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Labor or love?

Mitchell Lecture to address the shifting nature of personal caretaking



Hendrik Hartog



Jennifer Klein



Peggie R. Smith

2012 James McCormick Mitchell Lecture

“When Caring Is Work: Home, Health, and the Invisible Workforce”

- Oct. 19, 2 p.m.
- Room 106, O’Brian Hall
- Open to the public
- Admission is free

UNY Buffalo Law School’s 2012 James McCormick Mitchell Lecture will explore the legal and social challenges of providing personal and medical care for elderly and disabled persons – a topic of relevance for health care, Social Security, welfare and employment law reform.

The Oct. 19 event, titled “When Caring Is Work: Home, Health, and the Invisible Workforce,” features three distinguished scholars who will address social, historical and legal aspects of family caretaking and the home health care industry. “Though the ideal of individual autonomy remains central to our legal and political system, in reality most adults will at some point depend on extensive personal caretaking help for their daily survival, and many others will orient their daily lives to the demands of responding to this dependency,” say Professors Dianne Avery and Professor Martha T. McCluskey, co-chairs of the event. “This intimate fact of life raises fundamental questions about law and its relationship to the broader social institutions of family, market and the state.”

The 2012 Mitchell Lecturers are: **Hendrik Hartog**, Class of 1921 Bicentennial Professor in the History of American Law and Liberty and director of American studies at Princeton University. Hartog, a sociolegal historian, is the author of *Someday All This Will Be Yours: A History of Inheritance and Old Age* (Harvard University Press, 2012). The book examines lawsuits from the mid-19th to mid-20th century brought by family members who had assumed a caretaking role for their elderly parents in the expectation of a later inheritance.

Jennifer Klein, a professor in the History Department at Yale University who has written extensively about the intersection between labor politics and the welfare state. With co-author Eileen Boris, she has just published *Caring for*



Albuquerque Journal

America: Home Health Workers in the Shadow of the Welfare State (Oxford University Press, 2012), a labor history of home health care workers from the 1930s to the present.

Peggie R. Smith, Charles F. Nagel Professor of Employment and Labor Law, at Washington University Law School, St. Louis. Professor Smith is a leading scholar in the regulation of care work that occurs both inside and outside the home, including child care, home care and elder care.

“With these presenters,” McCluskey says, “we have a story through time about the different ways home care gets arranged for people who are elderly or disabled. Hendrik Hartog’s historical study of inheritance and property distribution raises many hard questions that we still struggle with, such as what exactly is the responsibility of family members toward those who need extensive personal care, and what is the responsibility of society? Is caretaking work for relatives deserving of compensation? If so, who should pay?”

“Jennifer Klein looks at paid caretakers with similar questions, starting around the New Deal era and ending with contemporary times. This is a time period when home care becomes more professionalized, a private paid service outside the family,



AP Photo/Rich Pedroncelli

Dozens of home health care workers recently protested against proposed state budget cuts to social services in California.

A home health care system nurse practitioner taking the blood pressure of a senior patient at her home.

more of a government and medicalized service. It also becomes associated with women of color, immigrant women and others who are outsiders in some way, and begins to be treated as a kind of welfare system.”

Avery adds that Peggie Smith’s work explores the labor issues underlying “the move from institutionalized care to home care. People generally want to stay in their homes, but many can’t afford to hire caretakers to come in. The question becomes not only what legal arrangements for caregiving are more efficient and least expensive, but what’s better for the person needing the care? And how should the law protect workers in the home care industry from abusive employment practices?”

This year’s event continues a distinguished tradition of Mitchell Lectures, established in 1950 with a gift from Lavinia A. Mitchell in memory of her husband, James McCormick Mitchell, who graduated from the Buffalo Law School in 1897. Previous Mitchell Lecturers have included Justice Robert H. Jackson, Richard Posner, Derrick Bell, Catharine MacKinnon, Clyde Summers and Stuart Macaulay. The Mitchell Lecture will be presented this year during the Law School’s 125th anniversary celebration.