

Law 725-511 (M/W 9-10:15am)  
Fall 2013  
Phone: 410-837-4610

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## HEALTH CARE LAW

### Course Policies & Syllabus - Part I

There is no assigned book for this course. Instead, the selected readings are all located on TWEN. I have arranged assigned readings in individual folders corresponding to the class (e.g., Class 1, Class 2, etc.).

On average, I assigned about 40-50 pages of readings per 75 minute period. While that seems like a lot, unlike other classes the readings here are not cases or statutes, but rather articles and discussions of various aspects of healthcare policy. I therefore expect that you will have easier time reading and processing the volume of materials.

As always, the syllabus is somewhat tentative and subject to changes announced in class and/or by email notice. This is because the class will rely heavily on in class discussion and the direction of the discussion is entirely unpredictable.

If we depart from rigid adherence to this syllabus - which is likely- you **should stay at least one full assignment ahead of wherever we may be**. On the other hand, please **do not read too far ahead**. You will get far more out of the class discussion if the cases are fresh in your mind when we take them up in class. There is no profit in reading material a week in advance if you only have a vague memory of it when we finally get to it in class.

Please note that while we may not discuss every case, article or nuance in class, **you are responsible for all assigned material on the examination**, unless I specifically state otherwise. Additional assignment sheets will be distributed in due course.

I will do my best to get to know you relatively quickly; however, I am not particularly good with names. So please bear with me if I don't recall your names right away. (In order to help me learn your names quickly, I will ask you to adhere to the seating chart. *See below.*)

Don't hesitate to stop by my office and introduce yourself during the first few weeks of class, or anytime thereafter, not just with questions about the course, but to talk about law school, the job market, the stock market, sports, politics, travelling, horseback riding, or just to vent.

### LAPTOPS

Students may use computers or other electronic devices for taking notes. However, there is no reason for any student to connect to the school's network or to surf the web during class. In order to avoid temptation and to guard against internet glitches, I highly recommend that you download the reading materials before coming to class. "I can't connect to the web"

is not a legitimate excuse for failing to answer questions or following along with the class discussion.

Using computers for any purpose other than note-taking, such as, but not limited to, instant messaging, updating your Facebook profile, posting to your blog, checking scores, playing games, etc., is expressly prohibited. Such extraneous computer activities ensure that you will do worse in this course than you expect, and they are also unprofessional because they are disruptive to your fellow classmates sitting next to and behind you. Furthermore, it might surprise some of you, but (despite the fact that I cannot see your computer screens) I can tell when you are taking notes and when you are engaging in extraneous activities.

If extraneous computer use becomes a problem, I reserve the right to ban laptops altogether, which will of course require you to print all of the reading materials thus drastically increasing your costs. Moreover, I reserve the right to mark those individuals who are engaged in extraneous activities as absent. Ultimately though, you all are adults and can make your own rational choices. Choosing to browse the web instead of engaging in class discussion will most likely be detrimental to your grade.

### ***CLASS ATTENDANCE***

I consider regular attendance, preparation and participation part of your obligation in taking this course. Because I expect students to attend class, I do not formally excuse absences and there is no need to inform me in advance that you will be absent. I presume that students who miss class must be doing so for good reason. Attendance will be taken as per the Law School rules. If, however, any kind of personal emergency arises that will cause you to miss multiple classes, please inform either me or the Dean of Students so that we can make the arrangements necessary to minimize the adverse impact on your studies.

Please also note that **I reserve the right to bar students from taking the final examination if attendance, participation or preparation have been inadequate.** In this regard, please also see the information on “Attendance” in the 2013-14 Law School Bulletin.

### ***CLASS PARTICIPATION***

Unlike many of your 1L classes, this class will involve minimal lecturing. Instead, it will rely heavily on discussion of the materials you have been assigned to read. Thus, **class participation is absolutely crucial. For that reason, class participation will figure heavily into your grade.** In other words, unlike my other classes where exemplary class participation was used only to increase your grade, in this class, participation **will be part of the grade for every student.**

If you have not been able to prepare for class on a particular day, please let me know before class begins and I will not call on you that day. You will, however, receive only ONE (1) such pass this semester. If you are present and have not taken a pass for the day, I will assume you are prepared to participate fully. If you are called on and are not prepared, I will mark you as absent for that day, because in my view being “present” involves more than just being physically in your seat; it also involves being mentally present.

Please keep in mind that the subject matter covered in this class often deals with sensitive subjects including, but not limited to, abortion, death, race, politics, and the like. Consequently, the materials we read and/or hypotheticals posed in class may sometimes be unsettling. Please understand that this is not done to offend anyone or make anyone uncomfortable. Instead, it is part of learning the

difficult issues faced by lawyers, healthcare providers, and policy makers in this field. If at any point you feel uncomfortable about anything we discuss in class please let me know right away, and I will do my best to minimize such feelings.

### *SEATING CHART*

Early in the semester I will circulate a seating chart. As I mentioned, it will greatly help me learn your names. To that end, **you must sit in your assigned seat for EVERY SESSION. Even if you have not done the reading assignment you must sit in your assigned seat. Even if you arrive late (and please do your best to be on time as late arrivals are highly disruptive) you must sit in your assigned seat — and that is so even if it requires you to walk in front of other students to take your seat. If you are not sitting in your assigned I will interrupt the class and ask you to move.**

### *OFFICE HOURS; COMMENTS & SUGGESTIONS*

I don't have formal "office hours," because it implies that those are the only times I am willing to see students. Rather, I welcome students to stop by my office whenever I am there. If I am unable to talk with you on the spot we can set aside another time. If you stop by and I am not at my desk, you can send me an e-mail or leave a voicemail. If you prefer to set up an appointment time in advance (rather than just showing up) that is perfectly fine.

I also welcome any comments or suggestions that you may have regarding the class. These can be made at anytime during the semester by whatever medium you find most convenient. Feel free to send me an email, give me a call, or drop by my office. Rest assured I won't take offense at any constructive criticism, but if you wish to remain anonymous, feel free to just slide a note under my door.

### *TAPING POLICY*

You may not make your own tape recordings of the class, either for yourself, for a classmate, or for any other person or purpose. I will only authorize taping by the Law School Media Center in two circumstances:

(1) I will arrange taping on days when it is likely that a large number of students will likely be absent because of religious, professional, or political commitments or because of logistical difficulties. Examples falling into this category would include class sessions that fall on major Religious Holidays, those that coincide with major public or political demonstrations taking place in Baltimore/Washington area, or those that occur on days where weather conditions or transportation disruptions make it difficult to get to campus even though the law school remains open.

(2) I will permit taping if any given student is likely to miss **2 or more sessions** because of a documented medical or family emergency. Examples falling into this category involve serious illnesses such as the flu, protracted hospitalizations after surgery or an accident, or the need to travel out of town for extended period to attend to the needs of a seriously ill loved one.

**Please do not approach the Media Center or the Dean of Students Office with requests to tape my class.** They have been instructed not to do so unless I authorize the taping. **Please do not request me to tape if you will need to miss only one session for reasons such as a family wedding or funeral, a business trip, a minor illness, or a job interview. In that case, you should get notes from a classmate and then (if you so desire) see me in my office if you have any questions. Please do not request me to tape a class if the reason for you missing it is insufficiently serious (e.g., day at the beach).**

### *FINAL EXAMINATION*

Your grade in the course will be based on your performance on the final examination and class participation as indicated above. The examination will be conducted according to the schedule set by the Records Office. **Please note, that information in the published exam schedule and/or promulgated by the Records Office supercedes any information to the contrary that I may mention in class or elsewhere, and you are responsible for keeping apprised of the date, time and location of the exam.**

At this point in time I expect to administer a take-home exam, but that will be open to class discussion, input, and if necessary, reconsideration.

### *OTHER POLICES*

All law school policies that appear in the 2013-2014 Bulletin are applicable to this class and are fully incorporated by reference. If you are in doubt about the propriety of certain action or inaction, ask first. It is always easier to receive permission than forgiveness.

***PART I: SOME CONTEXT – THE DETERMINANTS OF HEALTH & THE ROLE OF MEDICAL CARE***

*Class 1*                    **Equity, Opportunity, & the Social Determinants of Health**

*Class 2*                    **Health, Lifestyle, & the State: The Obesity Epidemic**

*Class 3*                    **Toward a Right to Health Care?**

***PART II: MARKETS, GOVERNMENT & MEDICAL COSTS***

*Class 4*                    **Medical Costs & Market Failures: A Brief Introduction to the Economics of Health Care – Part I**

*Class 5*                    **Medical Costs & Market Failures: A Brief Introduction to the Economics of Health Care – Part II**

*Class 6*                    **Supply-Side Regulation of Spending: Health Planning and Certificates-of-Need**

*Class 7*                    **Can Government Control its Own Spending? Medicare and Medicaid**

*Class 8*                    **Can Government Restrain Private Spending?  
Comparative-Effectiveness Research, Clinical Practice Protocols,  
and “Luxury Taxes” on Health Plans**

*Class 9*                    **Can Markets Control Costs? The Rise & Fall (& Comeback?)  
of Managed Care**

*Class 10*                   **Can Markets Control Costs? “Consumer-Directed” Health Care**

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Next Part of the Syllabus in Due Course