

Problems in Public Health Law
Professor Wendy Parmet
Fall 2010

This course surveys public health law and considers the role that law can and should play in preserving population health. We will also consider the conflicts and problems that emerge when law is used for that endeavor, as well as the legal rights and principles that limit government's public health powers.

The book for the course is Wendy E. Parmet, *Populations, Public Health, and the Law* (2009) ("PPHL"). There are also additional materials accessible via our TWEN page.

Course Requirements:

- a) Each student will be required to prepare and present a PowerPoint presentation on a public health problem and a potential intervention to address it that is related to the topics that will be discussed in class. Further information about this requirement as well as a list of possible presentation topics and the classes in which they will be presented are set forth in the memo Presentation/Paper Requirements which is posted on our TWEN page. By September 9, students must select their topics either via the Sign-Up Sheet feature on our TWEN page or by receiving my permission to present on a different topic. All presentations, however, must relate to subjects we will discuss in class.
- b) Each student must research and write a paper analyzing a legal question related to the public health problem they will be presenting on. By September 21 each student must send me an e-mail with a proposal for the question or questions they will focus on for their research paper.
- c) By October 7 each student must submit a detailed outline of their final research paper.
- d) Students who wish to receive upper level writing credit, and any other student who wishes feedback on a first draft, must submit a complete draft of their final research paper to me by November 3.
- e) Each student must submit his or her final research paper on the last day of exam week. Papers are to be between 15-25 double-spaced pages. Citations must be in Blue Book form. All work must be original.
- f) Students are expected to attend and participate in class.

I. Foundations of Public Health Law*

1. What is It and Why Have It?

PPHL: 5-27
Materials Epidemiology and the Tools of Public Health

2. The Police Power

PPHL 28-50
Materials Jacobson v. Massachusetts
Lochner v. New York

3. The Power & Role of Administrative Agencies

PPHL 51-77
Materials Whitman v. American Trucking Assocs.

4. Federalism

PPHL 78-108
Materials United Haulers Association v. Oneida-Herkimer Solid Waste Management

5. Public Health and Substantive Due Process

PPHL 109-129
Materials: State of Iowa v. Hartog
Abigail Alliance for Better Access to Developmental Drugs v. Von Eschenbach
Weeks, “The Public’s Right to Health: When Patient Rights Threaten the Commons”

6. Tort Law as Public Health Law

PPHL 219-243
Materials Wyeth v. Levine

II. Traditional Public Health Interventions

7. Surveillance, Testing, Reporting and Partner Notification: STIs and Substance Abuse

Materials: Whalen v. Roe
Ferguson v. City of Charleston
Middlebrooks v. State Bd. Of Health
CW v. The Cooper Health System
Burris, “Public Health, ‘AIDS Exceptionalism’ and the Law”
Bayer & Edington, “HIV Testing, Human Rights, and Global And Global AIDS Policy”

* Readings are subject to change in light of new developments.

8. Mandatory Vaccination & Vaccine Liability: Childhood Vaccines

Materials: Vaccines and the Vaccine Market
Cedillo v. Sec't of HHS
Omar et al, "Vaccine Refusal"

9. Mandatory Treatment: End-of-Life Care & Anti-Psychotic Medication

PPHL 141-65
Materials: Cruzan v. Director, Missouri Dep't of Health
Washington v. Harper
MSEHPA § 603
Friedan et al, "Tuberculosis in New York City"

10. Isolation & Quarantine: TB & SARS

PPHL 129-40
Materials: MSEHPA §§ 604-605
City of Newark v. J.S.
Note: Isolation, Quarantine & SARS

III. Some Contemporary Public Health Problems

11. Tobacco

PPHL 173-180
Materials: Commonwealth Brands, Inc. v. USA
Curious Theater Co. v. Colo. Dep't Pub. Health
Gostin, "FDA Regulation of Tobacco"

12. Obesity, Diabetes and Cardio-Vascular Disease

PPHL 166-174; 180-190
Materials: Epstein, "What (Not) To Do About Obesity"
24 RCNY 81.08
N.Y.S. Restaurant Ass'n v. N.Y. City Bd. of Health

13. Health Disparities

Materials: South Camden Citizens in Action v. New Jersey
Bobinski, "Health Disparities and the Law"
Landers, "Massachusetts Health Insurance Reform Legislation: An Effective Tool for Addressing Racial and Ethnic Disparities in Health Care?"

14. Distracted Driving

Materials Insurance Institute for Highway Safety, “State Cell Phone Laws”
AAA, “Cell Phones and Driving: Research Update
Alert Drivers Act”

15. Hospital Acquired Infections

Materials Sage and Hyman, Combating Antimicrobial Resistance.
Ch. 58, 2009 Acts and Resolves of Massachusetts

16. Pandemic Influenza: Avian Influenza and H1N1

PPHL 191-95
Materials: Gostin, “Influenza A (H1N1) and Pandemic Preparedness”
Parmet, “Pandemic Vaccines: The Legal Landscape”
MSEHPA §401

17. Global Epidemics and Human Rights: HIV, TB, & Malaria

PPHL 244-67
Minister of Health v. Treatment Action Campaign