Public Health Law

LAW 5397-25923

Syllabus

University of Houston Law Center
Fall 2017
Monday and Wednesday 4:00p-5:20p
Room: TUII-215

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I. Course Description

This three-credit course is designed for LL.M. and upper level J.D. students who are interested in public health law. This course provides an in-depth examination of public health law principles and challenges. Students will explore constitutional issues related to public health and develop an understanding of the state’s public health powers and duties as they are balanced against an individual’s legally protected rights. The course will explore a range of public health law issues including infectious disease control measures, immunization law and policy, emergency preparedness and bioterrorism, government regulation of unhealthy products, the state’s role in promoting healthy behaviors, and public health surveillance and privacy issues.

II. Course Material

Required reading materials:

Readings for each class may consist of materials from the Gostin & Wiley textbook PUBLIC HEALTH LAW: POWER, DUTY, RESTRAINT, supplemental texts, statutory and regulatory provisions, journal articles, court opinions, and media reports describing the impact of public health laws and regulations. Unless otherwise noted, additional readings may be accessed online though our LexisNexis Web Course “Public Health Law (Fall 2017)” or through the library. Most reading assignments are found in the following sources:

III. Course Requirements and Grading

Classes cannot be successful without student preparation and participation. Therefore, attendance is required for all classes except in extraordinary circumstances which must be promptly reported. Attendance will be kept. The Law Center has a minimum 80% attendance policy for students. Any student who misses 5 class meetings will be reported to the Associate Dean, may be dropped automatically from the class, or receive a failing grade.

Students are afforded the privilege of attending class remotely using Zoom technology a maximum of 5 times. Students must sign-in remotely for the entire class period to fulfill the attendance requirement for that class period. Remote students are expected to participate fully using video and audio and may be called on during the class period. Zoom connection: https://uhlc.zoom.us/j/484232618.

Grading will be based on a take home final exam, weekly written comments, in-class case study exercises, mock hearing testimony, and class participation.

<table>
<thead>
<tr>
<th>Assignment</th>
<th>Due Date</th>
<th>Final Grade Percentage</th>
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<tbody>
<tr>
<td>Weekly Written Comments</td>
<td>weekly</td>
<td>10%</td>
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<tr>
<td>In-Class Case Study Exercises</td>
<td>weekly</td>
<td>15%</td>
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<tr>
<td>Class Participation</td>
<td>weekly</td>
<td>5%</td>
</tr>
<tr>
<td>Mock Hearing Testimony</td>
<td>November 13-15</td>
<td>10%</td>
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<tr>
<td>Final Exam</td>
<td>take home due December 11</td>
<td>60%</td>
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Students are required to submit a brief comment reflecting their insights about the readings or a question raised by the readings by 10 a.m. on the day of the class. Questions should be sent to anwinnik@central.uh.edu with “[class date] class comment” in the subject line.

The final exam will consist of a public health law problem which the student will address in essay form using less than 2,500 words. The final exam is open book; students may use any course materials and notes, but may not conduct additional outside research during the exam. Collaboration is strictly prohibited and will result in disciplinary action. Students have up to 48 hours to complete the exam. The 48-hour period begins when the student checks their exam from the UH Law Library circulation desk. Exams will be available to check out from the UH Law Library circulation desk beginning Friday, December 1 (the first day of the exam period). All exams must be returned to the UH Law Library circulation desk by Monday, December 11 at 9:00 p.m., even if the student checked out the exam less than 48 hours from this deadline.

Class cancellation and make-up days:

In the event class must be cancelled due to school closure (e.g., weather), a make-up day will be held as scheduled by the Law Center. The University has designated Tuesday, December 5 as a make-up day in the event of unplanned school closure. In the event class must be cancelled due to faculty necessity, the Law Center has assigned the following six Fridays as possible make-up days for this course: September 1, September 15, September 29, October 13, October 27, and November 10.

Guest lecturers:

Guest lecturers will present at certain classes. Please give our guests the courtesy of your preparation and participation. We are fortunate to have them offer their insight and knowledge.

Students needing special accommodations:

If you need special accommodation, please let your professor know so that we can make arrangements with the appropriate support services within the university.

Students needing counseling:

University of Houston Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html.

TLAP (Texas Lawyers’ Assistance Program), a free program sponsored by the State Bar of Texas, provides confidential support to law students for problems with stress, anxiety, depression, substance use, and other mental health disorders. Crisis counseling, referrals, and peer assistance are available. https://www.tlaphelps.org/law-students.
IV. Course Outline

Readings, assignment due dates, guest speakers, and other activities may be modified.

Week 1, Class 1 (August 21)

Introduction to the field of public health law, course requirements and assignments.

Readings:


Week 1, Class 2 (August 23)

Continued discussion on the field of public health law, ethics, and risk regulation.

Readings:


Due:

1. Written comment emailed by 10:00 a.m., August 23.

Week 2, Class 3 (August 28)

Discussion on public health powers and duties.

Readings:


Due:

1. Written comment emailed by 10:00 a.m., August 28.

Week 2, Class 4 (August 30)

Continued discussion on public health powers and duties.

Readings:


Due:

1. Written comment emailed by 10:00 a.m., August 30.

Week 3, Class 5 (September 6)
Discussion on the constitutional limits on the exercise of public health powers.

Readings:


Due:

1. Written comment emailed by 10:00 a.m., September 6.

Week 4, Class 6 (September 11)

Discussion on public health agencies, administrative law and local government law.

Readings:


Due:

1. Written comment emailed by 10:00 a.m., September 11.

Week 4, Class 7 (September 13)

Continued discussion on public health agencies, administrative law and local government law. Case study on Typhoid Mary.

Readings:

2. Letter from Mary Mallon to George Francis O’Neill (June 1909) (on file in LexisNexis WebCourse).

Week 5, Class 8 (September 18)

Discussion on direct regulation for the public’s health and safety.

Readings:


Due:

1. Written comment emailed by 10:00 a.m., September 18.

Week 5, Class 9 (September 20)

Case study on public health nuisance.

Readings:


### Week 6, Class 10 (September 25)

**Discussion on infectious disease prevention and control.**

**Guest Speaker:** Catherine Troisi, Ph.D., Associate Professor, Divisions of Management, Policy & Community Health, and Epidemiology, University of Texas Health Science Center at Houston School of Public Health

**Readings:**


**Due:**

1. Written comment emailed by 10:00 a.m., September 25.

### Week 6, Class 11 (September 27)

Continued discussion on infectious disease prevention and control. Case study on *Jacobson v. Massachusetts*.

**Readings:**


**Due:**

1. Written comment emailed by 10:00 a.m., September 27.

### Week 7, Class 12 (October 2)

Discussion on social and political impact of pandemics.
**Guest Speaker:** Christine Crudo Blackburn, Ph.D., Postdoctoral Research Fellow, Scowcroft Institute of International Affairs, Texas A&M University Bush School of Government & Public Service

**Readings:**

**Due:**
1. Written comment emailed by 10:00 a.m., October 2.

**Week 7, Class 13 (October 4)**
Discussion on public health emergency legal preparedness and response.

**Readings:**

**Due:**
1. Written comment emailed by 10:00 a.m., October 4.

**Week 8, Class 14 (October 9)**
Discussion on tobacco regulation, indirect regulation and torts.

**Guest Speaker:** Alexandra Loukas, Ph.D., Barbie M. and Gary L. Coleman Professor in Education and Principal Investigator for the Tobacco Research and Evaluation Team, University of Texas at Austin College of Education

**Readings:**

**Due:**
1. Written comment emailed by 10:00 a.m., October 9.

**Week 8, Class 15 (October 11)**
Continued discussion on tobacco regulation, indirect regulation and torts. Case study on tobacco.
Readings:


Due:

1. Written comment emailed by 10:00 a.m., October 11.

Week 9, Class 16 (October 16)

Discussion on injury prevention.

Readings:


Due:

1. Written comment emailed by 10:00 a.m., October 16.

Week 9, Class 17 (October 18)

Continued discussion on injury prevention. Case study on firearms.

Readings:


**Week 10, Class 18** (October 23)

Discussion on public health surveillance and privacy. Discussion on testimony assignment.

**Readings:**


**Due:**

1. Written comment emailed by 10:00 a.m., October 18.

**Week 10, Class 19** (October 25)

Case study on surveillance and privacy.

**Week 11, Class 20** (October 30)

Discussion on non-communicable and chronic conditions

**Readings:**


2. Vikram Patel & Somnath Chatterji, *Integrating Mental Health In Care For Noncommunicable Diseases: An Imperative For Person-Centered Care*, 34(9) HEALTH AFFAIRS 1498 (Sept. 2015).

**Due:**

1. Written comment emailed by 10:00 a.m., October 30.

**Week 11, Class 21** (November 1)

Discussion on the social safety net.

**Readings:**

Due:
1. Written comment emailed by 10:00 a.m., November 1.

Week 12, Class 22 (November 6)
Discussion on health justice, health disparities, and social determinants of health.


Readings:

Due:
1. Written comment emailed by 10:00 a.m., November 6.

Week 12, Class 23 (November 8)
Workshop on intersection of politics and policy with public health laws, regulations, and legislation.

Week 13, Class 24 (November 13)
Mock hearing on smoking laws and regulations.

Due:
1. Smoking Group only: Presentation of 3-minute oral testimony.
2. Smoking Group only: Written testimony (400 words) emailed by 10:00 a.m., November 13.

Week 13, Class 25 (November 15)
Mock hearing on firearm laws and regulations.

Due:
1. Firearm Group only: Presentation of 3-minute oral testimony.
2. Firearm Group only: Written testimony (400 words) emailed by 10:00 a.m., November 15.

Week 14, Class 26 (November 20)
Case study on global public health law and Extensively Drug-Resistant Tuberculosis (XDR-TB).

Week 15, Class 27 (November 27)
Exam Review