I. Introduction

Welcome to Introduction to Health Law! This semester, we will explore various areas of the law that deal with creating and maintaining “health.” In particular, we will cover the major mechanisms for insuring quality in health care and the ethical dilemmas that may result from medical treatment or other kinds of scientific interventions. Moreover, this course incorporates broad theoretical elements. Throughout the semester, we will continually revisit the question, “What is health?” and examine whether the law successfully helps or hinders the goal of promoting and sustaining health.

In addition to cases, statutes, regulations, and law review articles, we will also read materials dealing with theory, policy, and current events. Please take the time to read over the syllabus to get a sense of the class. This course covers four main topics:

1. The Role of Theory & Policy in Health Law
2. The Treatment Relationship
3. Regulating & Enforcing Quality of Care
4. Issues in Bioethics

I’m very excited to be your professor this term. As I want the class to be as engaging and as useful as possible, I encourage questions and welcome feedback. Please feel free to contact me with questions regarding the readings, your assignments, or just the course in general. I look forward to spending the semester with you!

II. Logistics

Required Texts


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1 ‘Introduction to Health Law’ is not a pre-requisite for any other health law course at the Law Center. Thus, if your interests lie primarily in regulation and implementation, you may wish to enroll instead in Health Care Financing, Organization & Quality, offered in the spring. Depending upon the instructor, that class may also use the casebook assigned for this course.

2 All additional reading assignments will be posted on Blackboard under “Course Content.”

**Class Hours**
We will meet Tuesdays and Thursdays, from 10:30 AM-12:00 PM, in Room TU2-211.

**Office Hours**
I will hold office hours in my office on Mondays from 10:00-11:30 AM and by appointment. You may also post questions to me any time on Blackboard in the “Office Hours” section of the discussion board.

**Course Policies**

**Accommodation:**
If you have a disability and require an accommodation, I encourage you to contact the Center for Students with Disabilities and to forward the Center all required documentation if you’ve not done so already. I encourage you to speak to me as well. All students should let me know what I can do to maximize your learning potential, participation, and general access during this course. I want to make the course material accessible, and I want you to succeed as a student. If any aspects of the course or the assignments pose accessibility problems, we can discuss alternatives.

**Attendance:**
You are expected to attend all class sessions. Please see the “Attendance and Preparedness” section under the “Course Requirements” section. I will circulate a sign-in sheet every class. It is your responsibility to sign in. On days in which a problem is due, the hardcopy of your problem will count as your attendance. (For details on the course policy related to problems, see Casebook Problems below.) Falsifying attendance violates the Law Center’s Honor Code and is, therefore, grounds for disciplinary action.

**Course Website:**
Please check Blackboard regularly for any updates related to our class. You can log on through the UH website (http://www.uh.edu/blackboard/). I may occasionally post additional, non-legal readings—such as timely news articles—that deal with the issues we are covering. (On that note, if you come across interesting or topical articles, please forward them to me, so I can share them with the class!) Finally, I will hold online office hours on the discussion board section of Blackboard. If you have questions related to the class, please post them there. Feel free to post anonymously. Similarly, if you email me a question that I think would be relevant to the entire class, I may post my response. However, I will never post your name or your question without your permission.

**Seating Assignments:**
After the first week of class, I will create a seating chart. You must sit in your assigned seat the remainder of the semester.

**Sensitive Material:**
We will cover sensitive material, such as voluntary euthanasia and stem-cell research, over the course of the semester. If for any reason, you do not want to participate in a particular discussion, please let me know ahead of time and I will not call on you.
Casebook Problems:
Our casebook provides a number of thought-provoking problems based on the readings. We will occasionally discuss those problems in class. On the days when I have assigned a problem, please come to class having read the problem and written a 500-1000 word, typed response. Please bring a hard copy of the response with you. Your printed response will count as your attendance for the day. I will not accept responses to the problems by email.

III. Course Requirements

This course has three key requirements: (1) preparing for and attending class sessions (including turning in casebook problems when assigned); (2) participating in at least three discussion panels; and (3) completing a three-hour exam.

(1) Attendance and Preparedness. You are expected to arrive on time and prepared for all of our class sessions. Pursuant to the Law Center’s policy, you must attend at least 80% of all class meetings; however, you should strive to attend 100%. In other words, you can miss no more than five classes. Missing more than five classes will result in your being dropped from the course. As noted, on the days when I have assigned a problem, the printed, hardcopy of your response will count as your attendance.

(2) Class Participation (Discussion Panels). To facilitate our class discussion, we will use discussion panels in lieu of an on-call system. You must sign up for at least three discussion panels. I will circulate the panel sign-up in class on Thursday, August 25. (If you are unable to attend class that day or if you enroll in the course after the first week, the sign-up will be available with my assistant Elaine in the Health Law & Policy Institute until Friday, September 2.) If you do not sign up for three panels, I will randomly assign you to under-enrolled panels. On the days of your panels, you should have prepared extensively for class and should expect to be called on. I may contact discussion-panel members before their assigned class regarding my planned discussion. Members of the discussion panel will be my “go-to” people for that day; however, I reserve the right to call on any member of the class. Students with outstanding in-class participation will be eligible for an upward adjustment of a partial letter-grade (e.g., from B to B+, or from B+ to A-).

(3) Exam. Finally, you will complete a three-hour exam, which will consist of a combination of issue-spotting and policy questions. During the exam you may consult three things: (1) your casebook, (2) any printed additional course reading, and (3) your outline. Your outline must conform to a page limit that will be

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3 By allowing you to choose when you are on-call, you can select topics that are of particular interest to you, as well as the timing that best suits your needs. For example, those of you who do not like speaking in class might choose to schedule your discussion panels for earlier in the semester to get them out of the way. Please choose your panels carefully because once the panels are set, they cannot be changed.

4 I consider good in-class participation to be anything that both helps your classmates learn and indicates your effort to read and understand the assigned material. In making a positive adjustment, I will consider the overall quality—not the quantity—of a student’s in-class participation.
determined and announced in class. We will decide the outline length together in class, based on the outlining you have been doing over the course of the semester. More details regarding the exam format and content will be discussed as the exam date approaches.

IV. Course Reading

_These reading assignments are subject to change based on the pace of our discussion. I will announce any changes in class and on Blackboard._

I. Introduction to Course Themes

A. Bioethical Theory

**Week One—Theoretical Background**

*August 23*

Syllabus

Introduction to Bioethics, Excerpt from _Bioethics_, pp. 1-22

*August 25*

Defining Sickness, CB pp. 1-15


B. Role of Public Policy in Health Law

**Week Two—Policy Concerns**

*August 30*

Defining Quality in Health Care, CB pp. 15-40

Johannes Bircher, _Towards a Dynamic Definition of Health and Disease_, 8 MED., HEALTH CARE, & PHIL. 355 (2005).

*September 1*

Public Health, CB pp. 95-114; Supplement, p. 26


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5 Most likely, the outline page limit will be in the vicinity of 60 typed pages using 10- or 12-point font.

*Problem: Obesity as a Public Health Issue*

OR

*Problem: Opting Out of Childhood Immunization*

**Week Three—Policy Concerns, cont’d**

**September 6**
Balancing Cost & Access, CB pp. 560-74; Supplement pp. 63-65

**September 8**
Distributive Justice (Organ Transplants as Case Study), CB pp. 71-95

**II. Treatment Relationship**

**A. Forming the Treatment Relationship**

**Week Four—Professional-Patient Relationship**

**September 13**
Contract Between Patient & Professional, CB pp. 195-203, pp. 212-30

**September 15**
NO CLASS

**Week Five—Duty to Provide Care**

**September 20**
Common Law, CB pp. 596-609
EMTALA, CB pp. 609-23

**September 22**
ADA & Rehab Act, CB pp. 623-33
Title VI, CB pp. 633-37
B. Obligations of the Treatment Relationship

Week Six—Informed Consent & Confidentiality

September 27
Informed Consent, CB pp. 230-58
Treatment Choices for Coronary Artery Disease (in class)
Problem: Disclosing Physician Risk

September 29
Informed Consent cont’d, CB pp. 258-86

September 30 (make-up)
Confidentiality, CB pp. 289-313

III. Regulating and Enforcing Quality of Care

A. Professional Licensure

Week Seven—Medical Licensing

October 4
Discipline, CB pp. 115-31
Texas Medical Board Information Sheet
Texas Medical Board Mission
Texas Medical Board Complaint Process
Texas Medical Board Complaint Form

October 6
Introduction to Licensure and the Practice of Medicine, Excerpt from
Complementary and Alternative Medicine and the Law, pp. 33-40
Complementary & Alternative Medicine, CB pp. 131-40
Unlicensed Providers, CB pp. 140-49

B. Malpractice Suits

Week Eight—Standard of Care

October 11
Establishing the Standard of Care, CB pp. 327-42

October 13
Practice Guidelines, CB pp. 342-57
Algorithm for Pre-Surgery Cardiac Evaluation
Glycemic Control Alignment for Type 2 Diabetes Mellitus in Adults
Judicial Standard Setting, CB pp. 357-63
Week Nine—Defenses

October 18
Standard of Care Exceptions, CB pp. 381-86
Innovation, CB pp. 386-404
(Note: The excerpt from Richardson is quite long. Read the facts and holding carefully but feel free to skim.)

October 20
Affirmative Defenses, CB pp. 404-12
Contributory Fault, CB pp. 412-21
Attenuation, CB pp. 421-25

_Problem: The Difficult Patient_

IV. Issues in Bioethics

A. Reproductive & Genetic Technologies

Week Ten—Reproductive Technology

October 25
Introduction to Reproductive Technologies, CB pp. 1262-66
In Vitro Fertilization, CB pp. 1283-96

October 27
Natural & Gestational Surrogacy, CB pp. 1296-1321

Week Eleven—Cloning, Stem-Cell Research, & Genetic Information

November 1
Cloning & Stem-Cell Research, CB pp. 1321-29
_A Discussion on Cloning_ (2008) (in class)

November 3
Genetic Information, CB pp. 1352-67, 1372-79; Supplement pp. 186-89

**B. Death & Dying**

**Week Twelve—Introduction to Death & Dying**

**November 8**
- Defining Death, CB pp. 1380-89
- “Dead Donor” Rule, CB pp. 1389-1405

**November 10**
- NO CLASS

**Week Thirteen—The Right to Die & Physician-Assisted Death**

**November 15**
- Right to Die, CB pp. 1408-32

**November 17**
- Physician-Assisted Death (Constitutional), CB pp. 1537-56

**Week Fourteen—The Right to Die & Physician-Assisted Death, cont’d**

**November 22**
- Physician-Assisted Death (Statutory), CB pp. 1556-67; Supplement pp. 192-209
  - *Problem: Drafting Legislation*

**November 24**
- NO CLASS (THANKSGIVING HOLIDAY)

**Week Fifteen—Exam Review**

**November 29**
- NO CLASS (RESERVED FOR MAKE-UP)

**December 1**
- Exam Review

**Final Exam**
- December 15, 9:00 AM-12:00 PM