

HMP 652: HEALTH LAW

University of Michigan School of Public Health

Fall 2016: Tuesday and Thursday, 1:00 pm-2:30 pm, Room 3755

Professor: Peter D. Jacobson, JD, MPH
SPH Tower, Room 3611B (Griffith Leadership Center)
936-0928
pdj@umich.edu

Office Hours: Wednesday, 3:00-5:00 pm, or by appointment

Course Description: 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. 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 Materials: All readings and materials will be available on the CTools website.

Learning Objectives:

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

Competencies—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

Learning Objectives and Competencies:

LEARNING OBJECTIVES	COMPETENCIES
Understand legal standards applicable to health care professionals and organizations	D-1, B-1
Understand the interaction of legal and ethical standards applicable to health care professionals and organizations	D-2, E-3
Understand the functions of and interaction between courts, legislatures, regulators	D-1, B-1, B-2, B-3
Analyze the role of the legal system in health policy and health care delivery	D-1, B-1
Develop strategies for and ways of communicating with attorneys	B-1, B-2, B-3, E-3
Understand law’s limits in providing definitive answers	D-1, B-2, B-3

Course Requirements

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?

Each student will participate in 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 Integrity

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 and will not hesitate to call on people if the discussion lags. Those who actively participate may receive an increase in their final grade. Because many of the issues we will be discussing are topical, I encourage students 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. I do not allow the use of computers, smart phones, or other mobile devices during class without special permission.

COURSE TOPICS AND READINGS

PART I: INTRODUCTION TO THE LEGAL SYSTEM

Tuesday, 6 September: Framing the Issues in Law and Health Care

Greenhouse L, Law and Politics, *The New York Times*, 20 February 2014.

Liptak A, The polarized Court, *The New York Times*, 13 May 2014.

Jacobson PD, Personal Reflections on Teaching Health Law in a School of Public Health, *Journal of Law, Medicine, and Ethics* 2011; 39:285-290.

Bloche MG, The Supreme Court and the Purposes of Medicine, *New England Journal of Medicine* 2006; 354:993-995.

Hall MA, The Legal and Historical Foundations of Patients as Medical Consumers, *Georgetown Law Journal* 2008; 96:583-597.

Optional

Richman B, On Doctors and Judges, *Duke Law Journal* 2009:1731-1741.

Thursday, 8 September: The Legal System I

Southwick AF, *Law of Hospital and Health Care Administration*, Health Administration Press, Second Ed., 1988, pp. 1-22.

Souter DH, Harvard University Commencement Remarks, 27 May 2010, http://news.harvard.edu/gazette/story/2010/05/text-of-justice-david-souters-speech/?sms_ss=email .

Anderson GF, The Courts and Health Policy: Strengths and Limitations, *Health Affairs* 1992; 11:95-110.

Kerr OS, How to Read a Legal Opinion, *The Green Bag* 2007; 11:51-63.

Glossary of legal terms from Pozgar GD and Pozgar NS, *Legal Aspects of Health Care Administration*, 9th Ed., Aspen Publishers, Inc., Gaithersburg, MD 2004, pp. 527-533 (to be used as reference material).

Optional

NFIB v. Sibelius, 567 U.S. ____ (2012) (edited by Mark Hall and PDJ).

Gostin LO, Jacobson PD, Hyman DA, and Studdert DM, Chapter 2—The Patient Protection and Affordable Care Act, *Law and the Health System*, New York: Foundation Press, 2014.

Tuesday, 13 September: The Legal System II

Ferguson RA, *The Trial in American Life*, Chicago: University of Chicago Press, 2007. Chapter 1, pp. 5-28, and Chapter 2, pp. 29-39 (top), 47 (middle)-56, and 68-74.

Hazard GC Jr., and Taruffo M, *American Civil Procedure: An Introduction*, Yale Univ. Press, 1993, pp. 41-61, 105-124, 128-149.

Parment WE, Smith JA, and Miller MJ, *Wollschlaeger v. Governor of Florida*—The First Amendment, Physician Speech, and Firearm Safety, *New England Journal of Medicine* 2016; 374:2304-2307.

Burnett DG, Anatomy of a Verdict: The View From a Juror's Chair, *The New York Times Magazine*, 26 August 2001.

Optional

Gostin LO, Jacobson PD, Hyman DA, and Studdert DM, Introduction—Law and the Health System: An Integrated Approach, *Law and the Health System*, New York: Foundation Press, 2014.

Menand L, *The Metaphysical Club: A Story of Ideas in America*, Farrar Straus & Giroux, 2002, pp. 338-347.

Thursday, 15 September: An Overview of Contracts, Torts, and Regulations

Jacobson PD and Patil NM, Managed Care Litigation: Legal Doctrine at the Boundary of Contract and Tort, *Medical Care Research and Review* 2000; 57:440-463.

Croley SP, *Regulation and Public Interests: The Possibility of GOOD Regulatory Government*, Princeton, NJ: Princeton University Press, Chapter 5, pp. 81-101, 2008.

Cleveland Clinic Health System—East Region v. Innovative Placements, Inc., 2012 U.S. Dist. LEXIS 76956 (N.D. Ohio 2012).

Optional

Jacobson PD, Napiewocki L, and Romano LV, Regulating the U.S. Health Care System: Failure in Motion, *Journal of Health Politics, Policy and Law* 2011; 36:583-589.

Currier v. Leavitt, 490 F. Supp.2d 1 (D. Me. 2007).

PART II: LEGAL ISSUES IN MANAGING HEALTH CARE ORGANIZATIONS

Tuesday, 20 September: General Corporate Principles

Southwick AF, *Law of Hospital and Health Care Administration*, Health Administration Press, Second Ed., 1988, pp. 103-154.

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

Optional

Horwitz J, Nonprofit Healthcare Organizations and the Law, in Cohen IG, Hoffman AK, and Sage WM, eds., *The Oxford Handbook of U.S. Healthcare Law*, Oxford Handbooks Online, 2015.

Thursday, 22 September: Governance

Peregrine MW, Business Judgment and the Health System Board, *AHLA Connections*, January 2015, pp. 24-27.

Peregrine MW, Oversight Duties and the Health System Board, *AHLA Connections*, August 2015, pp. 24-27.

Bender J and Hardcastle JB, Fiduciary Duties of Officers and Directors of Finally Distressed Nonprofit Hospitals, *AHLA Connections*, June 2015, pp. 20-24.

In Re: Lemington Home for the Aged, 777 F.3d 620 (3^d Cir. 2015).

Optional

In the Matter of Manhattan Eye, Ear & Throat Hospital v. Spitzer, 715 N.Y.S.2d 575 (N.Y. 1999) (edited by PDJ).

Lifespan Corporation v. New England Medical Center, Inc., 731 F. Supp. 232 (D.R.I. 2010) (edited by PDJ).

Belmont E, Haltom CC, Hastings DA et al., A New Quality Compass: Hospital Boards' Increased Role Under the Affordable Care Act, *Health Affairs* 2011; 30(7):1282-1289.

Tuesday, 27 September: Tax Exemption—Federal

Colombo JD, The Role of Tax Exemption in a Competitive Health Care Market, *Journal of Health Politics, Policy and Law* 2006; 31:623-642.

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

Internal Revenue Service, Private Letter Ruling 201615022, pp. 1-11.

Internal Revenue Service, Notice 2011-20 (ACOs and the Medicare Shared Savings Program), pp. 1-9, 2011.

Crossley M, Tax-Exempt Hospitals, Community Health Needs and Addressing Disparities, *Howard Law Journal* 2012; 55:687-704.

Optional

Rubin DB, Singh SR, and Jacobson PD, Evaluating Hospitals' Provision of Community Benefit: An Argument for an Outcome-Based Approach to Nonprofit Hospital Tax Exemption, *American Journal of Public Health* 2013; 103:612-616.

Thursday, 29 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, 4 October: Antitrust—Overview

Leibenluft RF, Antitrust and Provider Collaborations—Where We've Been and What Should Be Done Now, *Journal of Health Politics, Policy and Law* 2015; 40:847-874.

Herzlinger RE, Richman BD, and Schulman KA, Market-Based Solutions to Antitrust Threat—The Rejection of the Partners Settlement, *New England Journal of Medicine* 2015; 372:1287-1289.

Federal Trade Commission v. Advocate Health Care, 2016 U.S. Dist. LEXIS 79645 (N.D. Ill. 2016).

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

Optional

ProMedica Health System, Inc. v. Federal Trade Commission, 2014 U.S. App. LEXIS 7500 (6th Cir. 2014).

In the Matter of ProMedica Health System, Inc., FTC Docket No. 9346, 25 June 2012, Concurring Opinion of Commissioner J. Thomas Rosch.

Shenefield JH and Meltzer IM, *The Antitrust Laws: A Primer*, 4th ed., Washington, DC: The AEI Press, 2001 (selected excerpts).

McCann RW, Something Old, Something New: Accounting For Accountable Care In Antitrust Analysis, *Health Law Handbook* 2015; 27:147-180, Thomson Reuters, Chapter 4.

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.)

Thursday, 6 October: Antitrust

Saint Alphonsus Medical Center—Nampa Inc. v. St. Luke’s Health System, 778 F.3d 775 (9th Cir. 2015).

Academy of Allergy & Asthma in Primary Care v. American Academy of Allergy, Asthma & Immunology, Civ. Ac. No. SA-14-CV-35-OLG (W.D. Tex. 2014).

Brill J, Competition in Health Care Markets, <http://healthaffairs.org/blog/2015/01/26/competition-in-health-care-markets/#more-43409>.

Optional

Cardinal Health, Inc., File No. 101-0006, 17 April 2015, Dissenting Statement of Commissioner Joshua D. Wright.

McKeague DW, The Medical Mile, in *Judging in West Michigan—Celebrating the Community Impact of Effective Judges and Courts*, Miller NP, Thelen KZ, Hastings CG, and Schindler D, eds., Lake Mary, FL: Vandenplas Publishing, pp. 141-157, 2011.

Tuesday, 11 October: Fraud and Abuse I

Kass JE and Linehan JS, Fostering Healthcare Reform Through a Bifurcated Model of Fraud and Abuse Regulation, *Journal of Health & Life Sciences Law* 2012; 5:75, 79-93, 97-101.

Krause JH, Integration, Fragmentation, and Human Nature: The Role of the Fraud and Abuse Laws in a Changing Healthcare System, in Cohen IG, Hoffman AK, and Sage WM, eds., *The Oxford Handbook of U.S. Healthcare Law*, Oxford Handbooks Online, 2015.

Senate Finance Committee Majority Report, *Why Stark, Why Now?* Washington, DC, 2016.

Lynch JE, Three Stark Questions That Must be Answered Concerning Hospital-Physician Compensation Arrangements, *AHLA Connections*, June 2014, pp. 64-72 (American Health Lawyers Association).

42 C.F.R. 411.357—Exceptions to the Referral Prohibition Related to Compensation Arrangements.

Optional

Council for Urological Interests v. Burwell, 2015 U.S. App. LEXIS 9867 (D.C. Cir., 2015).

DHHS Office of the Inspector General, OIG Advisory Opinion No. 12-22, 7 January 2012.

Krause JH, Kickbacks, Self-Referrals, and False Claims: The Hazy Boundaries of Health Care Fraud, *Chest* 2013; 144:1045-1050.

Thursday, 13 October: Fraud and Abuse II

United States ex rel. Drakeford v. Tuomey Healthcare System, 675 F.3d (4th Cir. 2012) (edited by PDJ).

Kosenske v. Carlisle HMA, Inc., 554 F.3d 88 (3d Cir. 2009).

Homchick RG, Eller BR, and Gotchy KA, Recent Stark Developments: A Moving Target Where a Miss is as Good as a Mile, *Davis Wright Tremaine LLP Client Advisory*, 27 July 2015, pp. 1-5.

42 C.F.R. 411.355—General Exceptions to the Referral Prohibition Related to Both Ownership/Investment and Compensation.

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

Optional

Dick AA, Developing an Office Space Leasing Compliance Program, American Health Lawyers association, November 2012, pp. 1-7.

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

United States ex rel. Drakeford v. Tuomey Healthcare System, No. 13-2219 (4th Cir. 2015) (skip: I. B., pp. 9-11; II. C., pp. 15-24; III. B., pp. 34-39).

Tuesday, 18 October: Fall Study Break

Thursday, 20 October: Joint Ventures/ACOs

Peregrine MW, and Schreck RA, Jr., Managing Constituent Interests in Healthcare Joint Ventures, *AHLA Connections* March 2012, pp. 32-36 (American Health Lawyers Association).

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

Giardini FD and Torretta M, Tax Planning for Ancillary Joint Ventures involving Tax-Exempt Healthcare System, American Health Lawyers Association, *Member Briefing*, April 2013.

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

DHHS Office of the Inspector General, OIG Advisory Opinion No. 08-08, 18 July 2008.

DHHS Office of the Inspector General, OIG Advisory Opinion No. 09-09, 29 July 2009.

Optional

Casalino LP, The Federal Trade Commission, Clinical Integration, and the Organization of Physician Practice, *Journal of Health Politics, Policy and Law* 2006; 31:569-585.

Hospital-Physician Joint Venture Relationships: A Promising Partnership? Transcript of a Live Symposium Panel Discussion, *Indiana Health Law Review* 2007; 263-284.

PART III: REGULATING QUALITY OF CARE

Tuesday, 25 October: General Liability Standards

Wing KR and Gilbert, *The Law and the Public's Health*, Chicago: Health Administration Press, Seventh Edition, 2007, pp. 291-312, and 315-317.

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

Helling v. Carey, 519 P.2d 981 (Wash. 1974).

Greenberg M and Ridgely MS, Clinical Decision Support and Malpractice Risk, *Journal of the American Medical Association* 2011; 306:90-91.

Optional

Annas GJ, Standard of Care—In Sickness and in Health and in Emergencies, *New England Journal of Medicine* 2010; 362:2126-2131.

Medina v. Hochberg, 987 N.E.2d 1206 (Mass. 2013).

Hinlicky v Dreyfuss, 6 N.Y.3d 636 (2006 NY Slip Op. 03444).

Thursday, 27 October: Institutional Liability

Petrovich v. Share Health Plan of Illinois, Inc., 719 N.E.2d 756 (Ill. 1999).

Pagarigan v. Aetna U.S. Healthcare of California, Inc., 2005 Cal. App. Unpub. LEXIS 9666 (Cal.App. 2005) (edited by PDJ).

Harvey HB, and Cohen IG, The Looking threat of Liability for Accountable Care Organizations and What to Do About It, *Journal of the American Medical Association* 2013; 310:141-142.

Optional

Hodge JG and Brown EF, Assessing Liability for Health Care Entities That Insufficiently Prepare for Catastrophic Emergencies, *Journal of the American Medical Association* 2011; 306:308-309.

Gianquitti v. Atwood Medical Associates, Ltd., 973 A.2d 580 (R.I. 2009).

Tuesday, 1 November: Informed Consent

Boumil MM, Elias CE, Moes DB, Informed Decision Making, in *Medical Liability, 2nd Ed.*, St. Paul, MN: West Publishing Co., 2003, pp. 90-121.

Arato v. Avedon, 858 P.2d 598 (Cal. 1993).

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

Dudzinski DM, Hebert PC, Foglia MB, and Gallagher TH, The Disclosure Dilemma—Large-Scale Adverse Events, *New England Journal of Medicine* 2010; 363:978-986.

Optional

Grady C, Enduring and Emerging Challenges of Informed Consent, *New England Journal of Medicine* 2015; 372:855-862.

Mariner WK and Annas GJ, Informed Consent and the First Amendment, *New England Journal of Medicine* 2015; 372:1285-1287.

Thursday, 3 November: ERISA

Jacobson PD, The Role of ERISA Preemption in Health Reform: Opportunities and Limits, *Journal of Law, Medicine & Ethics* 2009; 37(3)(Suppl.):88-100.

Summers v. Touchpoint Health Plan, Inc., 749 N.W.2d 182 (Wisc. 2008).

Gobeille v. Liberty Mutual Insurance Co., 577 U.S. ____ (2016).

Optional

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

Metropolitan Life Insurance Company v. Glenn, 554 U.S. 105 (2008) (majority opinion only).

Tuesday, 8 November: Tort/ERISA Reform

Mello MM, Studdert DM, and Kachalia A, The Medical Liability Climate and Prospects for Reform, *Journal of the American Medical Association* 2014; 312:2146-2155.

Kachalia A, Kaufman SR, Boothman RC et al., Liability Claims and Costs Before and After Implementation of a Medical Error Disclosure Program, *Annals of Internal Medicine* 2010; 153:213-221.

Morreim EH, Conflict Resolution in Health Care, *AHLA Connections*, January 2014, pp. 28-32.

Abraham K and Weiler P, Enterprise Liability and the Choice of the Responsible Enterprise, *American Journal of Law & Medicine* 1994; 20(1&2):29-36.

Optional

Jacobson PD and Tunick ME, Consumer-Directed Health Care and the Courts: Let the Seller (and Buyer) Beware, *Health Affairs* 2007; 26(3):704-714.

Davis v. Wooster Orthopaedics & Sports Medicine, Inc., 193 Ohio App.3d 581 (Ohio App. 2011) (edited by Nicolas P. Terry).

Jacobson PD and Dahlen R, Health Law 2015: Individuals and Populations, *Journal of Health Politics, Policy and Law* 2016 (forthcoming).

Thursday, 10 November: Public Oversight—Licensure and Accreditation

Johnson S, Structure of Governmental Oversight of Quality in Healthcare, in Cohen IG, Hoffman AK, and Sage WM, eds., *The Oxford Handbook of U.S. Healthcare Law*, Oxford Handbooks Online, 2015.

Cortez NG, Cohen IG, and Kesselheim AS, FDA Regulation of Mobile Health Technologies, *New England Journal of Medicine* 2014; 371:372-379.

Pham JC, Pronovost PJ, and Skipper GE, Identification of Physician Impairment, *Journal of the American Medical Association* 2013; 309:2101-2102.

Bauchner H, Fontanarosa PB, and Thompson AE, Professionalism, Governance, and Self-Regulation, *Journal of the American Medical Association* 2015; 313:1831-1836.

The Joint Commission, Sentinel Event Policy and Procedures, http://www.jointcommission.org/Sentinel_Event_Policy_and_Procedures/ (search the website).

Medicare Conditions of Participation, 42 Code of Federal Regulations Part 482, Subparts A, B, and C.

Tuesday, 15 November: Institutional Oversight—Staff Privileges

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

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

Pradarelli J, Campbell DA Jr., and Dimick JB. Hospital Credentialing and Privileging of Surgeons: A Potential Safety Blind Spot, *Journal of the American Medical Association* 2015; 313:1313-1314.

Optional

Jarrell v. Kaul, 80 A.3d 747 (N.J. 2015) (pp. 1-3, and 10-13).

Murphy v. Baptist Health, No. CV 200402002, Order for Permanent Injunction (Ark. Cir. Ct., Pulaski County, 2009).

Palm Medical Group, Inc. v. State Compensation Insurance Fund, 2008 Cal. App. LEXIS 400 (Cal. App. 2008).

Thursday, 17 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.

Meyers v. Columbia/HCA Healthcare Corp., 341 F.3d 461 (6th Cir. 2003) (edited by PDJ).

Optional

Swank SE and Wright K, ACO Credentialing and Peer Review: Getting Started, *AHLA Connections*, May 2014, pp. 52-56 (American Health Lawyers Association).

PART IV: ACCOUNTABILITY

Tuesday, 22 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).

Paul-Emile K, Smith AK, Lo B, and Fernandez A, Dealing with Racist Patients, *New England Journal of Medicine* 2016; 374:708-711.

Americans With Disabilities Act, 42 U.S.C. 12101-12117 (Subchapter I—Employment).

Optional

Stevens AC, The Future of Health Care Discrimination Litigation—Section 1557 of the ACA, *American Health Lawyers Association*, Executive Summary, August 2015, pp. 1-6.

Stevens AC, Patient Discrimination Litigation Under Section 1557 of the ACA: A Sleeping Giant? *Journal of Health & Life Sciences Law* 2016; 9:111-116.

Mello MM, and Rosenthal MB, Wellness Programs and Lifestyle Discrimination—The Legal Limits, *New England Journal of Medicine* 2008; 359:192-199.

Tuesday, 29 November: Privacy/HIPAA

Rosati KB, HIPAA Privacy: The Compliance Challenges Ahead, *Journal of Health Law* 2002; 35:45-76 (endnotes omitted).

State ex rel. Cincinnati Enquirer v. Daniels, 844 N.E.2d 1181 (Ohio 2006).

Wieland JB, Swank, SE, and Freemire JJ, HHS Overhaul of HIPAA: Summary of New Obligations for Covered Entities and Business Associates, *Health Lawyers Weekly* 2013; 9(5):1-9.

Green AH and Ovsepyan HE, The Privacy and Security of ACOs—Improving Patient Care While Complying with HIPAA, *AHLA Connections*, May 2012, pp. 32-35 (American Health Lawyers Association).

Sessions L and Kobus TJ III, The Anatomy of a Healthcare Data Breach, *AHLA Connections*, June 2012, pp. 38-42 (American Health Lawyers Association).

Thursday, 1 December: EMTALA and Access to Health Care

Rosenbaum S, The Enduring Role of the Emergency Medical treatment and Active Labor Act, *Health Affairs* 2013; 32(12):2075-2081.

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, 6 December: Bioethics and Law

Jacobson PD and Parmet WE, A New Era of Unapproved Drugs: The Case of *Abigail Alliance v. von Eschenbach*, *Journal of the American Medical Association* 2007; 297:205-208.

Patient Self-Determination Act, 42 U.S.C. 1395cc(a)(1)(f)(1-3).

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

Larson EJ, Medical Rationing, Death Panels and the Rising Cost of Health Care, *Whittier Law Review* 2013; 13-25.

Gostin LO, Legal and Ethical Responsibilities Following Brain Death: The McNath and Munoz Cases, *Journal of the American Medical Association* 2014; 311:903-904.

Optional

Niccolini RR, and Bolesta JS, Religious Objections to Mandatory Influenza Vaccination Programs: Navigating the Rough Legal Waters, *AHLA Connections*, October 2012, pp. 26-31 (American Health Lawyers Association).

Morreim EH, Conflict Resolution in the Clinical Setting: A Story Beyond Bioethics Meditation, *Journal of Law, Medicine & Ethics* 2015; 43(4):843-856.

Thursday, 8 December: General Employment Issues

Horwitz JR, Kelly BD, and DiNardo JE, Wellness Incentives in the Workplace: Cost Savings Through Cost Shifting to Unhealthy Workers, *Health Affairs* 2013; 32(3):468-476.

Extencicare Health Services, Inc. v. National Labor Relations Board, 2006 U.S. App. LEXIS 11888 (6th Cir. 2006).

Robinson v. Children's Hospital of Boston, 2016 U.S. Dist. LEXIS 46024 (D. Mass. 2016).

Morreim EH, In-House Conflict Resolution Processes: Health Lawyers as Problem-Solvers, *The Health Lawyer* 2014; 26(3):10-14

Optional

Vance v. Ball State University, 570 U.S. ____ (2013).

Tuesday, 13 December: Conflicts of Interest

Rodwin MA, The Heart of the Matter, *Conflicts of Interest and the Future of Medicine: The United States, France, and Japan*, New York: Oxford University Press, 2011, pages 1-18.

Rosenbaum L, Reconnecting the Dots—Reinterpreting Industry-Physician Relations, *New England Journal of Medicine* 2015; 372:1860-1864.

Rosenbaum L, Understanding Bias—The Case for Careful Study, *New England Journal of Medicine* 2015; 372:1959-1963.

Steinbrook R, Controlling Conflict of Interest—Proposals from the Institute of Medicine, *New England Journal of Medicine* 2009; 360:2160-2163.

Neade v. Portes, 739 N.E.2d 496 (Ill. 2000).

Optional

Wilson RF, The Limits of Conscience: Moral Clashes Over Deeply divisive Healthcare Procedures, *American Journal of Law & Medicine* 2008; 34:41-63.