

## HEALTH CARE LAW SYLLABUS

### UNIVERSITY OF BALTIMORE SCHOOL OF LAW FALL 2016

**Course:** Health Care Law  
LAW 725  
511

**Instructor:** Marie Vasbinder  
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**Phone:** 410-971-5542  
**OFFICE HOURS:** By appointment

**Days/Time:** Tu/Th; 7:45 pm – 9 pm

**Location:** Room assignments are available through MyUB.

#### **Course Description:**

A study of the national crisis in health care and some leading proposals for reform. Topics include issues of health care need, cost and quality control, Medicare and Medicaid, access to health care, the business roles of health institutions, health care contracts and claims, right to treatment, and federal health plans vs. private health coverage.

#### **Course Materials:**

**REQUIRED TEXT:** Barry R. Furrow, et al, *Health Law; Cases, Materials, and Problems* (7<sup>th</sup> ed. 2013)

#### **Student Learning Outcomes:**

- Define and evaluate the distribution of Health Care as a resource
- Distinguish the legal concepts incorporated in the delivery of healthcare involving both the providers of care and the consumers of that care
- Analyze the measurement of quality within the healthcare delivery system as well as the practitioners who render that care
- Examine the financial aspects of healthcare delivery
- Interpret current status of reform efforts on the current state of healthcare
- Assess the role of government in the delivery of healthcare including access, control, costs, and financing
- Discuss the challenges in representing clients within and among the healthcare industry

#### **Grades:**

Your grade for this course will consist of the following:

- Class Participation = 20%;
- Mid-Term exam = 30%; and
- Final exam ( Take Home exam) = 50%

#### **Course Expectations:**

American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

You are expected to complete all reading assignments before class and to participate consistently in class discussion to demonstrate that you have read and reflected on the issues raised in the assignment. You are expected to attend all classes and to be on time for each class as Class participation is **20%** of your grade. You are required to sign the attendance sheet at each class session.

**Attendance:**

Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences (generally 20% of class sessions) as illustrated below may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

Regular Semester Hours		
Credit Hours	Meetings Per Week	
	1	2
2	2 absences	5 absences
3	2 absences	5 absences
4	--	5 absences

**Course Website:**

The course has a **TWEN** webpage that will be used for announcements and changes to class schedule, or readings/assignments. All students are expected to check TWEN regularly for updates on assignments. You may also use the e-mail feature to contact me or your classmates.

You are responsible for self-enrolling in the TWEN page and for checking it regularly for course information.

**Computers:**

Students may use laptop computers for class related purposes only. Use of your laptop for non- class related activities may result in the privilege to use your laptop being revoked.

**Class Cancellation:**

If I (the instructor) must cancel a class, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

**Academic Integrity:**

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at [http://law.ubalt.edu/academics/policiesandprocedures/honor\\_code/](http://law.ubalt.edu/academics/policiesandprocedures/honor_code/).

**Title IX Sexual Misconduct and Nondiscrimination Policy:**

The University of Baltimore’s Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the

basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

**Disability Policy:**

If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or [lmetzger@ubalt.edu](mailto:lmetzger@ubalt.edu).

**ASSIGNMENTS**

**Week 1:**

Aug. 23 – **Cost, Quality, Access, and Choice**

*Illness:* Casebook pp 1-8; 9-12; 15-26

Katskee v. BC/BS of Nebraska

*Defining Quality:* Casebook pp 27-35; 36-42

Aug. 25 – *Patient Safety:* Casebook pp 43-54;

*Regulating to Reduce Medical Adverse Events:* Casebook pp 56-58; 61-66

*Population Health:* Casebook pp 70-78

Jacobson v Massachusetts

**Week 2:**

Aug. 30 – **Quality Control Regulation:** Casebook pp 87-98; Note pp101-103; 104-111

(incl. notes); 113-121; 123 -131 (incl notes)

*Licensing Health Care Professionals*

In re Williams

Hoover v Agency for Health Care Administration

In re Guess

State Bd. Of Nursing v Ruebke

Sermchief v. Gonzales

*Quality Regulation of Health Care Institution: 137-142; 143-154; 162-165; 172-173 (incl notes); 173-175*

Estate of Smith v Heckler

Fairfax Nursing Home v DHHS

Sept. 1 –**Professional-Patient Relationship:** Casebook pp 177-195 (incl notes); 196-

205 (incl notes)

*Patient and Physician Contract*

Esquivel v Watters

White v. Harris

Kaplan v. Mayo Clinic

Tunkl v Regents of Univ of California  
Shorter v. Drury

**Week 3:**

Sept. 6 – ***Informed Consent:*** Casebook pp 206-222 (incl notes); 223-233; 234-242;  
244 - 255

Canterbury v Spence  
Johnson v Kokemoor  
Arato v Avedon  
Moore v Regents of Univ of California

***Confidentiality:*** Casebook pp 255-260; 262-288  
Humphers v First Interstate Bank of Oregon  
Doe v Medlantic Health Care Group, Inc.  
Yath v. Fairview Clinics, N.P.

Sept. 8 – **Professional Liability**

*Standard of Care:* Casebook pp 299-309; NOTES: 311-314; 314-319; NOTES:  
319-324; 325-327; 331-334; 336-339; 342-347; 350-359

Hall v Hilbun:  
Conn v. United States:  
Helling v. Carey  
Strasel v. Seven Hills OB-GYN Associates, Inc.  
Wickline v State:  
Murray v UNMC physicians

**Week 4:**

**Sept. 13 – *Malpractice Defenses:*** Casebook pp 359-375; 377-397(incl notes); 400-410;  
**Sept. 15** 413-415

Brook v. St. John's Hickey Memorial Hospital:  
Richardson v. Miller  
Arrouo v. U.S.  
Ostrowski v Azrara:  
Herskovits v Group Health Cooperative of Puget Sound  
Marsh v. Arnot Ogden Medical Center

**Week 5:**

**Sept. 20 – Institutional Liability:** Casebook pp 417-431(incl notes); 432-437;

**Sept. 22** 439 – 458(incl notes); 460-468(incl notes); 469-481

*Hospital Liability*

Scott v SSM Healthcare St. Louis

Burless v West Virginia University Hospitals

Washington v Washington Hospital Center

Muse v. Charter Hospital of Winston-Salem, Inc.

Darling v. Charleston Community Memorial Hospital

Thompson v. Nason Hospital

Carter v. Hucks – Folliss

Larson v. Wasemiller

Kadlec Medical Center v. Lakeview Anesthesia Associates

**Week 6:**

Sept. 27- *Tort Liability and Reform:* Casebook pp 483-497; 498-502; 506-523

Petrovich v Share Health Plan of Illinois, Inc

Shannon v. McNulty

Sept. 29- **Health Care Cost/Access:** Casebook pp 525-574

National Federation of Independent Business et al., Petioners v. Sebelius

**Duty to Treat:** Casebook pp 577-590; 592-604; 607-624

Ricks v Budge:

Childs v Weis:

Williams v U.S.:

Baber v Hospital Corporation of America:

Bragdon v Abbott

Howe v Hull

**Week 7:**

Oct. 4 - **Mid Term EXAM**

Oct. 6 – **Private Health Insurance and Managed Care:**

Casebook pp 627-670); 671-682; 684-686; 687-694

Lubeznik v Healthchicago, Inc:

**Week 8:**

Oct. 11 – **ERISA:** Casebook pp 694-717(incl notes); 718-728; 737-744; 749-757

Rush Prudential HMO, Inc v Debra C. Moran, et al  
Aetna Health Inc v Davila

Oct. 13 - **Public Health Care Financing Programs:**  
*Medicare:* Casebook pp 761-809; 810-817; 822-825

Bellevue Hospital Center v Leavitt  
Shalala v Illinois Council on Long Term Care, Inc

**Week 9:**

Oct. 18 - **Maryland Waiver – Health Care Financing**

Oct. 20 - **Medicaid:** Casebook pp 826-847; 850-875

Lankford v Sherman:  
Westside Mothers v Haveman:  
Douglas v Independent Living Ceneter of Southern Ca., Inc

**Week 10:**

Oct. 25 - **Professional Relationships in Health Care Enterprises:** Casebook pp 877-894(incl notes); 896-903 (incl notes); 906-911

Sokol v Akron General Medical Center  
Mateo-Woodburn v Fresno Community Hospital  
Mahan v. Avera St. Luke’s  
Potvin v Metropolitan Life Insurance Co

Oct. 27 - **Labor and Employment:** Casebook pp 911-933(incl notes)

Turner v. Memorial Medical Center  
New York Univ Medical Center and Assn of Staff Psychiatrists, Bellevue  
Oakwood Health Care Inc [Nat’l Labor Relations Act]

**Discrimination Law:** Casebook pp 934-944

Estate of Mauro v. Borgess Medical Center

**Week 11:**

Nov. 1 - **Structure of Health Care Enterprise:** Casebook pp 945-964 (incl notes);  
965- 983 (incl notes); 984-989; 992-1003(incl notes)

Stern v Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries:

In re Caremark International Inc. Derivative Litigation:

Manhattan Eye, Ear and Throat Hospital v Spitzer

Berlin v Sarah Bush Lincoln Health Center

Nov. 3 – **Tax-Exempt Health Care Organization:** 1004-1016; 1018-  
1024(incl notes);

Utah County v Intermountain Health Care, Inc:

Provena Covenant Medical center v Dept of Revenue

Charitable Purposes: Integrated Health Systems: 1025-1032;

IHC Health Plans, Inc. v Commissioner of Internal Revenue

Joint Ventures: 1039-1071

Redlands Surgical Services v Commissioner of Internal Revenue

**Week 12:**

Nov. 8 – **Antitrust:** Casebook pp 1163-1187(incl notes); 1194-1216(incl notes); 1219-  
1223; 223-1227; 1232-1241; 1242-1267(incl notes)

In re Michigan State Medical Society

California Dental Association v Federal Trade Commission

Arizona v Maricopa County Medical Society

United States v Blue Cross Blue Shield of Michigan

West Penn Allegheny health System, Inc. v UPMC; Highmark

In the Matter of Hospital Corp of America

Federal Trade Commission v Tenet Health Care Corporation

In the Matter of Evanston Northwestern Healthcare Corp.

Nov. 10 - **Fraud and Abuse:** Casebook pp 1073-1086; 1090-10989; NOTES:1102-  
1103; 1103-1105; 1108-1113; 1115-1121; 1124-1130; 1131-1145; 1150-  
1156(incl notes);1158-1159 (incl notes); 1160-1162

United States v Krizek

United States ex rel. Mikes v Straus

United States v Greber  
United States v Starks  
OIG Advisory Opinion No. 03-5

**Week 13:**

Nov. 15 – ***Reproduction and Birth***: Casebook pp 1271-1275; 1277-1294; NOTES:  
1297-1302; 1302-1337; 1345-1347; 1349-1354

Roe v Wade  
Planned Parenthood of Southeastern Pennsylvania v Casey  
Gonzales v Carhart

*Assisted Reproductive Technologies (ART)*: Casebook pp 1355-1374; 1380-  
1395(incl notes); 1395-1438(incl notes)

In the Interest of K.M.H.  
Davis v Davis  
In the Matter of Baby M  
Johnson v Calvert  
In re A.C.

Nov. 17 - ***Organ Transplantation and Determination of Death***: Casebook pp: 1483-  
1485; 1487-1493; NOTES: 1494-1496; 1496-1507(incl notes); 1509-1510;  
1511-1528(incl notes); 1529-1530

Newman v Sathyavaglswaran  
Flynn v Holder  
In re T.A.C.P.  
In re Baby K

**Week 14:**

Nov. 22 – ***Life and Death Decisions***: Casebook pp 1535-1576(incl notes); 1577-1590;  
1592-1638(incl notes); 1642-1649; 1651-1658; 1664-1669; 1671-1682

Cruzan v Director, Missouri Department of Health  
Bouvia v superior Court  
Public Health Trust of Dade County v Wons  
In re Eichner  
In re Conroy  
Conservatorship of Wendland  
Guardianship of Schiavo



Superintendent of Belchertown State School v Saillewicz  
In re Storar  
Newmark v Williams  
Betancourt v Trinitas Hospital

**Week 15:**

Nov. 29 - **Medically Assisted Dying:** Casebook pp 1687-1704; 1707-1711 (incl notes #7, 8); 1711-1724; 1725-1737

Washington v Glucksberg  
Vacco v Quill  
Oregon Death with Dignity Act- 2012  
Baxter v Montana

**Final Exam – Dec. 5 - 14; Take Home Exam date/time TBA**