

HEALTH LAW
SYLLABUS
Fall 2010

Professor Joshua Abrams

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 care is provided. We will also study how the new Federal health care reform statute impacts these areas.

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 further, feel free to discuss it with me and we will explore options to do so.

The casebook for the course is Furrow et. al., *Health Law: Cases, Materials and Problems* (Abridged 6th Ed.). There will also be additional readings assigned in class.

We will be meeting once per week, for 3 hours. We will NOT meet on September 9 (Rosh Ha Shana) or November 11 (Veterans Day). This means that we only have NINE scheduled classes. It also means we will not be meeting the last week of classes, which is unfortunate. I will make myself available for a review class that week at a time to be determined.

Because the class will be held once per week for three hours, 5:30-8:30, I will ensure to include a mix of discussion, lecture and the use of multimedia (where possible) to keep us all engaged during the long sessions. We will also take a short break in the middle of class, and you are free to bring dinner to class.

There will be an in-class, open book final examination during exam week. In addition, each student will be required to prepare a presentation on a current health care subject of their choosing to present to the class. We will discuss how to prepare and present these in class.

Classroom participation will also be a key component of this class. Due to the complexity of some of the concepts and cases, we will spend significant time in class unpacking and discussing the readings assigned. While I will help guide the discussions with pointed questions, I will also be looking for active participation in answering questions, developing new questions and participating in discussion. This will make the class lively, engaging and, I hope, fun, as we tackle areas of the law that impact us not only as lawyers, but as health care consumers as well.

Finally, we will from time to time have guest lecturers joining me, experts in the field of health law relevant to the topic of the class. These should be seen as opportunities to

engage with health law practitioners about their area of practice, and participating in such discussions is also a critical component of the class.

I. HEALTH CARE PROFESSIONALS AND THEIR PATIENTS

1.
 - i. HEALTH REFORM: AN OVERVIEW OF THE PPACA'S EFFECT ON ACCESS TO INSURANCE AND CARE
 - ii. QUALITY CONTROL: The tension between the needs of health care professionals and their patients.
 - a. Casebook: 1-31
2. The Professional-Patient relationship
 - i. Casebook: 57-90
 - ii. **HOMEWORK: Craft jury instructions on non-disclosure/informed consent using the holding of Canterbury (see Note 1 on p. 83)**
3. Confidentiality and Disclosure in the Physician-Patient Relationship/Liability of Health Care Professionals (Malpractice)
 - i. Casebook: 90-153
4. Liability of Health Care Institutions
 - i. Casebook: 154-201, 203-208
 - ii. **HOMEWORK: Prepare Response to Cascading Error Problem (p. 191)**

II. INSURANCE SYSTEM AND REFORMS

5. Physician Incentive Systems/Improving Insurance Availability/Altering Litigation Process/Patient Safety/Duty to Care/EMTALA/ADA
 - i. Casebook: 236-289
 - ii. **HOMEWORK: One-third of Class Prepare Response to Problem on p. 252, One-third Prepare Response to Problem on p. 260, and One-third to Problem on p. 288-9 (assignments made prior to class).**

6. Regulation of Insurance and Managed Care: The Federal Role (HIPAA/ERISA)
 - i. Casebook: 325-368
 - ii. Zelinsky, New MA Health Law: Preemption and Experimentation, 49 Wm. and Mary L. Rev. 229 (2007) (read on Westlaw)
7. Medicare/Medicaid – Before and After PPACA
 - i. Casebook: 369-416
 - ii. OTHER READINGS AS ASSIGNED
8. Staff Privileges and Employment/Tax Exempt Organizations
 - i. Casebook: 417-448, 491-535

III. WHAT IT ALL COMES DOWN TO

9. Life and Death
 - i. Casebook: 707-803
 - ii. Atul Gawande New Yorker article (available online at http://www.newyorker.com/reporting/2010/08/02/100802fa_fact_gawande)
 - iii. **Other Handouts**

