

# Widener University Delaware Law School

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From the Selected Works of John G. Culhane

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Fall 2011

## Welcome

John G. Culhane, *Widener University - Delaware Campus*



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# THE FORUM



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## Welcome

*John Culhane*  
*Director, Health Law Institute*

When I assumed the position as director of the Health Law Institute almost six years ago, I wondered: What does it mean to be an Institute? More than once, I found myself thinking of that great line from Paul Simon's "Gumboots," where he says: "We could get together and call ourselves an institute."

It's a question worth asking every once in a while, and perhaps it's best answered by looking at our mission statement and seeing how well we're

*and thereby to serve individuals and institutions concerned with health care throughout our community, region and country. The Institute strives to reach these goals by: offering a range of degree-granting programs to serve students in both J.D. and graduate programs; educating the regional health care community and alumni; producing cutting-edge scholarship on health-law-related issues; hosting conferences and symposia designed to draw the world's leading thinkers and practitioners in law, medicine, health, and related disciplines; and creating mutually beneficial and enriching alliances with health care institutions and private entities."*

Not bad, if we're actually doing it. And I confidently report that we are – if anything, the mission statement should be rewritten to reflect our global reach.

As I proudly brag about the accomplishments of our faculty and students over this past year, I'll keep in mind how well we're realizing our rather lofty goals.

Let's begin with programs: Our graduate degree candidates continue to grow in number and in accomplishment. We've had a real surge in S.J.D. candidates over the past few years, and their interests are quite broad. As of this Fall, we have ten enrolled. One of these, Fazal Ahmed, is a Teaching Fellow who will be adding a course in Islamic Law to his portfolio, which already includes a course in how the law responds to terrorism.



*John Culhane*

fulfilling its rather lofty goals. Here's part of it:

*"[T]he Health Law Institute at Widener University School of Law seeks to promote the knowledge and understanding of health care law and policy,*

Another, Martha Romney, is on the faculty of Thomas Jefferson University's School of Population Health, where she teaches, among other things, a course in Public Health Law. I'm currently working with her on a fascinating dissertation that looks at issues surrounding the underrepresentation of women and minorities in drug testing protocols.

Our LL.M. students continue to experience success, too. Christopher Richins's thesis on the state's right to compel vaccination is soon to be published by the peer-reviewed *Journal of Legal Medicine*.

Among our graduate programs, the Master of Jurisprudence degree has been the most altered. Last year, we instituted a three-track system, whereby students can choose a curriculum that suits the kinds of careers that they've told us they're interested in: compliance work at hospitals or for pharmaceutical companies; legal nurse consulting; or, the oldie-but-goodie, a generalist's degree that confers knowledge across the broad spectrum of health care law, policy, and administration.

Executive Director of Institutes Eileen Grena and her predecessor, Andy Fichter, have also put the Institute's weight behind a semi-annual compliance program, which is open to M.J. and non-matriculating students alike. Widener School of Law is one of only two law schools offering a Masters of Jurisprudence (MJ) in Health Law accredited by the Compliance Certification Board (CCB) for the Health Care Compliance Association (HCCA). This accreditation allows candidates to substitute a Widener School of Law MJ degree for 1,500 hours of field experience otherwise required

by the CCB for compliance officer certification. In addition, the Widener School of Law MJ in Corporate and Business Law is the only accredited MJ program in corporate law in the United States. Each program seeks to prepare participants for the certification exams which are given independently by the CCB.

The compliance program is doing exceptionally well. Thanks to AztraZeneca for a generous grant for the 4-day spring 2011 compliance program. Another measure of its success is the award that the law school is receiving from the Society of Corporate Compliance and Ethics. At its Seventh Annual International Compliance Awards Banquet on September 12, the program is being recognized for achievement in: academic development promoting the profession of compliance and ethics; technology focused on assisting compliance professionals; and policies and procedures and development of programs focused on integrity and ethical behaviors. Congratulations to Eileen and Andy!

I haven't forgotten about our J.D. students, whose accomplishments continue to leave me shaking my head in admiration and amazement.

Let's start with Shannon Mace, who led the student-run Health Law Society this past year. Shannon was the first student to pursue the joint program in law and public health with our partner, Thomas Jefferson University, and she graduated this past May with her J.D. and M.P.H. degrees. Winner of a grant fellowship to work on the medical-legal partnership ("MLP"), her efforts in connection with this project were

nothing short of heroic. The many clients whose problems she worked to solve will always think of her warmly. Her work did not go unnoticed at the national level, either: Shannon was named to the National Center for Medical-Legal Partnership's 2011 Network Advisory Council. We at the Health Law Institute thank Shannon for her important work and wish her well in her new position. She'll be working in the City of Philadelphia's Department of Behavioral Health as the "Health Reform and Health Equity Specialist."

Shannon will continue to be involved in the MLP, which is now entering its third year. We've been successful enough to have earned a second, substantial federal grant in connection with our work in the Healthy Start program in Chester, PA. In just the first two years of its existence, the MLP has helped more than 150 clients, and has been recognized with almost \$400,000 in grant money over the first two years. Thanks to Shannon, co-director Dan Atkins, and staff attorneys Laura Handel and Megan Mahle for their committed efforts. Thanks, too, to Healthy Start Director Joanne Craig for her tireless advocacy on behalf of this vital work.

Although Shannon's enthusiasm and acumen stand out, there were many impressive accomplishments by our J.D. students. A record number obtained their certificate in Health Law, showcasing an interest in and dedication to health law that we expect will help them in this competitive job market and bring them back to the law school as alums to share their experience with faculty and the students who follow them.

## Upcoming Events 2011–2012 Featuring Widener School of Law Faculty

SCCE Award on **September 12, 2011**, to be presented to Dean Ammons on behalf of Widener Law School, at the awards dinner.

Regulatory Compliance Boot Camp, **October 14, 2011**. This program doubles as a preview of topics addressed in more depth in regulatory compliance degree courses and an exam prep session for those interested in obtaining corporate or health care CCB certification. Topics surveyed include HIPAA, Sarbanes-Oxley, Stark/Anti-kickback and False Claims, Antitrust, Section 501(c)(3) of the IRC, HCQIA and the Federal Sentencing Guidelines. Also addressed are corporate ethics and compliance, program organization and implementation issues. The program qualifies for 5 hours of CLE credit for Pennsylvania and Delaware attorneys, including 1 hour of ethics.

Lessons in Tragedy: *Widener Law Review* symposium on the Bradley Case, Friday, **November 4, 2011**

Michele Forzley will be attending the Third International Conference For Improving Use of Medicine (ICIUM) in Antalya, Turkey the week of **November 12, 2011**.

If further evidence of the students' ambition and ability were needed, consider the entirely student-written and edited Colloquium (a copy of which is also included in this mailing). I'm confident you will be impressed by the depth of their knowledge and by the breadth of their interests within the broad compass of health law.

Before I move away from the students, I want to recognize their involvement in many externships that have engaged their energy and imagination. While space won't allow me to list them all, the externships have ranged from positions in private law firms to opportunities with pharmaceutical companies, hospitals, research institutes and – for the second year now – with the Delaware legislature.

The externship program doesn't stop at the U.S. border. For the past two summers, Visiting Distinguished Professor Michele Forzley has been working ceaselessly to establish and nurture a global health law externship program. Forzley, who has an international reputation in global public health policy, spent her summer teaching Comparative and International Health Law in Lausanne, Switzerland, while supervising our interns in global public health. (Read their great blog posts: [hotdog://blogs.law.widener.edu/globalhealthlaw/](http://blogs.law.widener.edu/globalhealthlaw/).)

Thus far, Professor Forzley's efforts have resulted in externship opportunities for students in a number of challenging and expanding settings, including the World Health Organization, the International Trade Administration, and the United Nations Development Programme (UNDP), Campaign to End Poverty, among others.

It's clearly time to change our mission statement to reflect our global reach! But in doing so, we won't lose sight of the importance of local action: We continue to be involved in educating and assisting the community in which we reside. Our compliance programs, mentioned above, are important initiatives in that area.

In addition, in connection with the medical-legal partnerships, we continue to train medical personnel to identify unmet legal needs from their patients' histories. For another year, we have hosted the Wills for Heroes project, which provides free estate document drafting for veterans and first responders. (Details here: [hotdog://law.widener.edu/NewsandEvents/Articles/2011/de032511willsforheroes.aspx](http://hotdog://law.widener.edu/NewsandEvents/Articles/2011/de032511willsforheroes.aspx))

And in the Fall, we will host a *Widener Law Review* symposium on the issues arising out of the case against Dr. Earl Bradley, a Delaware physician who was recently convicted on twenty-four counts of rape, sexual assault and sexual exploitation (all against minors). The fact that the conduct went on for so many years raised troubling questions about oversight and accountability. This led to new legislation that will be the focus of the day's events, which I'm chairing and will feature an interdisciplinary cast of academics, legislators, and physicians.

This kind of cross-disciplinary, alliance-building effort is vital in a challenging health law environment, and we continue to build on existing networks while exploring the creation of new ones. Our MPH/JD partnership with the Thomas Jefferson School of Population Health has benefited not just the students in the joint programs, but those who have received services from the medical-legal partnerships that we continue to foster and expand. On that topic, the law school continues to generate interest in the form of private and government funding in support of these vital initiatives. In just two years of operation, we have been fortunate enough to receive more than \$300,000 in dedicated funds that have resulted in the delivery of legal services to indigent medical patients. We have also begun discussions with the Delaware Health Sciences Alliance, and will work toward future collaborative efforts with that important organization.



No, I haven't forgotten our faculty, without whose prodigious output and efforts in the classroom and community there would not be a Health Law Institute. While I don't have the space to list their many accomplishments, the following sampler should give you a great sense of how important their work is:

Jean Eggen and her co-blogger, student Eric Laury, continue to post regularly on their Nanoscience and the Law blog. Because of their emerging interest in the relationship between neuroscience and the law, they attended a conference on the subject in New York in March. Jean has also produced her first work for BNA, entitled: *Federal Preemption of Claims Based on Cell Phone Hazards: Farina v. Nokia and the Road to the U.S. Supreme Court*, 39 Product Safety & Liability Reporter 871 (Aug. 8, 2011).

Thad Pope has continued to write and speak at an impossible pace on his preferred subjects, medical futility and end of life issues. He recently returned from Queensland, Australia, where he delivered a paper entitled: *Divergent Legal Approaches to Medical Futility Disputes: Comparing Australia and the United States*. But that was just one of many presentations he's made over the past year. During 2010-2011 alone, Thad has made or will make more than forty presentations! He has also generated a host of publications on topics ranging from medical futility, to hard paternalism, to end-of-life decision making. Find the complete list here: [hotdog://www.thaddeuspope.com/publications.html](http://www.thaddeuspope.com/publications.html)

Justin Holbrook, despite having more than a full plate in his first year as Director of our Veterans Law Clinic, managed to co-author two chapters. The first, bearing the daunting title: "Veterans' Courts and Criminal Responsibility: A Problem-Solving History and Approach to the Liminality of Combat Trauma," appears in the book *Treating Young Veterans: Promoting Resilience Through Practice and Advocacy*, co-edited by another Widener law professor, Sydney Howe-Barksdale. Semi-retired Institute member Thomas Reed also contributed a chapter to the book, entitled "A Twentieth Century Veteran and the Nineteenth Century Pension Code." Justin's second chapter, which will appear in a book to be published next year, is entitled: "Veterans Courts: Early Outcomes and Key

Indicators for Success," which he co-authored with Widener law graduate Sara Anderson.

With each passing year, the term "adjunct" seems less and less apt in the description of Roseann Termini. In the Fall of 2010, she became the faculty advisor to the newly formed Food and Drug Law Association at Widener Law. On March 1, 2010, FDLA presented "FDA Matters: Criminal and Civil Enforcement, Ethics, Accountability, and Beyond," in partnership with the Food and Drug Law Institute (FDLI), and featured speakers whose presentations themed on protecting and promoting public health. FDLA also won its first Student Bar Association award. FDLA's president Sara Alsaleh received the Student Organization President of the Year award, recognizing FDLA's academic, social, and community service since it arrived on campus.

In addition, Roseann continued to write and present at her typically impressive rate. In addition to her discussion of tobacco regulation at the 54th Annual FDLI Conference, she wrote on medical device regulation, the connection between food advertising and childhood obesity, and the issue of biosimilars.

I've been busy too, with a number of publications and presentations, including the recently released book: *Reconsidering Law and Policy Debates: A Public Health Perspective* (Cambridge 2011). I'm the editor, and also wrote the Introduction and the chapter on marriage equality. Jean Eggen also contributed a chapter on punitive damages and the public health agenda. I've also become a contributor to *Slate Magazine*, which gives me a chance to do something different: legal journalism. So far, I've written on the BP Oil Spill Compensation Fund; the newly reopened 9/11 Victim Compensation Fund, and a couple of pieces on the lawsuit filed by former NFL players against the League, alleging that the NFL knew of, but failed to disclose, the risk of long-term injury from repeated head traumas.

I know this letter is long, even by my own long-winded standard. But there's so much good news to share that I couldn't stop myself!

Wishing all of you a happy, peaceful, and productive 2011-2012!

