-Roe.

Marc Spidelman, the Isadore and Ida Topper Professor of Law at The Ohio State University Moritz College of Law, replied: “I think the moment—and it’s not a new moment, in many respects, is calling us all to be as on our toes as we can and as alert to the possibilities that are lurking around the corners of the dark wood that we’re now inhabiting.”



**Watch the
symposium**



Jennifer Oliva's virtual presentation to the Law-Medicine Center in April



Elena and Miles Zaremski Lecture: Prescribing Algorithmic Discrimination

State-funded prescription drug monitoring programs (PDMPs) are designed by law enforcement to surveil controlled substances such as opioids. When a patient is prescribed opioids, the prescription is entered in a statewide database—usually without the patient's knowledge.

PDMPs use algorithms to assign risk scores to predict—and then “red flag” in the state's database—which patients may develop substance abuse disorders. The problem? The algorithm is only as good as the data it is given. So if that data is incomplete because of faulty assumptions or missing information, the algorithm's recommendations will be similarly flawed. In the case of PDMPs, the algorithm would use bad data to unfairly label patients as high risk for substance abuse disorder. Patients with complex problems and disabilities that cause pain are particularly vulnerable to artificially inflated PDMP scores, and these often include minorities and economically disadvantaged individuals.

To discuss and critique PDMPs and suggest ways in which they could be improved, the Law-Medicine Center invited Jennifer Oliva, who is now professor of law and the Val Nolan Faculty Fellow at Indiana University Bloomington. Oliva emphasized that law enforcement has access to PDMPs and often uses them to identify individuals whom they deem to be at high risk of drug diversion, misuse and overdose. She ended the talk by suggesting mechanisms to enhance oversight of PDMP algorithms and privacy protections.



**Watch
Oliva's talk**



Christine Grady presenting the Schroeder Lecture at the School of Law



Schroeder Lecture: Limits on Biomedical Research— Whether, Why and How

Human-animal hybrids. Brain transplants. Extending human life past 100 years. It's the stuff of science fiction. But it's also the stuff of biomedical research.

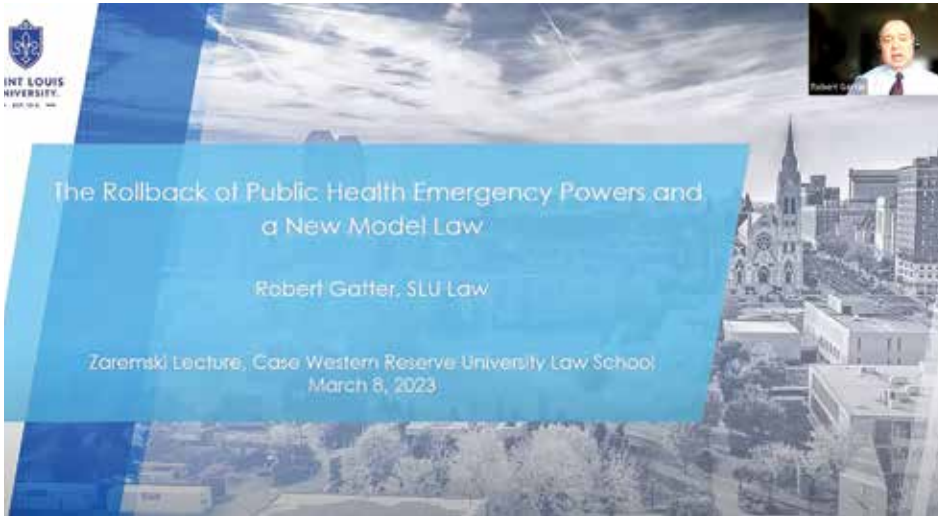
Biomedical research has improved our understanding of diseases such as HIV, COVID-19 and leukemia. It has enormous potential for the future, but it comes with ethical challenges. So should there be limits on that research?

This is the question Christine Grady, chief of the Department of Bioethics at the National Institutes of Health Clinical Center, attempted to answer at last year's annual Schroeder Lecture, hosted by the Law-Medicine Center.

Moral and ethical questions abound in myriad research areas. Some emerging technologies are particularly controversial, such as genome editing and organoids—tissue cultures that are made from stem cells and used for studying human organs, including the brain. Grady cautioned against the imposition of overly rigid laws and regulations. She argued that we must promote scientific progress—but do so thoughtfully and carefully. “It’s necessary to find ways to proceed that relieves some of the ills of the human condition,” she explained, “but without destroying our humanity.”



**Watch Grady's
presentation**



Rob Gatter's presentation to the Law-Medicine Center in March

Elena and Miles Zaremski Lecture: The Rollback of Public Health Emergency Powers and a New Model Law

As the COVID-19 pandemic wore on in 2021, some segments of the population became frustrated with public health emergency orders. They discarded their masks, neglected vaccinations and gathered despite guidance to the contrary.

According to Rob Gatter, professor and director of the Center for Health Law Studies at Saint Louis University, these actions undermined the efforts to contain the pandemic, and ongoing anti-government sentiment resulted in judicial and legislative actions that have eliminated fundamental executive power to protect public health during an emergency.

In an effort to improve public health emergency responses and better balance individual autonomy interests and government authority in the future, the Uniform Law Commission is drafting a model law called the Public Health Emergencies Act. The commission is a nonprofit that provides states with model non-partisan legislation for critical areas of state law. Gatter helps lead the Public Health Emergencies Act project and discussed his work in a spring Zaremski lecture.

If such legislation was to be adopted, Gatter asserted, it would secure state officials' public health powers, promote accountability and provide an improved framework for implementing orders to protect public health in the future.



**Watch
Gatter's talk**



**See
upcoming
Law-
Medicine
Center
events**

Research roundup

Law-Medicine Center faculty are well-known for their research and are widely published in the field. Here are summaries of some of their most recent publications over the last year.



Prioritizing patient privacy



Sharona Hoffman, the Edgar A. Hahn Professor of Law, penned two articles on patient privacy issues and health records.

In “Interoperability in a Post-Roe Era,” published in the *Journal of the American Medical Association*, Hoffman and her co-

authors argue that interoperability—“the timely and secure access, integration, and use of electronic health information to optimize health outcomes for individuals and populations”—is coming into conflict with new restrictions on reproductive rights.

How do we protect patients’ reproductive health information in the face of potential prosecution for abortion-related investigations? The authors suggest a potential solution: Prohibit the disclosure of reproductive health information to health information exchange networks unless a patient gives explicit consent.

Hoffman wrote more broadly about patient privacy in “Privacy and Security—Protecting Patients’ Health Information” in *The New England Journal of Medicine*. She described many of the basic protections afforded to patients—and the regulations with which healthcare providers must comply—in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security Rules. These protections notwithstanding, she concluded by emphasizing the need for patients and clinicians to understand HIPAA’s limitations, and for regulatory adaptations as our healthcare ecosystem evolves.

Exceptional honor

At Case Western Reserve University School of Law’s annual celebration of faculty in May, Sharona Hoffman received the school’s 2023 Distinguished Research Award for publishing 11 journal articles, numerous opinion pieces and a second edition of her book, *Aging with a Plan: How a Little Thought Today Can Vastly Improve Your Tomorrow*.

Improving public understanding of vaping

Jonathan Adler, the Johan Verheij Memorial Professor of Law, paired up with Jacob James Rich, a researcher at Cleveland Clinic Lerner Research Institute and doctoral student at Case Western Reserve University School of Medicine, to publish an article in Cato Institute's *Regulation* magazine. In "Uneducating Americans on Vaping," they argue that more must be done to help smokers understand that electronic cigarettes and other vaping products are safer alternatives to smoking cigarettes. Even though the Food and Drug Administration accepts that electronic nicotine delivery systems pose less risk than cigarettes, it regulates them the same way, which sends the wrong message to Americans. To clear up misconceptions about vaping and its risks relative to smoking, Adler and Rich urge "government agencies to develop and promote more balanced and accurate public health messages."



Researching gene-editing regulation



In 2019, **Max Mehlman**, Distinguished University Professor and the Arthur E. Petersilge Professor of Law, was part of a team that received a grant from the National Institutes of Health's National Human Genome Research Institute to examine ethical, legal and policy issues raised by gene-editing experiments that take place outside of traditional settings, such as in community labs and experimenters' homes. The researchers recently outlined their results in "Governing Nonconventional Genetic Experimentation," which appeared in the *Journal of Law and Biosciences*. Although finding that this form of nontraditional genomic experimentation posed no significant health or safety risks, they recommended increased efforts by community labs and the nontraditional experimental community to regulate themselves. Such regulation, they said, should include establishing an institutional review board to which experimenters voluntarily submit proposed projects for review.

Faculty briefs

Law-Medicine Center faculty publish scholarly articles, briefs, chapters and books that help shape the field of health law. Here are some of their most recent publications.



B. Jessie Hill,
Judge Ben C. Green
Professor of Law

- “History’s Speech Acts,” 108 *Iowa Law Review* (2023).
- “Religious Nondelegation,” 54 *Loyola University Chicago Law Journal* (2023).
- “Unlimited Discretion: How Unchecked Bureaucratic Discretion Can Threaten Abortion Availability,” *Journal of Health Politics, Policy & Law* (2023) (with Orlaith Heymann, Danielle Bessett, Alison Norris, Danielle Czarnecki, Hillary J. Gyuras, Meredith Pensak and Michelle L. McGowan).
- “Big, Bad Roe,” 14 *ConLawNOW* 65 (2023).
- “Due Process, Delegation, and Private Veto Power,” 108 *Iowa Law Review* 1199 (2023).
- “Right to Decisional Privacy,” *Laws of Medicine: Core Legal Aspects for the Healthcare Professional* (Amirala Pasha ed., 2022).
- “Look Who’s Talking: Conscience, Complicity, and Compelled Speech,” 97 *Indiana Law Journal* 913 (2022).
- “Response to Wasserman and Rhodes: The Texas SB 8 Litigation and ‘Our Formalism,’” 72 *American University Law Review Forum* 1 (2022).
- “Uprooting Roe,” 12 *HLRe: Houston Law Review Online* 50 (2022) (with Mae Kuykendall).



Sharona Hoffman,
Edgar A. Hahn
Professor of Law

- *Aging with a Plan: How a Little Thought Today Can Vastly Improve Your Tomorrow* (2d ed. 2022).
- “The Patient’s Voice: Legal Implications of Patient-Reported Outcome Measures,” 22 *Yale Journal of Health Policy, Law, and Ethics* (2023) (with Andy Podgurski).
- “Vulnerable Populations and Vaccine Injury Compensation: The Need for Legal Reform,” *COVID-19 and the Law: Disruption, Impact and Legacy* (I. Glenn Cohen et al., eds., 2023) (with Katharine A. Van Tassel).
- “Cognitive Decline and the Workplace,” 57 *Wake Forest Law Review* 115 (2022).
- “Interoperability in the Post-Roe Era: Sustaining Progress While Protecting Reproductive Health Information,” 328 *Journal of the American Medical Association* 1703 (2022) (with Daniel Walker and Julia Adler-Milstein).
- “Physicians and Cognitive Decline: A Challenge for State Medical Boards,” 108 *Journal of Medical Regulation* 19 (2022).
- “Privacy and Security—Protecting Patients’ Health Information,” 387 *New England Journal of Medicine* 1913 (2022).
- “Professional Speech at Scale,” 55 *U.C. Davis Law Review* 2063 (2022) (with Cassandra Burke Robertson).
- “Sharing Clinical Notes: Potential MedicalLegal Benefits and Risks,” 327 *Journal of the American Medical Association* 717 (2022) (with Charlotte Blease and I. Glenn Cohen).
- “Transcript: Presentation on Artificial Intelligence and Discrimination in Healthcare,” 35 *Journal of Law and Health* 436 (2022).



**Maxwell J. Mehlman,
Arthur E. Petersilge
Professor of Law,
Distinguished
University Professor**

- “Governing Nonconventional Genetic Experimentation,” 10 *Oxford Journal of Law and the Biosciences* 1 (2023) (with Ronald A. Conlon, and Alex Pearlman).
- “Ethical and Legal Implications of Advances in Genetics,” *The Oxford Handbook of Comparative Health Law* (David Orentlicher and Tamara K. Hervey eds., 2022) 919-988 (with Sonia Suter and Mette Hartlev).



**Katharine A. Van Tassel,
Visiting professor**

- *Food and Drug Administration* (4th, 2022-1, 2022-2, 2023-1, 2023-2 ed.).
- “United States of America,” *International Encyclopedia of Laws: Medical Law* (2023).
- “Vulnerable Populations and Vaccine Injury Compensation: The Need for Legal Reform,” *COVID-19 and the Law: Disruption, Impact and Legacy* (I. Glenn Cohen et al., eds., 2023) (with Sharona Hoffman).





Making health law history

Law-Medicine Center celebrates
70 years of shaping the field

BY DAVID LEVIN

In the years leading up to the 1953 founding of the Case Western Reserve University Law-Medicine Center, the Cleveland city morgue was nothing like the crisp white laboratory setting of today. Built in 1895, it had no scientific instruments, no modern examination tables, and no medical professionals. Coroners were elected officials with no formal training, and in the morgue, bodies lay shrouded in white sheets, cigar smoke and the smell of whiskey.

This unscientific setting could ultimately lead to miscarriage of justice, Alan Moritz, MD, then chief pathologist at the city's Lakeside Hospital, recalled in a 1983 magazine article. Based on his experience with the Cleveland police, he knew that the outcome of a case could be decided for or against a defendant based on evidence gathered from a thorough examination of a deceased person's body. With lives hanging in the



Oliver Schroeder

balance, he felt medical science should be crucial knowledge for legal professionals—so in 1953, Moritz teamed with Western Reserve University law professor **Oliver Schroeder (ADL '38)** and county coroner Samuel Gerber to found the university's Law-Medicine Center, the first of its kind in the United States.



Law-Medicine Center and Cuyahoga County Coroner's Office group, c. 1960s (CWRU Archives)



Max Mehlman

“It was clear to me when I first started here that the center needed to shift its focus. Instead of covering the role of medicine in law, we needed to effectively turn things upside down and focus on the role of law in medicine.”

—Max Mehlman

For the next three decades, the new center largely focused on forensics and criminal law, serving as a training ground for coroners, judges, attorneys and police officers, said **Max Mehlman**, its current co-director. “In those days,” he noted, “if you tried to find a parking place near the law school, you would often find all the streets lined with police cars because so many officers were taking the courses.”

By 1986, however—when Mehlman took over as director from Schroeder—the legal/medical world had become far more byzantine than ever before, filled with cases more complex than its founders could ever have anticipated. Advances such as genetic engineering, which was previously the stuff of science fiction, loomed on the horizon.

“It was clear to me when I first started here that the center needed to shift its focus. Instead of covering the role of medicine in law, we needed to effectively turn things upside down and focus on the role of law in medicine,” Mehlman said. “In other words, how does law affect the practice and delivery of medical care?”

Productive scholars, since 1953

15+ books including:

- *Genetics: Ethics, Law and Policy*, co-authored by Max Mehlman
- *Aging with a Plan: How a Little Thought Today Can Vastly Improve Your Tomorrow* and *Electronic Health Records and Medical Big Data: Law and Policy* by Sharona Hoffman
- *Informed Consent: Legal Theory and Clinical Practice* by Jessica Berg
- *Food and Drug Administration* by Katharine Van Tassel
- *Marijuana Federalism: Uncle Sam and Mary Jane* by Jonathan Adler

100s of peer-reviewed articles that have appeared in journals such as:

- *Georgetown Law Journal*
- *Iowa Law Review*
- *Duke Law Journal*
- *New England Journal of Medicine*
- *Journal of the American Medical Association*
- *Yale Journal of Health Policy, Law, and Ethics*
- *UC Davis Law Review*
- *Wake Forest Law Review*
- *North Carolina Law Review*
- *Harvard Journal of Law and Technology*
- *Berkeley Technology Law Journal*
- *William & Mary Law Review*
- *Boston College Law Review*
- *Georgia Law Review*
- *Indiana Law Journal*
- *Washington University Law Review*
- *Northwestern Law Review*
- *Texas Law Review*
- *Michigan Law Review*



Sharona Hoffman

diseases; artificial intelligence has enabled scientists to analyze their data at record speeds; patients can visit with doctors via telemedicine; and biotechnology has advanced to the point where researchers can now make a vaccine for a novel virus in a matter of months. Sharona Hoffman, who joined the faculty in 1999 and is now Mehlman's co-director, noted that each of these breakthroughs has raised its own legal and bioethical questions. The center's research and publications are at the vanguard of many of these issues. Moreover, the center trains students to anticipate potential problems before they arise.

"We teach students to think critically about the next big scientific or medical advancement as it emerges because there may or may not be legislation or regulation to guide them," Hoffman said. "If you educate them well, they can hopefully recognize a potential privacy or discrimination problem in a new technology. They'll know to always

Mehlman's view of the future was prescient. Since the 1980s, medical progress has developed at a dizzying rate: gene therapies are now treating previously deadly

think, 'Well, are there any downsides? Is this going to disadvantage minorities or people who are not wealthy? Are there unintended consequences we're not taking into account?'"

Expanding views

The ability to anticipate and address those problems is no small feat, but the center's in-house expertise goes a long way toward preparing students to meet those challenges. In addition to Mehlman and Hoffman, six other faculty members now provide insights on fields as diverse as environmental law, reproductive rights, human trafficking,

"We teach students to think critically about the next big scientific or medical advancement as it emerges because there may or may not be legislation or regulation to guide them."

—Sharona Hoffman

LGBTQ+ issues, nursing home care, clinical ethics, informed consent, public health law and drug regulation.

Visiting scholars offer valuable perspectives on a variety of other areas: The Law-Medicine Center hosts several guest lecturers each year to discuss topics on the leading edge of the legal and medical fields and share their views with an audience of

Supreme Court Justice Harry Blackmun speaking at the Law-Medicine Center 25th anniversary dinner, in 1978 (CWRU Archives)



faculty, staff, students and the public. Likewise, the center's Schroeder Scholar-in-Residence program (named after the center's founder) invites legal and health experts to take part in classes, workshops and public remarks—many of which are published each year in the center's prestigious student-edited journal, *Health Matrix*.

First published in the early 1990s, *Health Matrix* is now ranked the world's third-best law-medicine journal by Washington and Lee's

Journal Rankings. It is both an important resource for health law scholars and a key learning tool for students. Hoffman works closely with its editors, advising and mentoring all those who have a hand in its publication—providing experience that reinforces their education in ways that they might not have expected.

"It's given me the chance to edit sophisticated pieces of health law and policy and read perspectives that I probably would not have covered



From left: Gerald Korngold, Oliver Schroeder, Donna Shalala and Max Mehlman, 1998 (Photo courtesy of Max Mehlman)

Opportunities to engage

Lectures by:

- Donna E. Shalala, former U.S. Secretary of Health and Human Services
- Arnold Relman, former editor-in-chief emeritus of the *New England Journal of Medicine*
- Ezekiel Emanuel, former chair of the National Institutes of Health Department of Bioethics and health policy advisor to President Barack Obama
- Elisabeth Rosenthal, editor-in-chief of *Kaiser Health News*
- Mark McLellan, former commissioner of the Food and Drug Administration

3 endowed lecture programs

- Miles and Elena Zaremski Lectures
- The Mehlman Lecture
- Oliver Schroeder Lecture

1 full-day conference per year on topics such as:

- reproductive rights
- wellness programs
- racial bias in healthcare
- electronic health records
- patient safety

From left: Joseph O'Reilly of the Law-Medicine Center, with Lakewood met with Lakewood, Ohio, police officers, c.1950 (CWRU Archives)



High-profile positions

10+ recent appointments for faculty at institutions including:

- American Academy of Pediatrics Ethics Committee
- Centers for Disease Control and Prevention
- Defense Advanced Research Projects Agency
- Institute of Medicine
- National Academy of Sciences
- National Institutes of Health
- Judicial Nominating Committee for the U.S. District Court for the Southern District of Ohio

in my normal studies. Sometimes, [the work shows] a new viewpoint on particular issues, which has helped me better understand complex topics as a whole,” said **Corey Whetzel**, a third-year student and the journal’s current editor-in-chief. “Seeing how someone is formulating their opinion based on the law gives it a different dynamic than someone just stating their personal opinion with no authority to back that up. It allows for a greater understanding of where someone else is coming from.”

Real-world impact

The desire to make a tangible difference is something the center routinely brings out in its students, and there are few places it shines brighter than in its Health Law Clinic. Since its creation in 1992, it has offered a space for hands-on practice, effectively becoming a public interest

law firm within the school that focuses on underserved communities.

“Today, we have a two-pronged goal,” said **Laura McNally**, associate dean for experiential education at the School of Law and director of the Milton and Charlotte Kramer Law Clinic. “One is to serve a need in the community and provide high-quality legal representation to our neighbors. The other is to train law students and expose them to the issues that consumers of our healthcare system confront on a daily basis.”

McNally, who also oversees the Health Law Clinic, works closely with third-year students to offer free legal counsel to the public, whether it’s through one-day pop-up clinics or longer trial work in which students represent clients from start to finish. This academic year, her primary focus for the clinic is Social Security benefits hearings—cases in which



Students at work in the Health Law Clinic offices (Photo by Nicholas McLaughlin)



Laura McNally

clients are face a loss of financial support.

Although those cases may seem like mundane administrative battles, McNally said they are a dense microcosm

of the sorts of skills students need to succeed in the field of medical law. To provide effective representation, students must be able to review and understand medical evidence, prepare and execute cross-examination of both their client and medical experts, conduct opening and closing arguments, and write a formal brief for every case.

“During the semester that students spend in the clinic, they’ll work about 20 hours a week on a single case,” she said. “They’re often quite the foe in court and other places because they

have more time to spend on these cases than other practitioners. They can dig and dig and turn over rocks that wouldn’t normally be turned over for their clients.”

As the Law-Medicine Center enters its eighth decade, it strives to continue to be at the forefront of contemporary health law challenges as it pertains to research, service and teaching. Graduates go on to work in vastly different areas of the law—public interest organizations, in-house counsel for drug companies, advising elected officials or regulatory agencies—but no matter which path they take, their work has the potential to fundamentally change lives for the better.

“We will continue to produce timely scholarship and programming that influence both academics and policy-makers,” said Hoffman. “Our students will have much to contribute to the future of the field.”

Attracting funding

- Center members actively pursue grants and funding from government and other sources.
- Professor Mehlman has served as principal investigator or co-investigator on numerous National Institutes of Health grants for studies related to genetic enhancement, military genomics, clinical research, and other topics.
- Sharona Hoffman is co-principal investigator on a National Science Foundation grant to study pandemic preparedness. Jessica Berg’s work has also been funded by the National Institutes of Health and by the Ohio Policy Evaluation Network.
- Jessie Hill’s advocacy in the reproductive rights area has been heavily supported by several sources.



Photo by Angelo Merendino

Uphill battle

Working on what's next for reproductive rights

BY LAUREN MARCHAZA

It's hard to understand when **Jessie Hill**, the Judge Ben C. Green Professor of Law, found time to sleep this year. In the months after the U.S. Supreme Court's overturning of *Roe v. Wade*, Hill has litigated, consulted, advised and educated—all with the goal of helping safeguard Ohioans' reproductive choice.

Hours after the justices' ruling, Ohio's six-week abortion ban went into effect. For three months, Hill was deeply involved in counseling clients, physicians and attorneys on complying with what was the most restrictive abortion ban in the country at the time.

By September 2022, Hill—acting as volunteer attorney—was arguing on behalf of the ACLU and several Ohio reproductive healthcare providers that the six-week ban violated Ohio's constitutional right to due process, equal protection and “healthcare freedom.” The judge ruled in their favor, temporarily ending the six-week ban.

Meanwhile, throughout Ohio, a broad coalition of citizens and organizations united in an effort to add a constitutional amendment that would enshrine abortion rights in the Ohio Constitution.

Hill jumped in on that project, too.

While she spent her days tending to her academic duties, Hill spent her nights helping to craft the ballot language that would be circulated on thousands of petitions around the state. Eventually, that ballot language was submitted

to Ohio's Secretary of State for inclusion on the November 2023 ballot.

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A year after Hill and the plaintiffs were victorious in state court, she was at it again—this time, at the Ohio Supreme Court. The case, which was heard in late September, focused on two procedural questions: whether the state government can immediately appeal the lower court's order, and whether abortion providers can bring legal challenges on behalf of their patients.

“The case is pretty significant because the court order is the only thing that has kept abortion legal and accessible in Ohio for the past year,” Hill explained.

While she and the plaintiffs—and reproductive freedom advocates across Ohio—wait for the court's ruling, Hill was relieved after Ohioans voted on Nov. 7 to pass the ballot amendment she helped create.

She acknowledged that this is uncharted territory—for everyone.

“This is the first time that a pro-choice ballot initiative has passed in a state where the legislative, executive and state supreme court are hostile to abortion. And nobody knows what that looks like.”

Engaging the next generation

Despite the passage of the ballot amendment on Election Day, Hill will continue—and expand—the work of ensuring reproductive freedom for all Ohioans.

With newly acquired grant funding, Hill is assembling a team of two law school staff attorneys, including **Becca Kendis (LAW '19, SAS '19)**, who has worked with her since 2020. Together, they will focus on challenging legal restrictions on reproductive rights and healthcare providers.

She also intends to involve more students going forward.

“This generation of students is incredibly engaged and aware of what is going on in the world,” she said. “They’re really a bunch of doers.”

She’s ready to put those doers to work. Hill is formulating an initiative that will help provide opportunities for students who want to do legal research that will contribute to reproductive rights, and eventually, to offer a full externship.

“That’s really the long-term goal,” she said.

Paving a new path

With federal protections for abortion no longer in place, Hill and her team will also begin thinking about what happens next. “The big-picture questions are really: What will the right to reproductive autonomy look like? How will we rebuild a future from scratch?” she asked, admitting that “it’s more of an academic and intellectual exercise.”

Bolstering Hill’s hopes is her observation of a shift in the political discourse around abortion and reproductive healthcare. Ohio’s citizen-led ballot initiative prompted

a more open discussion of abortion, which has long been a taboo subject.

“There’s so much that we just didn’t have to talk about because Roe was there,” Hill explained, “and, while the fall of Roe was catastrophic in every way, I think it’s actually at least a positive development that we are talking about abortion.”

Hill has been a leader in the fight for reproductive rights in Ohio. But as she has watched Ohioans push for the ballot amendment, she also has come to a realization about her place in that fight.

“There’s no legal change anymore without political change in Ohio,” she said, pointing out the role of politicians in shifting state laws. “But that’s not my place. I’m a law professor. It’s been a real learning opportunity for me to realize that the role of lawyers is not always to lead that movement.”

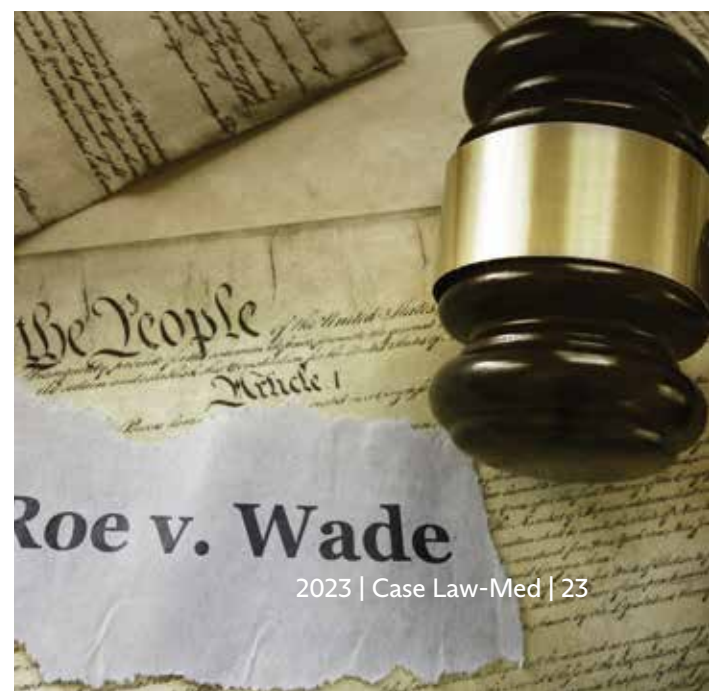
For now though, Hill is celebrating what she feels is a victory for reproductive rights. She is, however, quick to temper her relief with thoughts of what lies ahead: “There will still be a lot of work to do in Ohio.”

Earning recognition

In May, the Cuyahoga Democratic Women’s Caucus in Cleveland honored **Jessie Hill** with the Champion for Women Award for her advocacy and litigation in the area of reproductive rights. In addition, the American Civil Liberties Union of Ohio recognized Hill and CWRU Reproductive Rights Fellow **Becca Kendis (LAW '19, SAS '19)** in January for their work in advocating for the reproductive rights of Ohioans.



“This is the first time that a pro-choice ballot initiative has passed in a state where the legislative, executive and state supreme court are hostile to abortion. And nobody knows what that looks like.”
—Jessie Hill



Above and beyond

Health Law Clinic team solves problems to serve clients

When clients come to the Health Law Clinic at Case Western Reserve University School of Law, they're hoping to find legal representation in court. What they end up getting is often much, much more.

The Health Law Clinic is housed within the Milton and Charlotte Kramer Law Clinic, where **Laura McNally**, associate dean of experiential education, serves as director. Under her supervision, students take on pro bono Social Security cases—eligibility, termination and overpayments—for clients who have chronic physical or mental disabilities.

"These hearings are a great opportunity for students to practice and refine their legal skills while improving the odds of success for our clients," McNally said. "It's a win-win for all."

Third-year **Mitchell Corsi** is one of those students. He chose the Health Law Clinic as his practical experience, which is a required part of every student's education at the School of Law.

"I knew I would be working on cases," said Corsi, "but I never thought I'd be in front of a judge within the first month of starting!"

He's already picked up skills he will use post-graduation. "I've built real relationships with my clients after only a few short weeks," he said, "and learning how to communicate with them professionally while also maintaining a level of trust with them has been a skill I quickly developed."

Under the guidance of clinic fellow **Jessica Edelstein (LAW '18)**, Corsi has been working on a Social Security eligibility case for a client who came to the clinic a year ago



Laura McNally meets with a Health Law Clinic student in her office (Photo by Nicholas McLaughlin)

"I knew I would be working on cases, but I never thought I'd be in front of a judge within the first month of starting!"

—Mitchell Corsi

but whose case was delayed due to their inability to sustain housing.

After several months, it became clear to Edelstein and her team of students that the client—who struggles with a physical disability—needed more than just a lawyer's help.

"While getting Social Security disability benefits will ultimately help our clients, it can take a long

time to get that money," Edelstein explained. "In the meantime, it is hard for our clients to stay focused on working on their case with us."

Especially if they don't have a place to call home.

Once Edelstein understood that lack of consistent housing

was a fundamental issue, she contacted Nueva Luz Urban Resource Center on the west side of Cleveland to help the client secure financial support for purposes of paying his rent. This kept his housing situation stable so the clinic could process his Social Security disability benefits application and get the case in front of an administrative law judge.

"We learn things while we represent people," said McNally. "If you listen to them, you can connect the dots and have an impact on their overall stability."

Edelstein and Corsi presented the client's case in September, and hope to hear a positive outcome in a few weeks.

"It's been amazing," said Corsi after appearing in front of the administrative law judge for his client for the first time. "And the best part by far has been seeing how happy my client was after his hearing. I could tell he finally felt heard, and it's a great feeling to be able to provide that."

Kramer Law Clinic



From left: Jessica Edelstein, Health Law Clinic fellow, and Laura McNally, Health Law Clinic director (Photo by Nicholas McLaughlin)

In the field

Every year, health law students at Case Western Reserve University School of Law land positions at organizations across the country where they hone their on-the-job skills as part of their legal education. Here's where some of them spent their time over the last year.

“



Nathaniel Arnholt, 2L
Pharmaceutical Research and Manufacturers of America (Washington, D.C.)

From day one, I was immersed in a world of legal intricacies and industry complexities. The staff displayed an unmatched level of knowledge, always eager to mentor and provide insights. What set this internship apart was the organization's commitment to networking and professional development. I have had the opportunity to connect with experts, policymakers and industry leaders, expanding my understanding of health law's multifaceted nature. This exposure opened doors to a world of possibilities within the field. It reinforced my passion for health law and left me with a profound sense of purpose, knowing that my work contributed to improving healthcare access for countless individuals.

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Sharileen Javines, 2L
Cleveland Clinic (Cleveland)

Working as a gift planning intern for the Philanthropy Institute at Cleveland Clinic opened my eyes to the interdisciplinary efforts behind transactional work, public service and the healthcare system. I am happy to be able to pursue my passion for service where a strong commitment to mission-driven values is alive in the work of the gift planning team.

”



Andrew McGirty, 2L
Nationwide Children's Hospital (Columbus, Ohio)

“The legal and compliance teams afforded me numerous practical chances to apply my knowledge of health law across a spectrum of issues, from patient consent to mergers and acquisitions. I genuinely sensed that I was affecting positive change in patients' lives!”



Christopher Frost, 2L
Wingspan Care Group (Shaker Heights, Ohio)

“I really wanted to work for an agency that would provide me with hands-on experience, and working for Wingspan met and exceeded my expectations! The externship provided me with practical transactional experience—I was able to draft and negotiate contracts, develop policies and training materials and provide guidance to non-attorney employees. My mentor encouraged me to take ownership over my work, providing me with invaluable guidance along the way.”

“



Corey Whetzel, 3L
Department of Vermont Health Access (Waterbury, Vermont)

The attorneys there provided me with the opportunity to gain hands-on experience drafting memoranda and client emails related to various concepts discussed in my health law courses. They also took the initiative to give me assignments and feedback that allowed me to grow as a law student and explore areas of health law I did not know much about. [I used] skills from my pharmacy background and applied what I have learned in law school to feel like I was actively contributing to the agency's goals—solidifying my desire to work in the health law space.

”

Joining the team

Law-Medicine Center hires new fellow

When she crossed the stage in May to receive her law degree from the School of Law, **Shelby Conklin (LAW '23)** was already looking forward to beginning her legal career as a Cowen Fellow with the school's Law-Medicine Center.

The Cowen Fellowship was established in honor of former dean Lindsay Cowen. It was endowed by Pat Ferry, who was an administrator for the law school for more than 25 years. Fellows support the work of health law faculty in their legal research and publications, including co-authoring papers with them.

"Cowen Fellows become an integral part of the center, assisting faculty members with teaching, media queries, events and writing," said **Sharona Hoffman**, co-director of the Law-Medicine Center. "[Conklin's research] is vital to our ability to produce high-quality scholarship."

Before law school, Conklin worked as an administrative processor for the claims department of a medical malpractice insurance company in Portland, Maine, near her hometown. The experience gave her an inside view of malpractice cases and piqued her interest in health law.

"Nerves are inevitable with any new position, but knowing the staff and faculty would be kind and welcoming was a relief."

—Shelby Conklin

Drawn to Case Western Reserve by its impressive curriculum, Conklin made the move to Cleveland to begin her law school education. She developed an interest in legal research—finding evidence in the law or previously decided cases to support a legal argument—which is now her main task at the Law-Medicine Center.

"Knowing my professors were going to become my colleagues was great," Conklin said. "Nerves are inevitable with any new position, but knowing the staff and faculty would be kind and welcoming was a relief."

The fellowship, Conklin said, has eased her transition from law school to the workforce. "I've enjoyed the fellowship so far," she continued, "and I am looking forward to the year ahead!"



Shelby Conklin





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