



Introduction to Health Law

PubH 192.10 (Three Credits)
Spring 2006, Wednesdays, 12:45-3:15 p.m.
Ross Hall #104

Instructor:

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Prerequisites: None.

Required

Texts: 1) Coursepack; 2) Jonathan Harr, *A Civil Action*, Vintage Books (NY, 1995)

Office hours: Thursdays, 9:30-11:30 a.m.; otherwise by appointment

Description: This course introduces students to the legal concepts that underlie the individual health care and public health systems in the United States. Specifically, it surveys the three major dimensions of health law: health care law, which covers the legal rights and obligations of patients and providers in the individual health care delivery system; public health law, which describes the enduring tension between government's police powers and individual freedoms in the context of protecting the public's health and welfare; and bioethics, which focuses on the intersection of law, ethics, and medicine in matters pertaining to patient autonomy.

Objectives: Objectives include describing the basic legal concepts that underlie the U.S. individual and public health systems; describing the basic legal rights and responsibilities of the relevant stakeholders in the health care system; developing in students an appreciation of the extensive and complex role played by federal and state law in the protection of the public's health; and improving students' analytical reasoning skills. See individual class sessions for specific learning objectives.

Methods of

Evaluation: A student's overall grade is made up of attendance & participation (10%), one group assignment (25%), one individual writing assignment (25%), and a final exam (40%). Regular attendance and preparation is expected and essential, since basic legal analysis skills and substantive content presented in class will form the basis for the assignments and the final exam. To this end, students may realize a one-step increase to their overall grade (e.g., from a "B+" to an "A-", with a maximum of "A") through exceptional class participation.

All graded assignments must have social security numbers *instead* of names, as all assignments are graded anonymously. Students must meet the due dates for all assignments. If not able to meet a deadline, you must receive an extension from me, and the assignment grade will be reduced one step for each day it is late.

Academic

Integrity: All graded work products and assignments are to be completed in conformance with the University's Code of Academic Integrity, which can be found at: <http://gwired.gwu.edu/policies>. Particularly important is the avoidance of plagiarism in the preparation of the assignments and exam.



SYLLABUS

OVERVIEW OF THE LAW AND THE LEGAL SYSTEM

JANUARY 18: Course Overview; Overview of Law and the Legal System

Learning Objectives: Students will be able to enumerate course expectations and requirements; describe the three major dimensions of health law; explain generally the function and sources of law; discuss generally some key attributes of the legal system (e.g., separation of powers, federalism); and understand how to analyze a judicial opinion.

HEALTH CARE LAW: LEGAL OBLIGATIONS OF HEALTH CARE PROVIDERS

JANUARY 25: Is There a Legal Right to Health Care in the U.S.?

Readings: *Hurley v Eddingfield*

Objectives: Students will be able to describe the considerations surrounding the debate over whether there should be a legal right to health care in the U.S., and the “no duty” principle inherent in the delivery of health care services.

Reading: *Power v Arlington Hospital Association*

Objectives: Students will be able to describe efforts to modify the “no duty” principle through the Emergency Medical Treatment and Labor Act, including a description of its key requirements.

Reading: *Bragdon v Abbott*

Objectives: Students will be able to describe the role of Federal civil rights law (specifically, the ADA) in creating access to health care.

FEBRUARY 1: Standards of Care, the Duty to Disclose, and Informed Consent

Readings: Excerpts from Law and the American Health Care System

Objectives: Students will be able to describe the professional standard of health care, the “locality rule”, and the national standard of care, and will be able to discuss generally the concepts of “torts” and “negligence”.

Reading: *Canterbury v Spence*

Objectives: Students will be able to discuss the health care provider’s duty to disclose and the concept of “informed consent”.

Discussion of group project. Presentations to take place on February 22nd

FEBRUARY 8: Hospital and Managed Care Liability

Reading: Excerpt from Law and the American Health Care System, including *Jackson v Power*, *Darling v Charleston*, *Boyd v Albert Einstein Medical Center*, and *Jones v Chicago HMO*

Objectives: Students will be able to describe theories of vicarious and corporate negligence in the context of hospital and managed care liability.



PUBLIC HEALTH LAW: GOVERNMENT POWERS VS. INDIVIDUAL FREEDOMS

FEBRUARY 15: Overview of the Constitutional Framework of Public Health Law

Reading: Excerpts from Public Health Law: Power, Duty, Restraint

Objectives: Students will be able to formulate a working definition of public health law; describe the government's authority and power under Federal and state law to protect the public's health (including the "police powers"); and explain the critical limitations on these governmental powers under concepts of individual autonomy and liberty.

FEBRUARY 22: Group Project Presentations

MARCH 1: Public Health Law in Popular Culture (Part I)

Format: Class will be dedicated to a screening and discussion of a public health law-related film.

MARCH 8: Public Health Law in Popular Culture (Part II); Compulsory Immunization and Screening

Reading: Complete A Civil Action by this date; also, excerpts from Public Health Law: Power, Duty, Restraint and from Public Health Law and Ethics: A Reader

Format/Objectives: The first part of class will be dedicated to a discussion of Jonathan Harr's A Civil Action./Students will be able to provide an overview of the law surrounding compulsory immunization and detail the constitutional and potentially discriminatory considerations related to compulsory screening. Discussion of individual writing assignment.

MARCH 15: NO CLASS DUE TO SPRING BREAK

BIOETHICS: THE RIGHTS OF PATIENTS TO AUTONOMY AND SELF-DETERMINATION

MARCH 22: The Right to Abortion

Reading: Excerpt from Biomedical Ethics, including *Roe v Wade* and *Planned Parenthood v Casey*

Objectives: Students will be able to discuss the constitutional framework concerning the right to abortion.

MARCH 29: Limits to Abortion Rights

INDIVIDUAL WRITING ASSIGNMENT DUE

Reading: Excerpt from Bioethics: Health Care Law and Ethics, including *Stenberg v. Carhart*; the Partial-Birth Abortion Ban Act of 2003; and an NYU Journal of Legislation and Public Policy article.

Objectives: Students will be able to describe the Supreme Court's most recent abortion jurisprudence and discuss the newly passed partial-birth abortion law.

APRIL 5: The Right to Refuse Treatment and the Right to a Natural Death

Reading: Excerpt from Healthcare Law and Ethics; *Lane v Candura*, *Cruzan v Missouri Department of Health*; and excerpt from A Health Law Reader

Objectives: Students will be able to discuss the rights of both competent and incompetent patients related to refusing treatment; the "right to die"; and the different types of advance directives.



APRIL 12: The Right to Physician Assistance in Dying

[Guest lecturer: Dr. Harold Hirsh, M.D., J.D., Distinguished Visiting Professor and Benefactor, Hirsh Health Law and Policy Program, SPHHS]

Readings: Excerpt from Bioethics: Health Care Law and Ethics, including *Washington v Glucksberg* and *Vacco v Quill*.

Objectives: Students will be able to discuss the legal issues associated with pain relief/physician-assisted suicide.

LAW IN ACTION

THE WEEK OF APRIL 19: Attending Oral Arguments in Federal Court

COURSE WRAP-UP

APRIL 26: Course Review; Final Exam Q&A; etc.