

The T. C. Williams School of Law
University of Richmond

Presents Our
1995 Visiting Scholars

The

**GEORGE E. ALLEN
CHAIR IN LAW**

ASSIGNMENT '95

Special Issues in Bioethics and the Law

Questions relating to the end and beginning of life, the nature of the care provider/patient relationship, health care reform, human experimentation, new discoveries in genetics, and the allocation of the costs of medical technology and research are at the bioethical frontier. These and other bioethics issues spawn public debates that implicate the law: physician assisted suicide legislation, the "Baby-K case," genetic manipulation protocols, DNR orders, use of "junk" science in the courtroom, living wills, and surrogate decision maker statutes are among the myriad matters where law and bioethics intersect.

In encounters like these, the law frequently does little to provide guidance because the law often finds itself trying to catch up with scientific and technological advances. Even where the law is instructive, many believe it causes unbearable costs, or forces immoral outcomes. On these occasions, some feel forced to disobey the law because it would be "immoral" or "unconscionable" to follow the law's dictates. Indeed, parties grappling with a cutting-edge bioethical/legal question often have difficulty in communicating their needs, concerns, and goals to each other.

The 1995 Allen Seminar addresses this relationship between bioethics and law. The Seminar brings together a law professor/ethicist, a doctor/lawyer, a clinical psychologist, and a moral philosopher to examine the intersections of bioethics and the law. These outstanding scholars will explore topics of special interest in their areas of expertise, testing whether they can develop models that will guide people confronting a bioethical/legal crisis and promote understanding among the contending parties. The seminar will consciously ask law students to try on the language of bioethics—the vocabulary of moral philosophy as it is applied in practice to dilemmas that counselors, physicians, nurses, patients, and institutions face virtually every day. Students will be asked to address the questions presented by the Allen Professors with a bioethical as well as a legal analysis.

The Law School is delighted that the 1995 Allen Chair scholars will team with Professor Paul J. Zwier in teaching "Bioethics and the Law: Finding the Language to Keep Us Together."



Alexander Morgan Capron

Genetics and Insurance Discrimination

February 16, noon, Moot Courtroom

BA Swarthmore College; LLB Yale

Alexander Morgan Capron, Henry W. Bruce University Professor of Law and Medicine, is co-director of the Pacific Center for Health Policy and Ethics at the University of Southern California.

He specializes in legal-medical issues and is described by *The Health Care 55* directory as "the nation's expert in the field of medical ethics." In 1991 he convened the California Consortium on Patient Self-Determination, which mounted the country's most comprehensive statewide response to the federal Patient Self-Determination Act. He served as Executive Director of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical Behavior Research (December 1979-March 1983).

Professor Capron has written and edited eight books, including *Law, Science and Medicine* and the *Treatise on Health Care Law*. His recent articles and chapters treat such issues as brain-based determinations of death, current controversies in human gene therapy and genome mapping, ethical issues in epidemiological research, and the ethical and legal status of active euthanasia and decisions to allow patients to die.



Elizabeth Loftus

The Repression of Memory Controversy

March 23, noon, Moot Courtroom

PhD Stanford University

Elizabeth Loftus is a Professor of Psychology and Adjunct Professor of Law at the University of Washington, Seattle. She has published 18 books and over 250 scientific articles. Her fourth book, *Eyewitness Testimony*, won a National Media Award (Distinguished Contribution) from the American Psychological Foundation.

Dr. Loftus's research of the last 20 years has focused on human memory, eyewitness testimony and also on courtroom procedure. Her work has been consistently funded by the National Institute of Mental Health and the National Science Foundation. She has received three honorary doctorates for her research, the first in 1982 from Miami University (Ohio), the second in 1990 from Leiden University in the Netherlands, and the third from the John Jay College of Criminal Justice in New York—an honorary doctorate of laws. She served as the 1984 President of the Western Psychological Association, as the 1985 President of the American Psychology-Law Society (Div 41 of APA), and as the 1988 President of Division 3 (Experimental) of the APA. In 1995 she was selected by the American Academy of Forensic Psychology to be the recipient of their Distinguished Contributions to Forensic Psychology Award, and will accept that award in August.



David Orentlicher

Health Care Reform: Threats to the Patient/Physician Relationship

March 30, noon, Moot Courtroom

MD Harvard; JD Harvard

David Orentlicher has been the Director of the Division of Medical Ethics at the American Medical Association since January 1989. At the AMA, his primary responsibility is to staff the Council on Ethical and Judicial Affairs, which issues the AMA's Code of Ethics for physicians. Dr. Orentlicher has drafted ethical guidelines for the medical profession on a wide range of issues, including health care access and rationing, ethical issues in managed care, end of life decisions, genetic testing, and economic conflicts of interest. His responsibilities also include the drafting of amicus briefs for cases involving health policy issues, including withdrawal of life-sustaining treatment, disability benefits for individuals impaired by illness, and maternal-fetal conflicts.

Dr. Orentlicher is a Lecturer in Law at the University of Chicago Law School, where he teaches a seminar in health law, and an Adjunct Assistant Professor of Medicine at Northwestern University Medical School, where he teaches in the Medical Ethics and Humanities Program. Dr. Orentlicher is also Secretary-Treasurer of the American Association of Bioethics.



Daniel Callahan

**Health Care and Medical Progress:
Can we afford it?**

April 10, noon, Moot Courtroom

BA Yale; MA Georgetown U.; PhD Harvard

Dr. Daniel Callahan is the co-founder and president of The Hastings Center, Briarcliff Manor, NY. The Center is a research and educational organization that examines ethical issues of medicine, biology, and the environment.

Dr. Callahan is the author or editor of 31 books. They include *The Troubled Dream of Life: Living with Mortality*, *What Kind of Life: The Limits of Medical Progress*, *Setting Limits: Medical Goals in an Aging Society*, *The Tyranny of Survival*, *Abortion: Law, Choice and Morality*, *Ethics in Hard Times*; and with his wife, Sidney, *Abortion: Understanding Differences*. He has contributed articles to *Daedalus*, *Harpers*, *The Atlantic*, the *New England Journal of Medicine*, the *Journal of the American Medical Association*, *The New Republic*, and other journals.

Comments from our faculty

Paul J. Zwier

Professor of Law

“The law is often seen as an unwanted intruder into the otherwise private world of care provider/patient relationships. Yet, when the parties disagree they often find themselves before a bewildered court that has little experience or few models to use in helping the parties reach a fair decision. The world of health care seems to be changing so fast. New discoveries are announced virtually every day. And each health care decision seems to carry hidden and unforeseen consequences on future parties. Whether the court is struggling with the particulars of informed consent, or the definition of privacy, or the boundaries of life and death, it often is forced to decide based on little help from the case law.

“Enter the field of Bioethics. The field of bioethics offers different language and different processing systems for resolving these dilemmas. Most hospitals now have ethics committees. Most hospitals have developed and are developing systems for giving advice to the parties. Bioethics driven legislation is providing broader and broader discretion to the parties to make their own determinations.

“Yet many questions remain. Who are these people who advise the parties? What language and models shape their decisions? Are the solutions workable? How can we learn from the answers that work, and from the ones that don't? What role should the courts play in resolving the disputes? What role should cost play in making decisions about health care?

“Perhaps by lawyers, care providers, and ethicists talking to each other, we can start to address these concerns. We are greatly honored to have such a distinguished group of scholars and activists to help us think through these questions.”

Joseph D. Harbaugh

Dean & Professor of Law

“This year, Professor Zwier and the Allen Scholars break new ground by addressing the cutting-edge intersection of bioethics and the law. The impact of the Allen Chair Scholars on our legal community is tremendous. They engage our students, inform our faculty and stimulate our collective curiosity. Their presence on campus adds greatly to the intellectual and professional atmosphere of our school.”

Previous Allen Chair Scholars

1990 Selected Topics in Tort Law

Sheila L. Birnbaum

The Honorable Robert Keeton

Richard Delgado

Deborah R. Hensler

Faculty Leader: Okianer Christian Dark

1991 Special Problems in Civil Litigations—Complex Litigation

Francis H. Hare, Jr.

Gerald A. Connell

The Honorable Robert M. Parker

Mary Kay Kane

Faculty Leader: W. Clark Williams, Jr.

1992 Special Issues of Toxic Waste in Indian Country

W. Richard West

Robert A. Williams, Jr.

David Harrison

Paula Gunn Allen

Faculty Leader: Nancy B. Collins

1993 Religion, Morality and the Law

Henry Abraham

Sanford Levinson

Michael Perry

Faculty Leader: Gary C. Leedes

1994 International Human Rights

Anne-Marie Slaughter Burley

Thomas M. Franck

Harold Hongju Koh

Seyyed Hossein Nasr

Dr. Diego Garcia-Sayan

Faculty Leader: Daniel T. Murphy

THE GEORGE E. ALLEN CHAIR IN LAW

Its History and Founding Spirit...

The George E. Allen Chair in Law was endowed by the family and other friends to honor the late, distinguished Virginia trial lawyer and founder of the highly-regarded Richmond civil litigation firm of Allen, Allen, Allen & Allen. Among the many citations Mr. Allen received during his sixty years of practice was the first Award for Courageous Advocacy made by the American College of Trial Lawyers in 1965. The award was presented for Mr. Allen's representation of an African-American law student from Harvard who, while serving as a summer intern with a firm in this commonwealth, was charged with felonious assault with intent to kill a police officer at a local courthouse where the young interim had gone to file legal documents. Serving without fee and at the special request of Harvard Law School dean, Erwin Griswold, and the Lawyers' Committee for Civil Rights Under Law, Mr. Allen jeopardized his reputation in the community for successfully representing a most unpopular client at the heights of massive resistance. Having a Chair named for this acclaimed attorney is a source of institutional pride, and a constant reminder to all in our school of the role of lawyers in the preservation of liberty.

The George E. Allen Chair in Law was established with the initial gifts of his sons, the late George E. Allen, Jr. L'36; Ashby B. Allen R'43, and Wilbur Allen. Their continuing support, along with the support of others, accounted for the Chair becoming fully endowed in 1988. The Allen Chair allows the School of Law to invite distinguished legal scholars to spend time in residence and interact with the students and faculty of the T.C. Williams School of Law at the University of Richmond.

1995 VISITING SCHOLARS

THE GEORGE E. ALLEN CHAIR IN LAW

The T.C. Williams School of Law

University of Richmond, Virginia 23173

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