

# Journal of Contemporary Health Law & Policy (1985-2015)

---

Volume 8 | Issue 1

Article 5

---

1992

## Dedication

Richard A. Merrill

Follow this and additional works at: <https://scholarship.law.edu/jchlp>

---

### Recommended Citation

Richard A. Merrill, *Dedication*, 8 J. Contemp. Health L. & Pol'y ix (1992).

Available at: <https://scholarship.law.edu/jchlp/vol8/iss1/5>

This Dedication is brought to you for free and open access by CUA Law Scholarship Repository. It has been accepted for inclusion in Journal of Contemporary Health Law & Policy (1985-2015) by an authorized editor of CUA Law Scholarship Repository. For more information, please contact [edinger@law.edu](mailto:edinger@law.edu).

## DEDICATION

### I.

Men and women who make lasting contributions to our understanding of law and its administration are often recognized only at the end of their careers. The decision of the *Journal of Contemporary Health Law and Policy* to dedicate this issue to my colleague and friend, Walter Wadlington, represents a happy departure from this obituarial tradition. Professor Wadlington may not even yet have reached the peak of his career, but his achievement is already manifest. His writings and his teaching have revealed and explored new intersections among the study of human biology, the prevention of disease, the provision of medical care, and the legal system that regulates, and sometimes threatens to distort, each of these fields.

In the modern era, the contributions of legal academics are measured chiefly by what they have written. By this conventional standard, Walter Wadlington ranks in a small handful of scholars who have concerned themselves with the field he helped define—law and medicine. If the editors simply reproduced his bibliography at this point, knowledgeable readers would recognize the accuracy of this assessment, and this dedication could conclude. But a recounting of Walter's scholarly contributions would fail by a significant measure to capture his impact on this vast field, for it would ignore his influence in the classroom, felt chiefly at my own school (and by our graduates), but by no means confined either to law students or to Charlottesville. To depict Walter's indirect impact in the scholarship of former students, in the decisions of judges, and in the work of other scholars would require a roster of all those who have sat in his classroom or read his writings. While this broadened focus would fully satisfy readers of this journal, it would still strike Walter's colleagues as incomplete, for they have known him as a teacher of Torts, a student (and occasional teacher) of Roman Law, a jurisperite, and a nationally recognized teacher and scholar in the field bureaucratically titled "domestic relations," or under his more accessible label, "family law." They even recall that he has taught and written about the law of historic preservation.

Walter Wadlington thus presents peculiar difficulties for the author of a dedicatory essay. Any attempt to remain within the ostensible jurisdiction of the *Journal of Contemporary Health Law and Policy* will result in a truncated account, an accountant's view of a Renaissance man. With this acknowledgment that what follows is a foreshortened image, let me turn—

more briefly than the merits warrant—to Wadlington's major contributions to the field of immediate interest.

## II.

One who studies law and medicine in 1992 and is familiar with Walter Wadlington's writings might assume that he had been working in the field since he entered law teaching. He is, after all, co-author of one of the leading coursebooks in the field,<sup>1</sup> contributor to many journals, and lecturer in programs across the country. In truth, however, Walter was in law teaching for a decade before he published *Artificial Insemination: The Dangers of a Poorly Kept Secret*.<sup>2</sup> This title displayed Walter's instinct for the captivating turn of phrase, but its subject matter and contents revealed something about the origin of his interest in the law's regulation of medical science. He came to the field as a result of his work in family law, and much of his early work in law and medicine reflected his deep and continuing interest in family formation, preservation of familial relationships, and protection of individual rights in a community context.

Thus Walter was soon worrying, and writing, about the protections of the rights of children in the medical care context.<sup>3</sup> Since his interests have never been wholly theoretical, but have sought to grasp law in operation, Walter began in 1974 to write for practitioners in the health care disciplines. Soon his interests broadened further, not leaving behind concerns about the patient's—especially the juvenile patient's—rights, but now embracing relationships within the health care delivery system itself.

By the mid-1970s, as the private law rights of patients were merging with apparent constitutional rights to autonomy,<sup>4</sup> Walter returned to look at family law through the new prism of personal privacy.<sup>5</sup> In 1977, he effectively identified himself as a bona fide teacher of law and medicine.<sup>6</sup> It is important to stress, however, that Walter was expanding his interests and expertise, not switching portfolios—for throughout the 1970s (and even now) he continued to publish and teach on family law topics. By the end of the dec-

---

1. WALTER J. WADLINGTON, JON R. WALTZ & ROGER B. DWORKIN, *CASES AND MATERIALS ON LAW AND MEDICINE* (1980).

2. Walter J. Wadlington, *Artificial Insemination: The Dangers of a Poorly Kept Secret*, 64 *NW. U. L. REV.* 777 (1970).

3. Walter J. Wadlington, *Child Abuse: Legal Implications*, in *CHILDHOOD ACCIDENTAL INJURY SYMPOSIUM PROCEEDINGS* at 28 (University of Virginia School of Medicine, 1966).

4. See *Roe v. Wade*, 410 U.S. 959 (1973); *Griswold v. Connecticut*, 381 U.S. 479 (1965).

5. Walter J. Wadlington, *Sexual Relations After Separation or Divorce: The New Morality and the Old and New Divorce Laws*, 63 *VA. L. REV.* 249 (1977).

6. Walter J. Wadlington, *Teaching Law and Medicine in the United States*, 14 *J. SOC'Y PUB. TCHRS. L.* 96 (1977).

ade, his leading coursebook in that field was in its third edition.<sup>7</sup>

In 1980, Walter, with Jon Waltz and Roger Dworkin, published the coursebook on which literally hundreds of legal practitioners in the health care field, and dozens of young scholars, cut their teeth.<sup>8</sup> In a ten-year period he had become one of the nation's leading scholars in a brand new field, while at the same time enhancing his stature in family law. Walter would be the first to acknowledge that his "new" interest was not exclusively internally inspired. The cluster of scholars here at the University of Virginia who have devoted attention to the law's regulation of therapeutic interventions and the development of medical technology were all enriched—inspired is not too strong a term—by the arrival on our faculty in 1971 of Dr. Browning Hoffman, a physiatrist. For nearly a decade, Hoffman nurtured and then oversaw a robust collaboration between the Schools of Law and Medicine at Virginia, and his catholic interests and unusual capacity to work with professionals outside his discipline catalyzed all of us—not least Walter Wadlington.<sup>9</sup>

Through the 1980s, Walter's writings frequently touched subjects that bracketed his interest in family formation and preservation and the rights of individuals seeking or subject to medical care.<sup>10</sup> He was becoming increasingly interested in the implications of new medical technologies, both for individual patients and for the health care system as a whole, including its costs. Walter had added a new course to his kit, focusing on the management and funding of health care. Predictably, his writings soon began to reflect this additional dimension of his interests.<sup>11</sup> The technologies that intrigued Walter most were those exploiting new knowledge of the human reproductive process, in part because the issues they threw up were linked closely with the rules governing family formation.<sup>12</sup> Walter's first article for this journal concerned what is probably the decade's most famous law case

---

7. WALTER J. WADLINGTON & MONRAD G. PAULSEN, *CASES AND OTHER MATERIALS ON DOMESTIC RELATIONS* (3d ed. 1978).

8. WADLINGTON, WALTZ & DWORKIN, *supra* note 1.

9. Walter J. Wadlington & Charles H. Whitebread, *Browning Hoffman: Tribute to a Teacher*, 66 VA. L. REV. 423 (1980).

10. Walter J. Wadlington, *Consent to Medical Care for Minors*, in *DEVELOPMENTAL FACTORS IN COMPETENCE TO CONSENT* (G. Melton et al. eds., 1983); Walter J. Wadlington, *Breaking the Silence Between Doctor and Patient*, 93 YALE L.J. 1640 (1984) (reviewing JAY KATZ, *THE SILENT WORLD OF DOCTOR AND PATIENT* (1984)).

11. See Walter J. Wadlington, *Biomedical Progress: The Challenges for Doctors and Lawyers*, Virginia Law School Report (1985); Walter J. Wadlington, *Paying for Children's Medical Care: Interaction Between Family Law and Cost Containment*, 36 CASE W. RES. L. REV. 1190 (1986).

12. Walter J. Wadlington, *The Continuing Debate About Surrogate Parenthood*, 27 J. FAM. L. 321 (1988).

involving the exploitation of reproductive technologies—the Baby M case<sup>13</sup>—which revealed the potential collision between conventional principles of family formation and unregulated uses of new technologies.

In 1987, Walter's involvement in law and medicine broadened once again. He was asked by Humana Hospitals to serve on a three-person outside advisory board on the development and medical use of the Jarvik artificial heart. Soon afterwards, he was enlisted by the Robert Wood Johnson Foundation to design, direct, and oversee its major research program on the occurrence, causes, and liability effects of injuries associated with the provision of medical care. In some sense, Walter had become an orchestrator of law and medicine research, and the ongoing work of the investigators commissioned by the RWJ Foundation can be expected to transform our understanding of the subject that for many years was considered the sole preoccupation of law and medicine—medical malpractice.<sup>14</sup> But, predictably, Walter's new role as impresario did not diminish his own interest or productivity as a scholar.<sup>15</sup>

### III.

A bibliography facilitates the sort of tracking of a scholarly career that I have just summarized. It is more difficult to document the contributions of a teacher who over many decades encounters hundreds of students behind classroom walls where we cannot see. Most of Walter's students in his long-running Law and Medicine course are probably contentedly practicing in fields that never invite them to recall what he taught them. Only a small number would be able to claim that they now work in the field to which he first introduced them. But the number is not trivial, and the handful who have gone on to contribute important scholarship of their own is a measure of Walter's impact, both on their lives and on the field. One would have to add to this roster of satisfied law student customers an equivalent number of judges whom Walter taught here at Virginia or at conferences across the country, and to these, the very substantial audience of health care professionals who have been his "students" at symposia or in the library.

Finally, but by no means least, are Walter's colleagues, on this faculty and at law schools where he has visited, with whom he has collaborated, or

---

13. Walter J. Wadlington, *Baby M: Catalyst for Family Law Reform?*, 5 J. CONTEMP. HEALTH L. & POL'Y 1 (1989).

14. Walter J. Wadlington, *Legal Responses to Patient Injury: A Future Agenda for Research and Reform*, 54 LAW & CONTEMP. PROBS. 199 (Spring 1991).

15. See *id.*; Walter J. Wadlington, *Medical Injury Compensation: A Time for Testing New Approaches*, 265 JAMA 2861 (1991).

whose work he has encouraged (and perhaps even helped fund), whose interests and writings bear his imprint. I am proud to count myself among them.

*Richard A. Merrill  
Daniel Caplin Professor of Law,  
Former Dean of the School of Law (1980-88),  
University of Virginia*

## SELECTED BIBLIOGRAPHY OF THE WRITINGS OF WALTER J. WADLINGTON

Walter J. Wadlington, *The United States: Renewed Focus on Children's Issues, Annual Survey of Family Law of the International Society on Family Law*, 29 J. FAM. L. 471 (1991).

Walter J. Wadlington & J. Warren Wood, III, *Two "No-Fault" Compensation Schemes for Birth Defective Infants in the United States*, 7 PROF. NEGL. 40 (1991).

Walter J. Wadlington, *Medical Injury Compensation: A Time for Testing New Approaches*, 265 JAMA 2861 (1991).

—, *Legal Responses to Patient Injury: A Future Agenda for Research and Reform*, 54 LAW & CONTEMP. PROBS. 199 (1991).

—, *CASES AND MATERIALS ON DOMESTIC RELATIONS* (2d ed. 1990).

WALTER J. WADLINGTON, CHARLES H. WHITEBREAD, SAMUEL M. DAVIS & ELIZABETH S. SCOTT, *CASES AND MATERIALS ON CHILDREN IN THE LEGAL SYSTEM* (Supp. 1990).

Walter J. Wadlington, *The Ongoing Role of the Courts in Reviewing State Regulation of Domestic Relations*, 28 J. FAM. L. 643 (1990).

—, *CASES AND MATERIALS ON DOMESTIC RELATIONS* (Supp. 1989).

—, *Baby M: Catalyst for Family Law Reform?*, 5 J. CONTEMP. HEALTH L. & POL'Y 1 (1989).

—, AMERICAN BOARD OF INTERNAL MEDICINE, *MAINTAINING STANDARDS OF EXCELLENCE: LEGAL CONSIDERATIONS IN SETTING STANDARDS* 11 (Summer Conference Report 1989).

—, *The Health Care Profession*, 2 *BIO*LAW 48 (Ch. 4 Supp. 1989).

—, *CASES AND MATERIALS ON DOMESTIC RELATIONS* (Supp. 1988).

WALTER J. WADLINGTON, CHARLES H. WHITEBREAD, SAMUEL M. DAVIS & ELIZABETH S. SCOTT, *CASES AND MATERIALS ON CHILDREN IN THE LEGAL SYSTEM* (Supp. 1988).

Walter J. Wadlington, *The Continuing Debate About Surrogate Parenthood*, 27 J. FAM. L. 321 (1988).

—, *Symposium on Children and the Law*, 22 GA. L. REV. 845 (1988).

—, *CASES AND MATERIALS ON DOMESTIC RELATIONS* (Supp. 1987).

—, *United States: Continuing Reform to Reflect Social and Economic Realities*

ties, *Annual Survey of the International Society on Family Law*, 26 J. FAM. L. 237 (1987).

—, *Foreword* to J. MYERS, *CHILD WITNESS LAW AND PRACTICE* (1987).

Walter J. Wadlington & Thomas R. White, *The Lawyer and Historic Preservation*, 11 VA. L. SCH. REP., Summer 1987, at 7.

Walter J. Wadlington, *Paying for Children's Medical Care: Interaction Between Family Law and Cost Containment*, 36 CASE W. RES. L. REV. 1190 (1986).

—, *The Health Care Profession*, 1 BIO LAW 51 (James F. Childress et al. eds., 1986).

Walter J. Wadlington & A. Abrams, *Reproductive Choices*, 1 BIO LAW 73 (James F. Childress et al. eds., 1986).

Walter J. Wadlington, *Courtship, Antenuptial Agreements, and Contracts in Lieu of Marriage*, in FAM. L. & PRAC. (Va. Law. Prac. Handbook 1986).

—, *Marriage Formation*, in FAM. L. & PRAC. (Va. Law. Prac. Handbook 1986).

—, *Biomedical Progress: The Challenges for Doctors and Lawyers*, 9 VA. L. SCH. REP., Summer 1985, at 4.

—, *Artificial Insemination, In Vitro Fertilization and the "Adoption in Utero" Fallacy: Reflections on the Need for Dialogue Between Doctor and Lawyer*, 1 BIOETHICS REP. 1 (1985).

—, *CASES AND MATERIALS ON DOMESTIC RELATIONS* (Succ. ed. 1984).

—, *Prologue to Symposium on The Parent-Child Relationship and the Current Cycle of Law Reform*, 45 OHIO ST. L.J. 307 (1984).

—, *Breaking the Silence Between Doctor and Patient*, 93 YALE L.J. 1640 (1984) (book review).

—, *Foreword to Symposium on the Uniform Marital Act*, 21 HOUS. L. REV. 595 (1984).

WALTER J. WADLINGTON, CHARLES H. WHITEBREAD & SAMUEL M. DAVIS, *CASES AND MATERIALS ON CHILDREN IN THE LEGAL SYSTEM* (1983).

Walter J. Wadlington, *Consent to Medical Care for Minors*, in DEVELOPMENTAL FACTORS IN COMPETENCE TO CONSENT 57 (G. Melton et al. eds., 1983).

—, *Artificial Conception: The Challenge for Family Law*, 69 VA. L. REV. 465 (1983).

—, *Virginia Domestic Relations Law: Recent Developments*, 68 VA. L. REV. 507 (1982).

—, *Monrad G. Paulsen, A Memorial*, 3 CARDOZO L. REV. 11 (1981).



- , STATUTORY MATERIALS ON FAMILY LAW (1981).
- , *Medical Technology and Values in Transition: Will the Law Play Ostrich? A Case Study on Artificial Conception* (Proceedings of the 1981 Triennial Meeting of the New Zealand Law Society, Dunedin, N.Z. May, 1981).
- , *Artificial Conception: Legislative Responses to Family Law Problems*, 33 VA. L. WKLY., Feb. 6, 1981, at 1.
- , *Virginia Domestic Relations Law: Recent Developments*, 67 VA. L. REV. 351 (1981).
- WALTER J. WADLINGTON, JON R. WALTZ & ROGER B. DWORIN, CASES AND MATERIALS ON LAW AND MEDICINE (1980).
- JOINT COMM. ON LEGAL EDUC. OF VA. STATE BAR ASS'N, VA. LAW. HANDBOOK ON DIVORCE AND SEPARATION (Walter J. Wadlington ed., 2d ed. 1980).
- WALTER J. WADLINGTON, CASES AND MATERIALS ON DOMESTIC RELATIONS (Supp. 1980).
- FAM. L. & PRAC. (Va. Law. Prac. Handbook, Walter J. Wadlington ed., 1979).
- , Book Review, 23 ST. LOUIS U. L.J. 834 (1979) (reviewing OLIVE M. STONE, FAMILY LAW (1977)).
- WALTER J. WADLINGTON & MONRAD G. PAULSEN, CASES AND MATERIALS ON DOMESTIC RELATIONS (3d ed. 1978).
- , Book Review, 12 FAM. L. Q. 253 (1978) (reviewing MARY ANN GLENDON, STATE, LAW AND FAMILY (1977)).
- , *Marriage: Will the Law Accomodate the New Lifestyles?*, VA. L. SCHOOL REP., Summer 1978, at 7.
- , *Sexual Relations After Separation and Divorce: The New Morality and the Old and New Divorce Law*, 63 VA. L. REV. 249 (1977).
- Walter J. Wadlington & A. Derdeyn, M.D., *Adoption: The Rights of Parents Versus the Best Interests of Their Children*, 16 J. AM. ACAD. CHILD PSYCHIATRY 238 (1977).
- Walter J. Wadlington, *Separation and Settlement Agreements in Virginia: Drafting for Future Modification*, 3 VA. BAR ASS'N J. 4 (1977).
- JOINT COMM. ON LEGAL EDUC. OF VA. STATE BAR & VA. BAR ASS'N, VA. LAW. HANDBOOK ON DIVORCE AND SEPARATION (Walter J. Wadlington ed., 1976).
- Walter J. Wadlington, *Teaching Law and Medicine in the United States*, 14 J. SOC'Y PUB. TCHRS. LAW 96 (1976) (excerpts from address to the Society of Public Teachers of Law, Nottingham, England, Sept. 1976).

WALTER J. WADLINGTON, MONRAD G. PAULSEN & J. GOEBEL, *CASES AND MATERIALS ON DOMESTIC RELATIONS* (2d ed. 1974).

WALTER J. WADLINGTON & MONRAD G. PAULSEN, *STATUTORY MATERIALS ON FAMILY LAW* (2d ed. 1974).

Walter J. Wadlington, *Laws on Sex, Marriage and Divorce: What the Physician Should Know*, in D. WILFRED ABSE ET AL., *MARITAL AND SEXUAL COUNSELING IN MEDICAL PRACTICE* 422 (2d ed. 1974).

—, *Physicians' Assistants: A Challenge for Professional Liability Insurers*, 27 C.P.C.U. ANNALS 290 (1974).

—, *Minors and Health Care: The Age of Medical Consent*, 11 OSGOODE HALL L.J. 115 (1973).

—, Book Review, 58 VA. L. REV. 188 (1972) (reviewing HARRY KRAUSE, *ILLEGITIMACY: LAW AND SOCIAL POLICY* (1972)).

WALTER J. WADLINGTON & MONRAD G. PAULSEN, *STATUTORY MATERIALS ON FAMILY LAW* (1971).

WALTER J. WADLINGTON, MONRAD G. PAULSEN & J. GOEBEL, *CASES AND MATERIALS ON DOMESTIC RELATIONS* (1970).

Walter J. Wadlington, *Artificial Insemination: The Dangers of a Poorly Kept Secret*, 64 NW. U. L. REV. 777 (1970).

—, *A Case of Insanity and Divorce*, 56 VA. L. REV. 12 (1970).

—, *Annual Survey: Domestic Relations*, 56 VA. L. REV. 1411 (1970).

—, *Adoption of Adults: A Family Law Anomaly*, 54 CORNELL L. REV. 566 (1969).

—, *Modern Social Legislation: Its Challenge for the Modern Physician*, 37 MOD. MED. 75 (1969).

—, *A New Look at the Courts and Children's Rights*, 16 CHILDREN 138 (1969).

—, *Annual Survey of Virginia Law: Domestic Relations*, 55 VA. L. REV. 1201 (1969).

—, *Medicare (Round Table on Law and Medicine)*, 20 J. LEGAL EDUC. 607 (1968).

Walter J. Wadlington & H.S. Abram, M.D., *Selection of Patients for Artificial and Transplanted Organs*, 69 ANNALS INTERNAL MED. 615 (1968).

Walter J. Wadlington, *Annual Survey of Virginia Law: Domestic Relations*, 54 VA. L. REV. 1215 (1968).

—, *Portrait of the Judge as Popular Author: An Appeal for Anonymity and Restraint in Domestic Relations Opinions*, 1 FAM. L. Q. 77 (1967).

—, *Shotgun Marriage by Operation of Law*, 1 GA. L. REV. 183 (1967).

- , *The Divorced Parent and Consent for Adoption*, 36 U. CIN. L. REV. 196 (1967).
- , *Juvenile Court Administration*, 19 VA. L. WKLY., Nov. 10, 1966, at 1.
- , *Annual Survey of Virginia Law: Domestic Relations*, 53 VA. L. REV. 1620 (1967).
- , *Divorce Without Fault Without Perjury*, 52 VA. L. REV. 32 (1966).
- , *The Loving Case: Virginia's Anti-Miscegenation Statute in Historical Perspective*, 52 VA. L. REV. 1189 (1966).
- , *Minimum Age Difference as a Requisite for Adoption*, 1966 DUKE L.J. 392.
- , Book Review, 40 TUL. L. REV. 691 (1966) (reviewing CIVIL LAW IN THE MODERN WORLD (A.N. Yiannopoulos ed., 1966)).
- , *Annual Survey of Virginia Law: Domestic Relations*, 52 VA. L. REV. 1572 (1966).
- , *Adoption of Adults in Louisiana*, 40 TUL. L. REV. 1 (1965).
- , *Annual Survey of Virginia Law: Domestic Relations*, 51 VA. L. REV. 1426 (1965).
- , *Annual Survey of Virginia Law: Domestic Relations*, 50 VA. L. REV. 1470 (1964).
- , *Imputation of Payment: A Study in Obligations*, 38 TUL. L. REV. 31 (1963).
- , *The Adopted Child and Intrafamily Marriage Prohibitions*, 49 VA. L. REV. 478 (1963).
- , Book Review, 18 READING GUIDE 31 (1963) (reviewing S. SMITH, BRITISH JUSTICE: THE SCOTTISH CONTRIBUTION (1962)).
- , *Annual Survey of Virginia Law: Domestic Relations*, 49 VA. L. REV. 1418 (1963).
- , *Conjunctive, Alternative and Facultative Obligations in Louisiana*, 37 TUL. L. REV. 67 (1962).
- , *Adoption of Persons Under Seventeen in Louisiana*, 36 TUL. L. REV. 201 (1962).