HMP 652: HEALTH LAW

COURSE SYLLABUS

University of Michigan School of Public Health

Fall 2014

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Office Hours: Wednesday, 3:00-5:00 pm, or by appointment
Class Schedule: Tuesdays and Thursdays, 1:00 P.M.-2:30 P.M., Room 3755

COURSE OBJECTIVES

The purpose of this course is to introduce public health students, especially those interested in health administration and management, to the legal issues they are likely to face in managing a health care organization. With the increasing intersection between health care delivery and law, health care executives will encounter a wide range of legal and regulatory issues, including patients’ rights, antitrust, institutional liability, and employee relations. It is thus important for students to be familiar with basic legal principles affecting how health care institutions are operated, how legal rules and doctrine are formulated, and how to interact effectively with attorneys.

This course is designed to provide students with the practical knowledge to identify legal issues and to understand the legal and ethical ramifications of strategic decisions. But it is also designed to familiarize students with the emerging health policy issues that courts are likely to confront.

Primary exit competencies for the course are from Domain D (Law and Ethics), and Domain E, (Professional Development):

* D-1: Use legal reasoning as a tool for analysis, communication, strategy, and planning (i.e., use legal reasoning as a broad analytic, strategic, and communications tool)
* D-2: Behave ethically and promote standards of ethical behavior throughout organizations and professional communities (i.e., identify the relationship between ethical values and legal norms)
* E-3: Continually push to raise personal standards of performance and exceed expectations

Secondary exit competencies for the course are from Domain B (Communication):

* B-1: Speak and write in a clear, logical, and grammatical manner
* B-2 and 3: Receive, process, and respond appropriately to information conveyed by others

Additional course objectives include:

* Understanding legal and ethical standards applicable to health care professionals and organizations
* Understanding the functions of and interaction between courts, legislatures, regulators
* Analyzing the role of the legal system in health policy and health care delivery
* Developing strategies for and ways of communicating with attorneys
* Understanding law’s limits in providing definitive answers

In an introductory course, it is difficult to cover the myriad instances where the legal system affects health care delivery. We will consider the most salient topics health care executives face rather than attempting in-depth coverage of any particular area. Given the evolving transition from managed care to consumer-directed health care, the classes will emphasize emerging legal issues in this transition. In particular, we will consider the legal implications of conflicts between health plans, physicians, individual patients, and patient populations in the new health care environment.

Course Requirements

Course readings and materials are available on CTools. Each student is expected to read the material and be prepared to discuss it in class. In reading the materials, especially the court cases, keep in mind the following types of questions:

- How well does the court, legislature, or regulatory agency understand the health care delivery system?
- What factors does the court consider in reaching its decision?
- What effects do you expect the decision, regulation, or statute to have on the health plan or institution?
- As a health care executive or provider, how would you respond to the decision?
- What information would you request from your institution’s attorney to comply with the court’s decision, the regulation, or the legislation?

Assignments and Grading

Each student will participate in at least one in-class debate to be assigned during the course. Students will also be required to complete two short papers on topics/dates to be assigned. The final examination will consist of essay questions. The written assignments (including the final exam) are designed to determine your understanding of the legal principles covered in class and how to apply them to specific situations. All written assignments will be submitted electronically to the CTools site.

Grades for the course will be determined on the following basis:
* Quality of the papers  50%
* Final exam  40%
* Debate  10%

**Academic Conduct**

When I was in law school, my preceptor set forth the following guidelines for acceptable behavior: don’t lie, cheat, or steal. That remains sound advice. Except for the in-class exercises, I expect everyone to do their own work on papers and the final exam. While I encourage interaction and discussion among class members, the final work product must represent the student’s individual contributions in conformance with professional and SPH standards of integrity and academic conduct.

**Classroom Expectations**

I expect everyone to participate in class discussions and exercises. There are no penalties for not participating in class discussions, but those who actively participate may receive an increase in their final grade. Because many of the issues we will be discussing are topical, students are encouraged to read media reports of law and health care issues, including legislative and regulatory developments, as well as recent judicial decisions affecting the health care enterprise. I also expect that each of us will listen respectfully to each other’s ideas and encourage vigorous, but civil, debate over controversial topics. Computers and smart phones are not to be used during class without special permission.

**COURSE TOPICS AND READINGS**

**PART I: INTRODUCTION TO THE LEGAL SYSTEM**

**Tuesday, 2 September: Framing the Issues in Law and Health Care**


Optional


**Thursday, 4 September: The Legal System I**


**Optional**


**Tuesday, 9 September: The Legal System II**


**Optional**

Thursday, 11 September: An Overview of Contracts, Torts, and Regulations


Optional


PART II: LEGAL ISSUES IN MANAGING HEALTH CARE ORGANIZATIONS

Tuesday, 16 September: General Corporate Principles


*Lo v. Provena Covenant Medical Center*, 796 N.E.2d 607 (Ill. 2003).


Optional


Thursday, 18 September: Governance


**Optional**


**Tuesday, 23 September: Tax Exemption—Federal**


*IHC Health Plans, Inc.*, 325 F.3d 1188 (10th Cir. 2003).


**Optional**


**Thursday, 25 September: Tax Exemption—Local**

*Provena Covenant Medical Center v. The Department of Revenue*, 925 N.E.2d 1131 (Ill. 2010).

*Bethesda v. Wilkins*, 806 N.E.2d 142 (Ohio 2004).

**Optional**

Brief of Amicus Curiae for American Hospital Association in *Provena Covenant Medical Center v. The Department of Revenue of the State of Illinois*, Illinois Supreme Court, No. 107328, 2009.

Section 501(r)-3 of the Internal Revenue Code, Community Health Needs Assessments.

**Tuesday, 30 September: Antitrust—Overview**


Ginsburg PB and Pawlson LG, seeking Lower Prices Where Providers are Consolidated: An Examination of Market and Policy Strategies *Health Affairs* 2014; 33(6):1067-1075 (see the Appendix at http://content.healthaffairs.org/content/suppl/2014/05/14/hlthaff.2013.0810.DC1/2013-0810_Ginsburg_Appendix.pdf.)

Department of Justice Advisory Opinion, Norman Physician Hospital Organization, 13 February 2013.

**Optional**


**Thursday, 2 October: Antitrust—Cases**


**Optional**


Tuesday, 7 October: Fraud and Abuse I


**Optional**


Thursday, 9 October: Fraud and Abuse II


DHHS Office of the Inspector General, OIG Advisory Opinion No. 12-06, 1 June 2012.

**Optional**

Corporate Integrity Agreement, DHHS and United Prostate Centers, 8 July 2010.

Tuesday, 14 October: Fall Study Break

Thursday, 16 October: Joint Ventures/ACOs


*St. David’s Health Care System, Inc. v. United States*, 349 F.3d 232 (5th Cir. 2003).


42 CFR Part 425—Medicare Shared Savings Program (Subparts B, D, and F).


Optional


PART III: REGULATING QUALITY OF CARE

Tuesday, 21 October: General Liability Standards


*Hall v. Hilbun*, 466 So.2d 856 (Miss. 1985)--read pp. 860 to 873 (stop @ D) and 877 (start @ V) to 880 (stop before Dissent).


Optional


Thursday, 23 October: Institutional Liability


Optional


Tuesday, 28 October: ERISA


*Golden Gate Restaurant Association v. City and County of San Francisco*, 558 F.3d 1000 (9th Cir. 2009) (edited by PDJ).

Optional


Thursday, 30 October: Tort/ERISA Reform


Optional


Tuesday, 4 November: Public Oversight—Licensure and Accreditation


*Hoffman v. State Medical Board of Ohio*, 865 N.E.2d 1269 (Ohio, 2007).


Optional

Thursday, 6 November: Institutional Oversight—Staff Privileges

*Baptist Health v. Murphy*, 226 S.W.3d 800 (Ark. 2006).


**Optional**


Tuesday, 11 November: Institutional Oversight—Peer Review

*Poliner v. Texas Health Systems*, 537 F.3d 868 (5th Cir. 2008).

The Health Care Quality Improvement Act, 42 U.S.C. 11101-11151.


**Optional**


PART IV: ACCOUNTABILITY

Thursday, 13 November: Nondiscrimination


*Jakubowski v. The Christ Hospital, Inc.*, 627 F.3d 195 (6th Cir. 2010).

*Chaney v. Plainfield Healthcare Center*, 612 F.3d 908 (7th Cir. 2010).

**Optional**

Tuesday, 18 November: Privacy/HIPAA


Thursday, 20 November: EMTALA and Access to Health Care


Emergency Medical Treatment and Active Labor Act, 42 U.S.C. 1395dd.

*Torretti v. Main Line Hospitals, Inc.*, 580 F.3d 168 (3d Cir. 2009).

*Preston v. Meriter Hospital, Inc.*, 700 N.W.2d 158 (Wis. 2005).

Tuesday, 25 November: Informed Consent


*Johnson By Adler v. Kokemoor*, 545 N.W.2d 495 (Wis. 1996).


Optional

Tuesday, 2 December: General Employment Issues


*Kadlec Medical Center v. Lakeview Anesthesia Associates*, 527 F.3d 412 (5th Cir. 2008).


Optional


Thursday, 4 December: Bioethics and Law


*Miller v. HCA, Inc.*, 118 S.W.3d 758 (Tex. 2003).


Optional


Tuesday, 9 December: Conflicts of Interest


**Optional**