

Health Law
Syllabus
Summer, 2010

Professor Parmet
77 CG - 373-2019

This course provides an introduction to the legal regulation of health care. We will focus on how the law affects access to health care, the quality of care, the cost of care, and the form and organization in which health care is delivered. In addition, we will explore the potential impact of the new national health reform legislation. Our underlying concern will be whether the laws regulating health care are well-suited to maximizing the health and well-being of the nation's population.

Because this is a survey course, and we are limited to one quarter, we will not be able to discuss many topics either at all or in the depth they deserve. If any student wishes to explore an additional topic, he or she should speak to me.

The casebook for the course is Furrow et. al., *Health Law: Cases, Materials and Problems* (6th edition). We will also use materials that are available under the materials link on our TWEN page.

There will be a 2-1/2 hour, in-class, open book final examination during exam week. In addition, each student will be required to prepare and submit on our TWEN page, either by him or herself or with another student, a 3-5 page double-spaced analysis of either a provision of the recently enacted health care reform acts or the acts' impact on a particular health care program or problem. Students will also be required to participate in an online discussion about the subjects of their papers. More information about these requirements is available in the memo entitled "Information on Virtual Health Reform Forum" on our TWEN page.

I. Patients and Providers

1. A Health Care System?

Casebook: 1-3; 10-21.

Materials: Gawande, *The Cost Conundrum: What a Texas Town Can Teach Us About Health Care*

2. Who May Provide Health Care?

Casebook: 115-120; 131-156.

3. The Provider's Duty to Treat

Casebook: 195-203; 596-603; 607 (start with Problem)-609; 623-629.

Be prepared to discuss the Cheryl Hanachek problem on p. 607.

4. Institutional Obligations to Treat

Casebook: 604-607; 609-623; 633-636.

Materials: Jury Finds for Florida Hospital.

5. The Tax Status of Health Care Institutions

Casebook: 910-912; 966-993; 924 (note 3).

6. Confidentiality & HIPAA

Casebook: 289-296; 302-322.

II. Regulating the Quality of Care: Tort Law & Other Approaches

As background for this section read casebook: pp. 41-71.

7. Using Contract and Tort Law to Regulate Quality

Casebook: 212-219; 327-351; 357 (start with Helling v. Carey)- 363.

8. Medical Malpractice: Defenses

Casebook: 219-230; 381-384; 412-421.

Be prepared to discuss the problem on p. 421.

9. Informed Consent

Casebook: 230-258; 277-279; 283-288.

Be prepared to discuss the problem on p. 258.

10. Institutional Liability

Casebook: 441-455; 456-462; 466-475 (stop at the end of note 5).

11. Credentialing and Controlling Physicians

Casebook: 476-497 (stop at the end of note 5); 850-878.

Materials: Problem on Staff Privileges.

Be prepared to discuss the problem on staff privileges in the materials.

12. Quality & the Role of Reimbursement

Casebook: 371-380; 462-465; 532-539.

Be prepared to discuss the problem Wanting the Best on p. 538.

13. Tort Reform

Casebook: 539-552

Materials: Lebron v. Gottlieb Mem. Hosp.

IV. The Insurance System

As background for this section, read pages 560-574 and 580-593 of the Casebook.

14. The Private Insurance System

Casebook: 638-655; 671-687.

Materials: Golden Gate Restaurant Ass'n v. City & Ct'y of San Francisco.*

15. ERISA Preemption

Casebook: 688-710.

* This case may or may not be assigned depending on how the Supreme Court decides the questions before it.

16. Rights Against ERISA Plans

Casebook: 710-748.

Materials: ERISA and Managed Care.
Metropolitan Life Insur. Co. v. Glenn

17. Federal Regulation of the Insurance Market: Health Reform

Casebook: 748-754; 761-764.

Materials: The Patient Protection and Affordable Care Act: Detailed
Summary pp. 1-3; 13-15.

18. Medicare

Casebook: 767-770; 776-795; 796-803 (stop at §D); 804-810; 813-814.

Materials: The Patient Protection and Affordable Care Act: Detailed
Summary 3-6; 16-17.
Kaiser Family Foundation's Focus on Health Reform.

19. Medicaid & CHIP

Casebook: 814-848.

Be prepared to discuss the problem on pp. 847-848.

20. The Constitutionality and Efficacy of Reform

TWEN: Virtual Health Care Policy Forum

Materials: Timothy Jost, Can the States Nullify Health Reform.
Commonwealth of Virginia v. Sebelius (Complaint).
Florida v. Sebelius (Complaint).
Christopher C. Jennings: Implementation and the Legacy of
Health Reform.