INTRODUCTION TO HEALTH LAW (LAW 710)

FALL 2018

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COURSE GOALS

This course provides a broad survey of the most fundamental legal issues surrounding the delivery of health care in America. No prior knowledge of health law is required. Major topics include public and private insurance systems; state and federal regulation of health care providers and institutions; tort liability in the context of medical care; patient and provider rights and obligations; and basic issues in bioethics and public health. As this course is intended to provide only an introductory overview of the most major issues in health law, students who complete this course and find they have a strong interest in a particular topic are encouraged to consider taking some of the more specialized health law courses offered at Loyola.

By the end of this course, students should be able to:

• Identify and analyze major legal issues in health care contexts;
• Understand the relationship between cost, quality, and access to health care;
• Draft legal and policy memoranda; draft letters to clients; engage in in-person client counseling; and present oral arguments.

More specific learning objectives for each week are detailed on the course Sakai site.

COURSE MATERIALS

The required casebook for this course is the Seventh Edition of Furrow, HEALTH LAW: CASES, MATERIALS, AND PROBLEMS (West 2013), which is available at the Loyola Bookstore and at online retailers. Additional required readings will be posted on Sakai.

COURSE REQUIREMENTS

Regular Attendance: Regular and punctual attendance at each of our in-person class sessions is mandatory. If an emergency or other conflict arises that prohibits you from attending a class session, you must submit documentation or your absence will be considered unexcused. Excessive absences – whether unexcused or excused – may result in a reduction in your final grade. A complete version of the Law School Attendance Policy can be found at http://www.luc.edu/law/resources/schooloflawpolicies/.
**Class Participation:** The course will be taught using a combination of class discussion, lecture, Socratic dialogue, and in-class group exercises. Because the success of this course is dependent on each student’s interest and active involvement, participation in discussion is mandatory. All students are expected to come to each class session having completed the assigned readings, and ready to contribute to group discussion and small group exercises.

**Reading Assignments:** Students are expected to attend each class having completed all assigned readings and prepared to discuss them. The schedule of reading assignments is posted on Sakai.

**Written Assignments:** Each student must complete two written assignments. The assignments will be based directly on our in-class exercises in Sections II and III of the course - you will be able to choose which of these exercises you will translate into a written product.

The due dates for these assignments are **Sunday, October 14th** (for Section II: Regulating Providers and Institutions) and **Sunday, November 11th** (for Section III: Controlling Quality and Protecting Patient Rights). A student who fails to complete either of the required written assignments by their due dates will receive a grade of zero for that assignment.

Each assignment has a word limit of 2,500 words, and will be graded based on the rubric attached as an appendix to this syllabus.

**Self-Scheduled Take-Home Final Exam:** The final exam will be a 3-hour take-home exam, administered online via Sakai. The exam will be available between Monday, Dec. 3 and Sunday, Dec. 9, and you may take it during any 3-hour stretch within that time. You will be responsible for monitoring your time on the exam software, and it is critically important that you do not exceed the allotted time for your exam. If you do not complete and exit the exam on Sakai before the end of the allotted time, you risk receiving a failing grade on the exam.

The final exam will be fully open-book. You may rely on your casebook, course PowerPoints, your study outline and class notes, and any outside materials you find helpful. That said, outside research is not necessary to complete the exam; please know that time spent consulting these materials takes away valuable time that should be used developing the analysis upon which you will be graded.

You are prohibited from seeking assistance from any other person during the exam, or conferring with classmates at any time during the exam period.

Further exam details will be provided later in the semester.

**Grading**

Of the course requirements outlined above, class participation will account for 10%, written assignments will account for 30%, and the final exam will account for 60% of the final grade. All grading is final, except to correct mathematical or clerical errors on the final exam.

The following should serve a general guide as to how student work will be evaluated:

**A/A-:** The student demonstrates an exceptional understanding of the subject matter, is able to carefully and thoroughly explain legal doctrine, and presents sophisticated, well-
reasoned, and creative legal analyses that stand up against equally well-reasoned counter-arguments.

B+/B: The student demonstrates a strong understanding of the subject matter, is able to clearly and accurately explain legal doctrine, and presents reasonable and consistent legal analyses that stand up against reasonable counter-arguments.

B-/C+/C: The student demonstrates a basic understanding of the subject matter, is able to accurately describe legal doctrine, and presents reasonable legal analyses that demonstrate basic recognition of expected counter-arguments.

C-/D/F: The student demonstrates a substandard understanding of the subject matter, is not able to accurately describe legal doctrine, or presents legal analyses that demonstrate logical inconsistencies, factual errors, or failure to recognize expected counter-arguments.

GENERAL INFORMATION AND POLICIES

Respectful Discussion: Given the sensitive nature of some of the material we will be studying, it is particularly important that students maintain a professional and respectful manner during class discussions. The classroom is a space governed by honesty and mutual respect. If you have any questions or concerns on this subject, please do not hesitate to speak with me.

In-Class Use of Technology: Inappropriate use of technology in class is disruptive to your professors and fellow students. Laptops may be used in the classroom only to take notes and access course materials. Cell phones must be off. If a cell phone rings during class, its lucky owner will be invited to assist me in developing a new policy to ensure that devices do not disrupt class in the future.

Course Feedback: Throughout the semester, I look forward to receiving your feedback on what I can do to improve your learning experience. My goal is for you to come away from this class feeling that you are better prepared for your legal career. If you are having trouble doing that for any reason, from the simple (“We can’t hear you in the back of the class”) to the more serious, please discuss it with me sooner rather than later. I look forward to getting to know everyone in the class personally, and welcome the opportunity to meet with groups of students informally over coffee or lunch.

Office Hours: One of the most important parts of my job is being available to provide assistance and answer your questions outside the classroom. However, it is difficult to find a fixed time for office hours that fits with students’ varied schedules. Instead, if you have any questions that you’d like to discuss outside of class, let me know and we can schedule a meeting at a time that works best with your schedule. You are also welcome to stop by my office any time my door is open.

Academic Integrity: Students should familiarize themselves with the law school’s Code of Conduct (available at http://www.luc.edu/law/registrar/exam_procedures.html), particularly the provisions relating to academic integrity. Violations will not be tolerated.
Preliminary Course Schedule

This preliminary schedule for the semester is subject to change. Any changes will be announced at the end of each class session and posted on Sakai.

Instructions: Unless otherwise indicated, begin reading with the first full note or case beginning on the first assigned page. Read through the last note or case that ends on the last assigned page.

I. Health Insurance Systems and Regulation

Week 1  The U.S. Health Care System

Week 2  PPACA, Present and Future

Week 3  State Regulation of Insurance and Managed Care

II. Regulating Providers and Institutions

Week 4  Licensing Providers and Institutions
   In-Class Exercise: Physicians, PAs, and Nurses (pp. 131-134)

Week 5  Regulating Non-Profit Institutions
   In-Class Exercise: Excess Benefit Transactions (p. 1071)

Week 6  Fraud and Abuse Regulations
   In-Class Exercise: Advising a Qui Tam Relator

Week 7  Fraud and Abuse Regulations (cont’d)
   In-Class Exercise: Advising Re: Fraud and Abuse Laws (pp. 1113-1115)

Week 8  Antitrust

Sun. Oct. 14: Written Assignment for Part II Due
III. CONTROLLING QUALITY AND PROTECTING PATIENT RIGHTS

WEEK 9 Systems, Institutions, and Quality
   In-Class Exercise: Cascading Errors (p. 459)

WEEK 10 Medical Malpractice
   In-Class Exercise: Treating a Jehovah’s Witness Patient

WEEK 11 Specific Statutory and Common Law Duties
   In-Class Exercise: Representing Canterbury on Appeal

WEEK 12 Patient Self-Determination at the End of Life
   In-Class Exercise: Managing Futility Conflicts

Sun. Nov. 11: Written Assignment for Part III Due

IV. IMPROVING SOCIETAL HEALTH

WEEK 13 Public Health
   In-Class Exercise: Public School Ebola Policy

WEEK 14 FDA Regulation

WEEK 15 Research Regulation and Ethics

FINAL EXAM PERIOD

Dec. 3 – 9: Final Exam Available on Sakai