

ROBERT L. SCHWARTZ

University of New Mexico School of Law
1117 Stanford N.E.
Albuquerque, NM 87131
(505) 277-3119
schwartz@law.unm.edu

Permanent home address: 524 Solano Drive N.E.
Albuquerque, NM 87108
(505) 255-4080

PERMANENT ACADEMIC APPOINTMENTS

Henry Weihofen Professor of Law, University of New Mexico School of Law (as of January 2010, emeritus)
Professor of Pediatrics, University of New Mexico School of Medicine (by letter of academic appointment)

EDUCATION

Professional: HARVARD LAW SCHOOL, J.D., magna cum laude, 1975
Undergraduate: STANFORD UNIVERSITY, B.A. with distinction, 1970;
graduated with honors in philosophy; Phi Beta Kappa

ADMITTED TO PRACTICE

American Samoa, 1974; New Mexico, 1975; New York, 1982
Also admitted to practice in the United States District Court, District of New Mexico, the United States Court of Appeals for the Tenth Circuit and the United States Supreme Court

LAW TEACHING EXPERIENCE

Fall 2010	Adjunct Professor of Law (Bioethics), New York University Law School
2010 calendar year	Visiting Professor of Law, Seton Hall University School of Law
Fall 2008	Visiting Professor of Law, University of California, Hastings College of the Law
2006 – 2007	Visiting Professor of Law, University of California, Hastings College of the Law
2002 - 2004	Associate Dean for Faculty Development, University of New Mexico
2001 - 2010	Course writer, lecturer, and Professor of Law, Concord University Law Center (teaching web based courses)
1999 - 2001	Carl Hatch Professor of Law, University of New Mexico School of Law
1998 - 1999	Regents Professor of Law, University of New Mexico School of Law
1996 - 1997	Dr. Arthur Grayson Memorial Distinguished Visiting Professor of Law and Medicine, Southern Illinois University
1989 - 1991	Henry Weihofen Professor of Law, University of New Mexico School of Law
1982-present	Professor of Law, University of New Mexico School of Law
1992-1993	Visiting Professor of Law, University of Tasmania (Australia); Visiting Professor of Law, University of Granada (Spain)
1976-1982	Assistant, then Associate Professor of Law, University of New Mexico School of Law

Teaching Subjects: Administrative Law, Bioethics, Civil Procedure, Church and State, Clinical Law, Constitutional Law, Criminal Law, Health Law, Health Legislation, Health Policy, Human Reproduction and the Law, Indian Law, Legislation, Legislative and Administrative Processes, Legal Research and Writing, Torts

Summers	Faculty, Special Scholarship Program in Law for American Indians, American Indian
1977, 1978,	Law Center
1980, 1983,	

1988 and 2008

NATIONAL AWARDS AND FELLOWSHIPS

2007	Public Interest Law Foundation Teacher of the Year (University of California, Hastings College of the Law)
2006	Distinguished Visiting Bioethicist (Southern Illinois University Schools of Law and Medicine)
2005	Jay Healey Award as Outstanding American Health Law Teacher (American Society of Law, Medicine and Ethics)
1993	Fulbright Scholar: European Regional Research Program (University of Granada, Spain) (research in international health policy, international bioethics policy, and comparative health law and jurisprudence)
1990	University of New Mexico Faculty Scholar
1984-1985	Visiting Scholar, Wolfson College, and member of the Law Faculty, Cambridge University (Fall); Indo-American Fellow, Indo-U.S. Subcommittee, Indian Law Institute, New Delhi and Visiting Professor, University of Delhi, India (Spring)
1980-1981	Kent Fellow, The Society for Values in Higher Education, and Post Doctoral Fellow, The Hastings Center, Hastings-on-Hudson, NY

WORLD HEALTH ORGANIZATION CONSULTANCIES

1998-99	Vietnam; reviewed structure of health care system, licensing system for health care professionals, and the development of the private health care market, drafted statutes, and lectured on physician assisted death and other bioethics topics
1997	Tonga; reviewed all health legislation, suggested changes in licensing statutes, health care financing legislation, inspection laws, and laws dealing with subjects in bioethics.
1996	Cambodia; created a legal structure for the development of legislation designed to govern the emerging health system and encourage efficient use of extremely limited outside donor resources.

ABA CONSULTANCY

1999	ABA-CEELI consultant on law concerning illicit drug traffic, Romania
1998	ABA-CEELI consultant on health law, former Soviet Republic of Georgia

OTHER LEGAL AND ADMINISTRATIVE EXPERIENCE

2008	Hearing Officer, New Mexico Department of Health (conducted rulemaking hearing on medical marijuana and health care provider liability)
1991-1992	Chair, New Mexico Health Policy Commission (appointed by Governor, 1991; confirmed by Senate, 1992)
1985-1986	General Counsel, Human Services Department, State of New Mexico, Santa Fe, NM (Primary Work: Supervising legal administration of Medicaid, AFDC, and all other welfare programs, and all state child abuse and neglect litigation; arguing federal and appellate cases)
1975-1976	Associate, Rodey, Dickason, Sloan, Akin & Robb, P.A., Albuquerque, NM (Primary work: American Indian Law)
1974-1975	Legal Research Associate (Law Clerk), High Court of American Samoa, Pago Pago, American Samoa (researched legal issues, drafted opinions, organized the bar association, administered the bar review and bar exam, and edited the Samoa Pacific Law Journal)

EDITORIAL BOARDS (current)

Cambridge Quarterly of Healthcare Ethics (Cambridge University Press).
Journal of Contemporary Health Law and Policy (Catholic University College of Law).
Medical Law Review (Oxford University Press).

BOOKS AND TEACHING MATERIALS

Health Care Reform Supplement, (West 2010) (with Furrow, Greaney, Johnson & Jost)
Bioethics and Law in a Nutshell (West 2009)(with S. Johnson)
Health Law: Cases, Materials and Problems, Sixth Edition (West 2008) (with Furrow, Greaney, Johnson & Jost) (additional abridged edition published Fall, 2008).
Legal Issues in Bioethics, Sixth Edition (West 2008) (with Furrow, Greaney; Johnson & Jost)
The Law of Health Care Organizations and Finance, Sixth Edition (West 2008) (with Furrow, Greaney; Johnson, and Jost).
Liability and Quality Issues in Health Care, Sixth Edition (West 2008) (with Furrow, Greaney; Johnson and Jost)
Teacher's Manual for Health Law, Sixth Edition (West 2008).
International Encyclopedia of Laws: Medical Law (United States), Third Edition, (Kluwer, 2005) (with Furrow, Greaney, Johnson and Jost).
Treatise on Health Law, 2nd ed., (2 volumes, West, 2000) (with Furrow, Greaney, Johnson and Jost) (abridged version published as Hornbook on Health Law, 2nd ed. 2000) (First edition of the hornbook and treatise originally published in 1995).

SELECTED ARTICLES, BOOK CHAPTERS, AND REVIEWS

End-of-Life Care: Doctors' Complaints and Legal Restraints, 53 St. Louis L.J. 1155 (2009)

Considerations for People with Disabilities and Their Families (American Health Lawyers Association monograph)(with several others) (2009)

The Risk of Reducing Consciousness to Neuroimaging (Commentary, with M. Schwartz), 8(9) *JOB/American Journal of Bioethics* (Sep.) 3 (2008)

The Ethical Health Lawyer: When Doing the Right Thing Means Breaking the Law – What is the Role of the Health Lawyer? 34 *J.L., Med. & Ethics* 625 (2006)

What is the Future of Health Law? Follow the Money, 14 *Health Matrix* 219 (2004)

Why a Teenager Over the Age of 14 Should Be Able to Consent, Rather Than Merely Assent, to Participate as a Human Subject of Research (Commentary), 3(4) *AJOB/American Journal of Bioethics* 38 (2003)(with K. Toner)

The Professor is Excused (Commentary), 2(4) *AJOB/American Journal of Bioethics* 59 (2002)

How Law and Regulation Shape Managed Care in D. Bennahum, ed., *The Law and Ethics of Managed Care* (Pilgrim Press, 2000)

The Law and Managed Care: Why Doctors and Lawyers Are Suddenly Friends, UNM Law 18 (Winter 1999)

Physician-Assisted Suicide (report of presentation) 6 Annals Long Term Care 71 (1998)

Introduction to the Symposium: Bioethics Policy Beyond the Power of the Sovereign, 33 Hous. L. Rev. 1283 (1997)

Genetic Knowledge: Ethical and Legal Issues, in T. Kushner and D. Thomasma, eds., Birth to Death: Science and Bioethics 21 (1996)

The Role of Institutional and Community Based Ethics Committees in the Debate on Euthanasia and Physician-Assisted Suicide, 5 Camb. Q. Healthcare Ethics 121 (1996) (with Kushner).

In the Trenches: Facing Fallibility and Feelings (Response), Making the Rounds in Health, Faith and Ethics 7 (Feb. 12, 1996).

Multiculturalism, Medicine and the Practice of Female Circumcision: The Limits of Autonomy 3 Camb. Q. Healthcare Ethics 431 (1994).

Commentary on "Is Dying Better Than Dialysis for a Woman with Downs Syndrome?," 3 Camb. Q. Healthcare Ethics 271 (1994).

Life Style, Health Status and Distributive Justice, 3 Health Matrix 195 (1993), reprinted in A. Grubb and M. Mehlman, eds., Justice and Health Care: A Comparative Perspective (1995).

Malpractice Liability for the Failure to Adequately Educate Patients: The Australian Law of 'Informed Consent' and Its Implications for American Ethics Committees, 2 Camb. Q. Healthcare Ethics 371 (1993).

Informed Consent in Australia: A Fair Dinkum Duty of Disclosure, 1 Med. L. Rev. 139 (1993) (with Chalmers).

Making Patients Pay for Their Lifestyle Choices, 1 Camb. Q. Healthcare Ethics 393 (1992).

Autonomy, Futility, and the Wanglie Case, 1 Camb. Q. Healthcare Ethics 159 (1992).

Everything You Always Wanted to Ask a Lawyer About Ethics Committees, 1 Camb. Q. Healthcare Ethics 33 (1992) (with others).

Assessment of Ethical Decisions and Values, 26 Med. Ed. 7 (1992) (with others).

"Setting Health Care Priorities Through Medicaid Reform," 35 St. Louis U.L.J. 837 (1991).

"Neonatology: Ethical and Legal Considerations," in Taesh, Ballard and Avery, eds., Schaffer and Avery's Diseases of the Newborn (Sixth Edition) (1991) (with Gibson).

"Professional Decisions and Ethical Values in Medical and Law Students," 65 Academic Med. (9) 531 (1990) (with others).

"Euthanasia and the Right to Die," 20 N.M.L. Rev. 675 (1990).

"New Age Ethics," Mirage 10 (Fall 1990).

"From Informed Consent to Frozen Embryos: Health Law Enters the 1990s," 29 N.M. Bar Bull. (8) (Supp.) 1 (1990).

"There is No Archbishop of Science: Screening Scientific Evidence," 69 B.U.L. Rev. 517 (1989) (originally presented to the Yale Law School Program in Civil Liability).

"Setting Limits on Autonomy: Saving Money in an Aging Society," 33 St. Louis U.L.J. 617 (1989).

- "Guardian Angles," in Kane and Caplan, eds., Ethical Issues in Everyday Life of Nursing Home Residents (1989).
- "When Can the Government Issue a Retroactive Medicare Reimbursement Rule? A Preview of Bowen v. Georgetown University Hospital, 88-89 Sup. Ct. Preview 38 (1988).
- "When Must a Hospital Challenge the Medicare Reimbursement Policy? A Preview of Bethesda Hospital Association v. Bowen," 87-88 Sup. Ct. Preview 272 (1988).
- "Medical Research with Children: Ethics, Law and Practice," (Book Review), 1 Med. Humanities Rev. 52 (1987).
- "Legal Aspects of Research upon Elderly Human Subjects," World Congress of Law and Medicine, New Delhi, 1985, republished in 1 J. Contemp. Health L. & Pol'y 115 (1985).
- "Why Britain Cannot Afford Informed Consent," 15 Hastings Center Rep. (No. 4) 19 (1985) (with Grubb), republished in 89 Chicago Med. (No. 13) 588 [Part I] (1986), 89 Chicago Med. (No. 14) 656 [Part II] (1986).
- "Legal Issues in Geriatric Medicine," in Cassel & Walsh, eds., Geriatric Medicine (1984) (with others).
- "Implications of the Constitutional Right of Privacy for the Control of Drugs: An Introduction," in Murray, Gaylin & Macklin, eds., Feeling Good and Doing Better: Ethics and Nontherapeutic Drug Use (1984).
- "Institutional Review of Medical Research: Cost-Benefit Analysis, Risk-Benefit Analysis, and the Possible Effect of Research on Public Policy" 4 J. Leg. Med. 143 (1983).
- "Judicial Deflection of Scientific Questions: Pushing Laetrile Towards Medical Closure," 13 N.M. L. Rev. 119 (1983), republished in Englehardt & Caplan, eds., Scientific Controversies (1987).
- "Are the Medical Arts Keeping Up with Legal Science?" 28 J. Irreproducible Results 6 (1982).
- "Ethical and Legal Concerns in Experimentation with Psychopharmacologic Drugs in the Elderly," 17 Psychopharmacology Bulletin 64 (1981).
- "Yin, Yang, and the Right to Privacy: The Acupuncture Challenge to Physician Control of Health Care," 11 Hastings Center Rep. (No. 2) 5 (1981), republished in 9 Am. J. Acupuncture 197 (1981).
- "Defining the Role of the Physician: Medical Education, Tradition and the Legal Process," 16 Hous. L. Rev. 779 (1981) (with Gibson).
- "Teaching Physicians and Lawyers to Understand Each Other: The Development of a Law and Medicine Clinic," 2 J. Leg. Med. 131 (1981).
- "Delimiting Religion and Ethics," 11/208 Sh'ma, A Journal of Jewish Responsibility 60 (1981).
- "Physicians and Lawyers: Science, Art and Conflict," 6 Am. J.L. & Med. 173 (1980) (with Gibson).
- "Laetrile: The Battle Moves Into the Courtroom," 65 A.B.A.J. 224 (1979).
- "A Note or Two on Arnstein v. Porter" (videotape, 1978) (includes accompanying edited version of the Second Circuit record).
- "Elected Offices of the Executive Branch," published in Appendix B, The Executive Branch of New Mexico State Government (1976).

"Polynesian Intercultural Law Enforcement Study," 3 Sam. Pac. L.J. 157 (1974).

"Status of American Samoa," 2 Sam. Pac. L.J. 157 (1974).

UNIVERSITY OF NEW MEXICO AWARDS

Law School Award for Outstanding Teaching (presented by graduating students) (2005)

Ronald and Susan Friedman Award for Law School Teaching (2002)

Carl Hatch Professorship (1999-2001)

Regents Professorship (1998-1999)

University Faculty Scholar (1990)

Henry Weihofen Professorship (1989-91; Henry Weihofen Chair since 2005)

Outstanding Professor, University of New Mexico School of Law, 1982 (award presented by graduating students)

Faculty Award, the First Annual Indian Honors Awards (presented by the Native American Studies Department and the Indian students of the University of New Mexico), 1980

UNIVERSITY ACTIVITIES

University:

Honors Task Force (2011)
Task Force on Religion and Student Organizations (2009)
Conflict of Interest Committee (Chair, 2008)
University Free Speech Committee (1999)
University Graduate Program Review Committee, Department of Philosophy (1995)
University Graduate Program Review Committee, Department of Art and Art History (1992)
Chair, University Task Force on Honors Education (1991-92)
UNM 2000 Committee (policy planning for the future of the University) (1988-91)
Law School Representative, University Faculty Senate (1983-84)
Student Standards and Grievance Committee (1978-80)
Member, University of New Mexico School of Medicine-Albuquerque Veterans
Administration Hospital Institutional Review Board (1979-85; Acting Chairman, 1981)
Chair, University Task Force on Student Publications (1983)

Law School:

Outreach Committee (planning part time program) (Chair, 2005-2006)
Dean Search Committee (Vice Chair, 2001)
New Building Committee (Chair, 1998-1999)
Faculty Appointments Committee (1985-92, 1994, 2002)(Chair, 1987-92)
Promotion and Tenure Committee (1986-88, 1990-99, 2005)(Chair, 1997-80)
Honors and Awards Committee (Chair, 1979-80, 2001-2002)
Curriculum Committee (1976-79, 1982-83, 1987-88; Chair, 1983-84)
Student Affairs Committee (1977-80)
Placement Committee (1978-80)
Bar and Community Relations Committee (1979-80)
Sabbatical Leave Committee (1981-82, 1990-93, 1997-8)
New Mexico Representative, Western Conference of Law Schools (1977)
Faculty Advisor, American Indian Law Student Association (1979-84)
International Affairs Committee (1993)

Advisor, Interscholastic Moot Court Team (several years) and Interscholastic Health Law Moot Court Team (1989-94)

OTHER PROFESSIONAL AND COMMUNITY ACTIVITIES AND MEMBERSHIPS

Current Professional Organizations:

American Public Health Association (Health Law Forum Program Chair, 1996-1998)
Association of American Law Schools, Section on Law, Medicine and Ethics (Chair, 1981-82)
New Mexico Bar Association, Health Law Section (CLE Chair, 1988-90; Chair, 1991-92)
American Society of Law, Medicine and Ethics, Health Law Teachers;
Americans United for Separation of Church and State
Society for Values in Higher Education
Center for Health Law and Ethics

Other:

ABA Health Law Section, Task Force on Health Policy
American Health Lawyers Association
NIH Study Section, Research Involving Human Subjects
Best Lawyers in America (Health Law)
Regular program planner and lecturer, bioethics education for the state judiciary
Regular program planner and lecturer, bioethics education for ethics committee members
Regular lecturer, University of New Mexico Medical School Seminar in Professional Responsibility and Continuing Medical Education Program
Regular panelist, New Mexico Medical-Legal (Malpractice Review) Panel
Member, Medical-Legal Liaison Committee of the New Mexico Medical Society and New Mexico Bar Association (Chair, Subcommittee on Sterilization of the Mentally Retarded; Chair, Subcommittee on Guidelines for the Discontinuation of Cardiopulmonary Life-Support Systems)
Chair, New Mexico Department of Human Services Task Force on Severely Defective Newborns
High School Moot Court (Advisor, 1976; 1985; Judge, 1978-82, 2008)
Chairman, Off-Island Appeals Committee, American Samoa Bar Association (1974)
National internet "subject matter expert" for high school students
New Mexico Death with Dignity (Chair, 1995)
American Civil Liberties Union - New Mexico (President, 1995-2000)
Compassion and Choices (National Board 2010-2011)