

SYLABUS LES

522

Health Care Law, Privacy and Confidentiality

Fall, 2007

Monday - 6:00 - 9:30 p.m. -
Public Affairs Center Room 3 I

Instructor: Saul J. Morse

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Office: 205 S. 5th Street, Suite 700, Springfield, IL 62701

Office Hours: I do not have an office on campus but am generally available in my office most afternoons. I would be happy to meet with any student at my office but am generally not sitting there waiting for you to arrive. Please call to schedule an appointment at our mutual convenience.

Course Overview: LES 522 will focus on the legal authority for government to impact and regulate the health care available to individuals. We will also examine the legal issues involved in the interaction between patients, their families, and health care providers. Attention will be given to liability issues which arise within the health care environment. Primary focus of the course will be given to the balancing of an individual's right to privacy against the health care system's need for information and society's overarching interest and need for information and data in order to both provide and pay for health care delivery. Substantial emphasis will be placed upon the federal regulatory scheme envisioned by the Health Insurance Privacy Portability Act.

Course Material: Public Health Law Power, Duty, Restraint, Lawrence O. Gostin,
University of California Press
Damages, Barry Werth, Simon & Schuster

Students are also expected to avail themselves of statutory, regulatory, and case law materials as may be required during the development of their written materials. These are available at libraries and online.

There will also be various handouts and/or materials forwarded by the instructor in the form of attachments to email.

Course Requirements:

1. Class participation: The intent and focus of the course is to debate and discuss the delicate balance between an individual's right to privacy, their need for privacy in some of the most personal health decisions they will ever make, the State's right to access information for the protection of the public health, and the methodology by which third parties pay for the health care we receive and are dependent upon receipt of personal health information to determine both levels of payment and appropriateness of care provided. Discussion of these issues is crucial to an understanding of the potential strengths and weaknesses in our system. While attendance will not be taken at each class, it is contemplated that this will be a small seminar-like class. Class will also be conducted on line with several classes, as our comfort grows, being done in that format rather than in a classroom on campus. If you are not present it will be noticed. Participation within the class will be an important though a mildly subjective element of grading. Attendance and participation may move a border line grade up or down depending upon the circumstances. If you know in advance that you will not be able to attend the class, please advise me in advance, either by email or phone call.

2. Papers: Each student is expected to do three papers. A final paper will be a substantial research document on a subject related to privacy of health care records. This will be of your choosing, with my approval. Wherever possible I will endeavor to accommodate your wishes as to subject matter with perhaps some suggestions as to a direction to take in your research.

The papers will be divided as follows. Due on October 3, 2007, will be a paper of approximately 5 pages in length addressing an aspect of the Gostin book on public health law. You may consider any aspect of the implications of public health law including but not limited to the encroachment of federal power onto a traditional duty and power of the states, the balancing of rights to privacy against the need to protect the public from infectious diseases (such as influenza and polio epidemics of the early to mid twentieth century's or the HIV/AIDS issue of the late twentieth century and the SARS developments of the beginning of the twenty-first century). This paper will constitute 20% of your grade.

On or before November 7, 2007, you will be expected to prepare a paper of at least 5 pages in length on some aspect of the liability system within the health care delivery context playing off the issues raised in the Werth book. You may wish to address issues such as the impact upon the treator/patient relationship of liability, the impact between treators such as physicians, nurses and hospitals when they are jointly alleged to have acted negligently, the appropriateness of the use of the civil justice system to resolve and fund disputes as to quality of care, or the societal impact of these costs. An implication of the disclosure of privacy materials in the context of disputes and resolution of same is also an appropriate consideration for this paper.

On or before the last day of class, you are expected to turn in a paper of at least 15 pages in length on a topic dealing with privacy implications or the duty of providers of health care and the juxtaposition of that duty against patient expectations and the states right to access information concerning both individual and community health information. You may wish to utilize HIPAA as a departure point for the impact of these wide sweeping regulations on the area of health care you selected.

All of these essay assignments must be typed and double spaced. Keep a copy of all assignments you hand in. Occasionally accidents happen and assignments get lost or destroyed. Your copy will be a safeguard for you and me. You may turn your papers in either in hard copy or electronic format. If you do turn them in in electronic format, please be sure to get a receipt from me showing that the paper has been received and that my relative lack of technological ability has not been an impediment to my accessing and reading your work.

Approximate Weight of Grades in Class

2 papers at 20% = 40%. + Final paper 40%. + Attendance/participation 20% = 100%

A Note on Grading: I will be assigning letter grades and utilizing the following standards:

- 1 "A" work is excellent. It demonstrates critical thinking and clear communication. It is thoughtful, expressive, and indicates a mastery of the material under consideration. It stands out as exceptional, not just competent in meeting the expectations of the course.
- 2 "B" work is good. It is thoughtful, expressed well, and indicates understanding of the material under consideration in the course. It is competent, but does not stand out as exceptional.
- 3 "C" work is average. It meets the expectations of the course, but lacks the depth or thoughtfulness of better work; it often has problems with expression, and/or reflects less than full understanding of the material in the course.
- 4 "D" work is poor. It meets the basic expectations of the course, but lacks thoughtfulness, often has serious problems with expression and/or clearly indicates a lack of understanding of the material in the course.
- 5 "NO CREDIT" work does not meet the expectations of the course and/or indicates a lack of understanding of the material in the course. No credit will also be given to students not completing the above-course requirements, except incompletes as described below.
- 6 "INCOMPLETE" work indicates that an agreement has been reached with the instructor to submit some work late, due to circumstances beyond the control of the student. **INCOMPLETES WILL ONLY BE GIVEN IN THE MOST EXTREME SITUATIONS AND MUST BE COMPLETED PRIOR TO THE START OF THE NEXT TERM IN ORDER FOR CREDIT TO BE GRANTED.** It is the policy of the Legal Studies Department that the putative grade given for an Incomplete is a "U".

You should feel free to discuss your grade with me at anytime.

A NOTE ON PLAGIARISM: Plagiarism is the stealing of someone else's ideas and expressing them as if they were your own with no attribution to the actual author. Problems

with plagiarism have become even more severe given the easy access to information on the internet. In academic life, plagiarism is theft and is therefore acted upon with great seriousness. If there is ever a question regarding whether or not you should provide attribution, i.e. to footnote or cite or use quotation marks, error on the side of attribution. If you have any questions regarding this, please consult with the Instructor or the UIS Learning Center.

DISABILITY ACCOMODATIONS: Reasonable accommodations are available for students who have a documented disability. Please notify the instructor during the first week of class of any accommodations needed for the course. Late notification may cause the requested accommodation to be unavailable. All accommodations must be approved through the Office of Disability Services (ODS) (206-6666).