PubH 6596
Legal Considerations in Health Care
Spring 2015

Credits: 2
Meeting Days: Thursdays
Meeting Time: 5:00 – 6:45 pm
Meeting Place: D199 Mayo
Instructor: David Feinwachs
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Office Hours: TBA

I. Course Description
Legal Environment of Health Care Management is oriented to health professionals and administrators who have not had significant prior academic exposure to law-related issues. The scope of coverage will include liability of health care professionals and institutions including managed care organizations, structure of health care enterprises, regulatory issues, antitrust, administrative law, corporate, business and labor law, civil liability, tax-related issues, legal issues relevant to administration, decision-making and planning process.

II. Course Prerequisites
Students must be enrolled in a School of Public Health MHA program. Alternatively, students may take the course with consent from the instructor.

III. Course Goals and Objectives
To familiarize health professionals and administrators with a variety of complex legal issues and processes so that they may integrate this knowledge with problem solving activities. At the completion of this course, students will:

Be able to successfully identify medical professional liability
Clearly understand antitrust laws and their implication and application to health care settings
Have working definitional knowledge of fraud and abuse statutes and the false claims act
Be able to negotiate basic contract scenarios and engage in contract discussions, and identify contractual landmines
Be able to identify, analyze and synthesize scenarios involving legal problems and their solutions
Be conversant with current and emerging trends in medical ethics

IV. Methods of Instruction and Work Expectations

The course employs group discussion and case analysis techniques in order to allow students to evaluate legal problems and strategies.

V. Course Text and Readings


VI. Course Outline/Weekly Schedule

The following is a listing of reading assignments:

**Furrow, et al. Chapter 5 – Liability of Health Care Professionals (January 22, 2015)**
- Hall v. Hilbun (p. 299)
- Helling v. Carey (p 331)
- Wickline v. State (p. 342)
- Murray v. UNMC Physicians (p. 350)
- Brook v. St. John's Hickey Memorial Hospital (p. 363)
- Ostrowski v. Azzara (p. 390)
- Herskovits v. Group Health Cooperative of Puget Sound (p. 403)

**Furrow et al. Chapter 4 – The Professional-Patient Relationship (January 29, 2015)**
- Tunkl v. Regents of Univ. of California (p. 196)
- Shorter v. Drury (p. 200)
- Canterbury v. Spence (pp. 209, 253)
- Johnson v. Kokemoor (p. 225)
- Arato v. Avedon (p. 234)
- Moore v. Regents of the Univ. of California (p. 244)
- Yath v. Fairview Clinics, N.P. (p. 281)

**Furrow, et al. Chapter 6 – Liability of Health Care Institutions (February 5, 2015)**
- Muse v. Charter Hospital of Winston-Salem, Inc. (p. 440)
- Darling v. Charleston Community Memorial Hospital (p. 444)
- Thompson v. Nason Hosp. (p 448)
- Larson v. Wasemiller (p. 460)
- Kadlec Medical Center v. Lakeview Anesthesia Associates (p. 469)
- Petrovich v. Share Health Plan of Illinois, Inc. (p. 485)
- Scott v. SSM Healthcare St. Louis (p. 419)
Shannon v. McNulty (p. 498)
Furrow, et al. Chapter 8 – Duties to Treat (February 12, 2015)
Ricks v. Budge (p. 581)
Williams v. U.S. (p. 586)
Baber v. Hospital Corporation of America (p. 595)
Howe v. Hull (p. 615)

Furrow, et al. Chapter 9 – Private Health Insurance and Managed Care: Liability and State and Federal Regulation (February 19, 2015)
Lubeznik v. HealthChicago, Inc. (p. 639)
Rush Prudential HMO, Inc. v. Moran (p. 697)
Aetna Health Inc. v. Davila (p. 718)

Sokol v. Akron General Medical Center (p. 880)
Mateo-Woodborn v. Fresno Community Hospital (p. 889)
Potvin v. Metropolitan Life Ins. Co. (p. 906)
Oakwood Healthcare, Inc. (p. 918)
Estate of Mauro v. Borgess Medical Center (p. 935)

Furrow, et al. Chapter 12 – The Structure of the Health Care Enterprise (March 5, 2015)
Stern v. Lucy Webb Hayes National Training School for Deaconesses and Missionaries (p. 946)
In re Caremark International Inc. Derivative Litigation (p. 954)
Manhattan Eye, Ear and Throat Hospital v. Spitzer (p. 966)
Berlin v. Sarah Bush Lincoln Health Center (p. 984)
Utah County v. Intermountain Health Care, Inc. (p. 1004)
Redlands Surgical Services v. Commissioner of Internal Revenue (p. 1048)

Furrow, et al. Chapter 13 – Fraud and Abuse (March 12, 2015)
United States v. Krizek (pp. 1075, 1084)
United States ex rel. Mikes v. Straus (p. 1090)
United States v. Greber (p. 1117)
United States v. Starks (p. 1124)

Furrow, et al. Chapter 14 – Antitrust (March 26, 2015)
In re Michigan State Medical Society (p. 1169)
California Dental Association v. Federal Trade Commission (p. 1177)
Arizona v. Maricopa County Medical Society (p. 1194)
Matter of Hospital Corporation of America (p. 1242)
Federal Trade Commission v. Tenet Health Care Corporation (p. 1255)

Roe v. Wade (p. 1303)
Planned Parenthood of Southeastern Pennsylvania v. Casey (p. 1310)
Gonzales v. Carhart (p. 1321)
Interest of K.M.H. (p. 1363)
Davis v. Davis (p. 1383)
Matter of Baby M (p. 1397)
Johnson v. Calvert (p. 1404)
In re A.C. (p. 1431)

Safer v. Pack (p. 1464)
Bearder v. Minnesota (p. 1471)

Newman v. Sathyavaglswaran (p. 1496)
Flynn v. Holder (p. 1502)
In re T.A.C.P. (p. 1519)
In re Baby K (p. 1526)

Cruzan v. Director, Missouri Dept. of Health (p. 1538)
Bouvia v. Superior Court (p. 1556)
In re Conroy (p. 1607)
Guardianship of Schiavo (p. 1631)
In re Storar (p. 1644)
Newmark v. Williams (p. 1652)
Washington v. Glucksberg (p. 1688)
Vacco v. Quill (p. 1701)
VII. Evaluation and Grading

95 and up = A+
90-94 = A
85-89 = A-
80-84 = B+
80-below = B
76-79 = B-
72-75 = C

A 4.000 - Represents achievement that is outstanding relative to the level necessary to meet course requirements
A- 3.667
B+ 3.333
B 3.000 - Represents achievement that is significantly above the level necessary to meet course requirements
B- 2.667
C+ 2.333
C 2.000 - Represents achievement that meets the course requirements in every respect
C- 1.667
D+ 1.333
D 1.000 - Represents achievement that is worthy of credit even though it fails to meet fully the course requirements

S Represents achievement that is satisfactory, which is equivalent to a C- or better.

For additional information, please refer to: http://policy.umn.edu/Policies/Education/Education/GRADINGTRANSCRIPTS.html.

Course Evaluation
The SPH will collect student course evaluations electronically using a software system called CoursEval: www.sph.umn.edu/courseval. The system will send email notifications to students when they can access and complete their course evaluations. Students who complete their course evaluations promptly will be able to access their final grades just as soon as the faculty member renders the grade in SPHGrades: www.sph.umn.edu/grades. All students will have access to their final grades through OneStop two weeks after the last day of the semester regardless of whether they completed their course evaluation or not. Student feedback on course content and faculty teaching skills are an important means for improving our work. Please take the time to complete a course evaluation for each of the courses for which you are registered.

Incomplete Contracts
A grade of incomplete “I” shall be assigned at the discretion of the instructor when, due to extraordinary circumstances (e.g., documented illness or hospitalization, death in family, etc.), the student was prevented from completing the work of the course on time. The assignment of an “I” requires that a contract be initiated and completed by the student before the last official day of class, and signed by both the student and instructor. If an incomplete is deemed appropriate by the instructor, the student in consultation with the instructor, will specify the time and manner in which the student will complete course requirements. Extension for completion of the work will not exceed one year (or earlier if designated by the student’s
VIII. Other Course Information and Policies

Grade Option Change (if applicable)
For full-semester courses, students may change their grade option, if applicable, through the second week of the semester. Grade option change deadlines for other terms (i.e. summer and half-semester courses) can be found at onestop.umn.edu.

Course Withdrawal
Students should refer to the Refund and Drop/Add Deadlines for the particular term at onestop.umn.edu for information and deadlines for withdrawing from a course. As a courtesy, students should notify their instructor and, if applicable, advisor of their intent to withdraw.

Students wishing to withdraw from a course after the noted final deadline for a particular term must contact the School of Public Health Office of Admissions and Student Resources at sphssc@umn.edu for further information.

Student Conduct Code
The University seeks an environment that promotes academic achievement and integrity, that is protective of free inquiry, and that serves the educational mission of the University. Similarly, the University seeks a community that is free from violence, threats, and intimidation; that is respectful of the rights, opportunities, and welfare of students, faculty, staff, and guests of the University; and that does not threaten the physical or mental health or safety of members of the University community.

As a student at the University you are expected adhere to Board of Regents Policy: Student Conduct Code. To review the Student Conduct Code, please see: http://regents.umn.edu/sites/default/files/policies/Student_Conduct_Code.pdf.

Note that the conduct code specifically addresses disruptive classroom conduct, which means "engaging in behavior that substantially or repeatedly interrupts either the instructor's ability to teach or student learning. The classroom extends to any setting where a student is engaged in work toward academic credit or satisfaction of program-based requirements or related activities."

Use of Personal Electronic Devices in the Classroom
Using personal electronic devices in the classroom setting can hinder instruction and learning, not only for the student using the device but also for other students in the class. To this end, the University establishes the right of each faculty member to determine if and how personal electronic devices are allowed to be used in the classroom. For complete information, please reference: http://policy.umn.edu/Policies/Education/Education/STUDENTRESP.html.

Scholastic Dishonesty
You are expected to do your own academic work and cite sources as necessary. Failing to do so is scholastic dishonesty. Scholastic dishonesty means plagiarizing; cheating on assignments or examinations; engaging in unauthorized collaboration on academic work; taking, acquiring, or using test materials without faculty permission; submitting false or incomplete records of academic achievement; acting alone or in cooperation with another to falsify records or to obtain dishonestly grades, honors, awards, or professional endorsement; altering, forging, or misusing a University academic record; or fabricating or falsifying data, research procedures, or data analysis. (Student Conduct Code: http://regents.umn.edu/sites/default/files/policies/Student_Conduct_Code.pdf) If it is determined that a student has cheated, he or she may be given an "F" or an "N" for the course, and may face additional sanctions from the
University. For additional information, please see: 
http://policy.umn.edu/Policies/Education/Education/INSTRUCTORRESP.html.

The Office for Student Conduct and Academic Integrity has compiled a useful list of Frequently Asked Questions pertaining to scholastic dishonesty: http://www1.umn.edu/oscai/integrity/student/index.html. If you have additional questions, please clarify with your instructor for the course. Your instructor can respond to your specific questions regarding what would constitute scholastic dishonesty in the context of a particular class - e.g., whether collaboration on assignments is permitted, requirements and methods for citing sources, if electronic aids are permitted or prohibited during an exam.

**Makeup Work for Legitimate Absences**

Students will not be penalized for absence during the semester due to unavoidable or legitimate circumstances. Such circumstances include verified illness, participation in intercollegiate athletic events, subpoenas, jury duty, military service, bereavement, and religious observances. Such circumstances do not include voting in local, state, or national elections. For complete information, please see: http://policy.umn.edu/Policies/Education/Education/MAKEUPWORK.html.

**Appropriate Student Use of Class Notes and Course Materials**

Taking notes is a means of recording information but more importantly of personally absorbing and integrating the educational experience. However, broadly disseminating class notes beyond the classroom community or accepting compensation for taking and distributing classroom notes undermines instructor interests in their intellectual work product while not substantially furthering instructor and student interests in effective learning. Such actions violate shared norms and standards of the academic community. For additional information, please see: http://policy.umn.edu/Policies/Education/Education/STUDENTRESP.html.

**Sexual Harassment**

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment in any University activity or program. Such behavior is not acceptable in the University setting. For additional information, please consult Board of Regents Policy: http://regents.umn.edu/sites/default/files/policies/SexHarassment.pdf.

**Equity, Diversity, Equal Opportunity, and Affirmative Action**

The University will provide equal access to and opportunity in its programs and facilities, without regard to race, color, creed, religion, national origin, gender, age, marital status, disability, public assistance status, veteran status, sexual orientation, gender identity, or gender expression. For more information, please consult Board of Regents Policy: http://regents.umn.edu/sites/default/files/policies/Equity_Diversity_EO_AA.pdf.

**Disability Accommodations**

The University of Minnesota is committed to providing equitable access to learning opportunities for all students. Disability Services (DS) is the campus office that collaborates with students who have disabilities to provide and/or arrange reasonable accommodations.

If you have, or think you may have, a disability (e.g., mental health, attentional, learning, chronic health, sensory, or physical), please contact DS at 612-626-1333 to arrange a confidential discussion regarding equitable access and reasonable accommodations.

If you are registered with DS and have a current letter requesting reasonable accommodations, please contact your instructor as early in the semester as possible to discuss how the accommodations will be applied in the course.

For more information, please see the DS website, https://diversity.umn.edu/disability/.

**Mental Health and Stress Management**
As a student you may experience a range of issues that can cause barriers to learning, such as strained relationships, increased anxiety, alcohol/drug problems, feeling down, difficulty concentrating and/or lack of motivation. These mental health concerns or stressful events may lead to diminished academic performance and may reduce your ability to participate in daily activities. University of Minnesota services are available to assist you. You can learn more about the broad range of confidential mental health services available on campus via the Student Mental Health Website: [http://www.mentalhealth.umn.edu](http://www.mentalhealth.umn.edu).

**The Office of Student Affairs at the University of Minnesota**

The Office for Student Affairs provides services, programs, and facilities that advance student success, inspire students to make life-long positive contributions to society, promote an inclusive environment, and enrich the University of Minnesota community.

Units within the Office for Student Affairs include, the Aurora Center for Advocacy & Education, Boynton Health Service, Central Career Initiatives (CCE, CDes, CFANS), Leadership Education and Development – Undergraduate Programs (LEAD-UP), the Office for Fraternity and Sorority Life, the Office for Student Conduct and Academic Integrity, the Office for Student Engagement, the Parent Program, Recreational Sports, Student and Community Relations, the Student Conflict Resolution Center, the Student Parent HELP Center, Student Unions & Activities, University Counseling & Consulting Services, and University Student Legal Service.

For more information, please see the Office of Student Affairs at [http://www.osa.umn.edu/index.html](http://www.osa.umn.edu/index.html).

**Academic Freedom and Responsibility: for courses that do not involve students in research**

Academic freedom is a cornerstone of the University. Within the scope and content of the course as defined by the instructor, it includes the freedom to discuss relevant matters in the classroom. Along with this freedom comes responsibility. Students are encouraged to develop the capacity for critical judgment and to engage in sustained and independent search for truth. Students are free to take reasoned exception to the views offered in any course of study and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study for which they are enrolled.*

Reports of concerns about academic freedom are taken seriously, and there are individuals and offices available for help. Contact the instructor, the Department Chair, your adviser, the associate dean of the college, or the Vice Provost for Faculty and Academic Affairs in the Office of the Provost.

**OR:**

**Academic Freedom and Responsibility, for courses that involve students in research**

Academic freedom is a cornerstone of the University. Within the scope and content of the course as defined by the instructor, it includes the freedom to discuss relevant matters in the classroom and conduct relevant research. Along with this freedom comes responsibility. Students are encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth. Students are free to take reasoned exception to the views offered in any course of study and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study for which they are enrolled.* When conducting research, pertinent institutional approvals must be obtained and the research must be consistent with University policies.

Reports of concerns about academic freedom are taken seriously, and there are individuals and offices available for help. Contact the instructor, the Department Chair, your adviser, the associate dean of the college, or the Vice Provost for Faculty and Academic Affairs in the Office of the Provost.

* Language adapted from the American Association of University Professors "Joint Statement on Rights and Freedoms of Students".

Template update 9/2014