

HEALTH LAW FINANCING, ORGANIZATION & QUALITY
(LAW 6331 – Spring 2013)
Prof. Mantel
Syllabus and Course Policies

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Office Hours: Monday 2:00-3:00 p.m. and by appointment

Course Description

This course is an introduction to the structure, financing, and regulation of the American health care system. The focus is on health care institutions rather than the physician-patient relationship. The first part of the course examines physicians' professional relationships with hospitals and other health care institutions, the various ways in which our system regulates the quality of care provided in health care institutions, and hospitals' duty to provide care to patients seeking their services. The second part of the course focuses on health insurance. Specifically, we will discuss the regulation of private health insurance, the public insurance programs Medicare and Medicaid, and how health care reform will increase access to health insurance. We conclude the course by studying the business of health care and the laws that impact health care business enterprises, including the tax laws governing tax-exempt organizations, the antitrust laws, and the fraud and abuse laws.

Course Materials:

BARRY FURROW ET AL, THE LAW OF HEALTH CARE ORGANIZATION AND FINANCE (6th ed. 2008)* and accompanying Health Care Reform Supplement (2012) (please be sure to purchase the 2012 edition of the supplement and not earlier editions). Additional materials will be distributed in class, posted on Blackboard, or available at the URL link indicated in the syllabus.

*Note: If you took Introduction to Health Law and previously purchased BARRY R. FURROW ET AL, HEALTH LAW: CASES, MATERIALS, AND PROBLEMS (6th ed. 2008), you do not need to purchase THE LAW OF HEALTH CARE ORGANIZATION AND FINANCE.

Course Requirements and Policies:

Course Requirements and Grading: This course has two requirements: (1) preparing for and attending class sessions; and (2) completing a three-hour, in-class exam. Only the final exam will be graded. However, at my discretion, a student's final grade may be adjusted upward or downward by one "notch" (e.g., from B to B+, or from B- to C+) in recognition of strong classroom contributions or lack thereof.

- (1) **Attendance and Preparedness.** For each class, I will ask questions of the panel of students assigned to be “on-call” that day; I also will call on 1-2 other students at random. Preparation and active participation is expected of all students. That said, I understand that illness or other situations may prevent you from being adequately prepared for class. If you are not prepared for class, I will give you a “pass” provided you ask me not to call on you prior to the start of class. You are allowed no more than two passes for the semester. If I call on you and you are unprepared, you will be required to choose the classmate who must answer my question in your place. Pursuant to the Law Center’s policy, you must attend at least 80% of all class meetings; however, you should strive to attend 100%. Missing more than 20% of classes will result in your being dropped from the course.
- (2) **Exam.** You will complete a graded 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 and health reform supplement, (2) any *printed* additional course reading, and (3) your outline. More details regarding the exam format and content will be discussed as the exam date approaches.

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

Web site: Announcements, assignments, and links to supplemental materials will be posted on my home page.

Office Hours: I will hold office hours in my office on Monday from 2:00-3:00 p.m. and by appointment. Please feel free to come by to see me not only about class matters, but for course selection guidance, career counseling, or any other matter related to your legal education and career.

COURSE OUTLINE & READING LIST

A single reading does not necessarily correspond to a single class session. Reading assignments will be announced in class. Supplemental materials will be posted on Blackboard or are available at the URL link indicated below. Unless otherwise specified, page references are to the casebook.*

*For those of you using the casebook BARRY R. FURROW ET AL, HEALTH LAW: CASES, MATERIALS, AND PROBLEMS (6th ed. 2008), please see Attachment A for the corresponding page references.

I. INTRODUCTION

A Note on Medical Care (10-15)

II. PROFESSIONAL RELATIONSHIPS IN HEALTH CARE ENTERPRISES

A. Staff Privileges and Hospital-Physician Contracts

1. Overview (498-501)
2. Corrective action and contracting issues
 - a. *Greisman v. Newcomb Hospital*, 192 A.2d 817 (N.J. 1963)
 - b. Individual discipline (501-508)
 - c. *St. John's Hospital Medical Staff v. St. John Regional Medical Center*, 245 N.W.2d 472 (S.D. 1976)
 - d. Hospital reorganization and economic credentialing (508-22)

B. Corporate Practice of Medicine

1. General (594-601)
2. *Flynn Bros. v. First Med. Assoc.*, 715 S.W.2d 782 (Tex. App. 1986)

III. LIABILITY OF HEALTH CARE INSTITUTIONS

A. Agency, Control, and Vicarious Liability

1. *Adamski v. Tacoma General Hospital*, 579 P.2d 970 (Wash. Ct. App. 1978)
2. *Baptist Memorial Hospital v. Sampson*, 969 S.W.2d 945 (Tex. Sup. Ct. 1998)

B. Hospital Direct Liability and Corporate Negligence

1. *Darling v. Charleston Community Memorial Hosp.*, 211 N.E.2d 253 (Ill. 1965)
2. *Johnson v. Misericordia Community Hosp.*, 301 N.W.2d 156 (Wis. 1981)

C. Rethinking Hospital Quality: Atul Gawande, *The Checklist: If Something So Simple Can Transform Intensive Care, What Else Can it Do?*, NEW YORKER, December 10, 2007,

http://www.newyorker.com/reporting/2007/12/10/071210fa_fact_gawande

IV. QUALITY CONTROL REGULATION OF HEALTH CARE INSTITUTIONS

- A. Overview** (21-26, 69-71)
- B. Regulatory Systems** (140-42, 144-57, 162-72; Supplement 28 (starting at Part II) - 31, 33-34)
- C. Private Accreditation of Health Care Facilities**
 - 1. Overview (172-75)
 - 2. JCAHO Fact Sheets:
 - http://www.jointcommission.org/facts_about_the_joint_commission/
 - http://www.jointcommission.org/facts_about_joint_commission_accreditation_and_certification/
 - http://www.jointcommission.org/accreditation_process_overview/

V. NEW APPROACHES TO PROMOTING QUALITY OF CARE

- A. General** (34-37, 45-57)
- B. Financial Incentives** (441-45; Supplement 197-199)
- C. Electronic Health Records, Outcome Measures, and Guidelines** (37-40; Supplement 6-9, 11-21)

VI. DUTY TO PROVIDE CARE

- A. Not-For-Profit Hospitals**

VII. STATE REGULATION OF PRIVATE HEALTH INSURANCE AND MANAGED CARE

- A. Overview of Insurance and Managed Care**
- B. Contract Liability of Private Insurers and Managed Care Organizations**
- C. Tort Liability of Managed Care**
- D. Regulation of Insurance and Managed Care**
- E. Managed Care Physician Contracts**

VIII. REGULATION OF INSURANCE AND MANAGED CARE: THE FEDERAL ROLE

- A. ERISA**
- B. Federal Initiatives to Expand Private Insurance Coverage**

IX. MEDICARE AND MEDICAID

- A. Medicare Overview**
- B. Medicare Payment for Services**
- C. Medicaid Overview**

X. HEALTH CARE REFORM: EXPANDING ACCESS TO HEALTH INSURANCE

XI. BUSINESS ENTERPRISES

A. Overview

B. Business Enterprises Involving Tax-Exempt Health Care Organizations

C. Antitrust

XIV. FRAUD AND ABUSE

A. False Claims

B. Medicare & Medicaid Antikickback Statute

C. Stark Law

Attachment A – Page References Cross Walk

Page References for <u>THE LAW OF HEALTH CARE ORGANIZATION</u> <u>AND FINANCE</u>	Corresponding Page References for <u>HEALTH LAW: CASES, MATERIALS,</u> <u>AND PROBLEMS</u>
10-15	10-15
498-522	849-73
594-601	945-52
21-26	21-26
140-42	159-61
144-50	163-69
162-69	181-88
172-75	191-94
34-37	34-37
45-57	45-57
441-45	791-95
37-40	37-40