

**THE U.S. HEALTH SYSTEM: AN INTRODUCTION TO MANAGED CARE,  
TRANSACTIONS, AND POLICY  
(Spring 2015)  
Prof. Mantel  
Syllabus**

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**Course Description**

Healthcare is one of the most regulated industries in the United States and currently accounts for approximately 18 percent of the U.S. gross domestic product. In addition, the industry is going through a tremendous restructuring in how health care is organized, delivered, and paid for, in part as a result of the Affordable Care Act (more commonly referred to as “Obamacare”) and in part due to market forces and technological developments. This course provides students with an understanding of how the health care system is currently organized, financed, and regulated, and explores what the health care system of tomorrow may look like.

This course focuses on health care institutions and payors, rather than the physician-patient relationship. Specifically, the course provides a basic overview of key health laws and policies that students should know if they are to practice health law at a law firm; work in-house in a hospital, academic medical center, or managed care organization’s legal department, compliance office, or risk management department; or work as a government attorney drafting or enforcing federal and state health laws. The first 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 the new health care exchanges. We then study 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. The course concludes with a study of the federal privacy law, known as HIPAA.

In addition to teaching students about fundamental health laws related to financing, organization, and quality, the course helps students develop a set of lawyering skills that all health law attorneys should have. Specifically, the course gives students several opportunities to analyze federal and state health laws, regulations, and agency guidance, a skill that health lawyers rank as the most important skills for recent law graduates entering the health law field. The course also gives students practical advice for how to analyze client problems and advise clients on their legal options. Students also will benefit from guest speakers who will share their expertise and experience with the class.

### **Course Materials:**

BARRY FURROW ET AL, THE LAW OF HEALTH CARE ORGANIZATION AND FINANCE (7<sup>th</sup> ed. 2013) (please be sure to purchase the **2013** edition and not the 2008 edition). Additional materials will be distributed in class or posted on the class website, or available at the URL link indicated in the syllabus.

\*Note: If you previously purchased BARRY R. FURROW ET AL, HEALTH LAW: CASES, MATERIALS, AND PROBLEMS (7th ed. 2013), 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 take-home final exam (to be scheduled at the student's convenience). 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.

## **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.\*

### **I. INTRODUCTION**

- A. Historical Overview of the U.S. Health Care System**
- B. Overview of the Regulatory Rulemaking Process and Agency Guidance**

### **II. 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 Organizations**
- D. Managed Care Physician Contracts**
- E. Regulation of Insurance and Managed Care**

### **III. REGULATION OF INSURANCE AND MANAGED CARE: THE FEDERAL ROLE**

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

### **IV. MEDICARE, MEDICAID, and CHIP**

- A. Medicare Overview**
- B. Medicare Payment for Services**
  - 1. Prospective payment and fee schedules
  - 2. Financial Incentives to Improve Quality
- C. Medicaid**
- D. CHIP**

### **V. DUTY TO PROVIDE CARE – NOT-FOR-PROFIT HOSPITALS**

- A. State tax laws**
- B. Federal tax laws**

## **VI. BUSINESS ENTERPRISES**

### **A. Overview**

### **B. Business Enterprises Involving Tax-Exempt Health Care Organizations**

1. Joint ventures
2. Inurement, private benefit, and excess benefit transactions

### **C. Antitrust**

1. Overview
2. Collective bargaining and other joint ventures

## **VII. FRAUD AND ABUSE**

### **A. False Claims**

### **B. Medicare & Medicaid Anti-kickback Statute**

### **C. Stark Law**

## **IX. HIPAA Privacy Rule**