

**Health Care and the Law: PH236 and PSC236
Syllabus**

Instructor: Margie Hodges Shaw, JD, MA (philosophy), Ph.D. (education)

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Office hours: By appointment.

Credit hours:

4 credit hours

Time:

Tuesdays and Thursdays 9:40 – 10:55

Place:

CSB 209

Course Description

This course provides an introduction to the legal foundations of health care in America. It is the responsibility of the American government to promote and protect the health and welfare of the public while respecting the interests, and upholding the rights, of the individual. The content of this course addresses how the law balances these collective and individual rights. The material covers a broad range of legal issues in health care, including autonomy, privacy, liberty, and proprietary interests, from the perspective of the provider(s) and the patient.

Topics include laws related to physical and biological interventions to control infectious disease; regulation of medical services, medical professionals, and standards of care; medical malpractice and liability; access to health care, including public and private insurance; reproductive rights;

2. Identify, distinguish, and discuss the relationship between community health issues and individual health issues;
3. Identify and analyze legal issues in health care; and
4. Communicate the interpretive understanding of a case or statute, or a complex regulatory scheme, both orally and in writing.

Enrollment:

Cap of 40 students.

Prerequisites:

Not open to freshmen.

Course Materials:

Required texts: None

late will not be graded. To address unexpected events, I will drop the two lowest short answer assignment grades. If a student anticipates an absence, I will accept an assignment early.

Final Grade Scale

Grades for assignments for this course are assigned a numerical value. The final grade is comprised of the cumulative points earned.

A	=	96-100	(Superior)
A-	=	92-95	
B+	=	89-91	
B	=	85-88	(Above Average)
B-	=	81-84	
C+	=	78-80	
C	=	74-77	(Minimum Satisfactory Grade)
C-	=	70-73	
D+	=	67-69	
D	=	64-66	
D-	=	61-63	(Minimum Passing Grade)
E	<	60	(Failure)

Americans with Disabilities Act (ADA):

The University of Rochester is committed to providing equal educational and employment opportunities for individuals with disabilities, in accordance with state and federal laws and regulations, including the Americans with Disabilities Act (ADA) of 1991 and Section 504 of the Rehabilitation Act of 1973. To ensure equality of access for students with disabilities, the U

September 4: What is health?

Assignment: Gostin, Lawrence. "A Theory and Definition of Public Health Law," *Journal of Health Care Law & Policy* 10 (1) (2007): 1-12.

September 6: What is law?

Assignment: 42 U.S.C. § 1395DD "Examination and Treatment For Emergency Medical Conditions and Women in Active Labor"

Glaspell, Susan. "A Jury of Her Peers" available online at <http://learner.org/interactives/literature/story/fulltext.html>.

September 11: Duties and powers of government

Assignment: A More Perfect Union: The Creation of the U.S. Constitution. The U.S. National Archives & Records Administration, <www.archives.gov>.

The Constitution of the United States: A Transcription. The U.S. National Archives & Records Administration, <www.archives.gov>.

September 13: An introduction to legal thinking

Katskee v. Blue Cross/Blue Shield of Nebraska, 245 Neb. 808, 515 N. W.2d 645.

September 18: Government and public health

Assignment: Shattuck, Lemuel. "Report of the Sanitary Commission of Massachusetts, 1850:" ii-16. Stop at footnote 16. Scroll through the rest of the document. Read all the enumerated recommendations. You are not required to read the accompanied text for each recommendation: 72-163.

Optional: Gawande, Atul. "Big Med: Restaurant chains have managed to combine quality control, cost control, and innovation. Can health care? *New Yorker*, August 13 & 20, 2012.

September 20: What is a health care professional?

Assignment: Broyard, Anatole. Part Three, "The Patient Examines the Doctor" in *Intoxicated by my Illness*. New York: Clarkson N. Potter, Inc., 1992.

Klass, Alan, MD. "What is a profession?" *Canad. M.A. J.* September 16, 1961, Vol. 85.

Miller ex rel. Miller v. HCA, Inc., 118 SW 3d 758 (2003).

Optional: Buckwalter, J. Galen. "The good patient." *New England Journal of Medicine* 357; 25 (December 20, 2007).

September 25: Regulation of Health Care Professions

Assignment: Gawande, Atul. *Annals of Medicine*, "When Doctors Make Mistakes," *The New Yorker*, February 1, 1999.

Gawande, Atul. *Annals of Medicine*, "Good Doctors Go Bad," *The New Yorker*, August 7, 2000. SqT Q0 50 0 0 Tm /TT2.0 1 Tf [(G) -0.2 (a) OSTT2.0 1 Tf [(T)3 /TT2.0 1 Tfogi

Assignment: Pike v. Honsinger, 155 N.Y. 201, 209, 49 N.E. 760; 1898 N.Y. LEXIS 860.

October 2: Institutional liability

Assignment: Darling v. Charleston Community Memorial Hospital, 33 Ill.2d 326, 211 N.E.2d 253, 14 A.L.R.3d 860 (Ill. Sep 29, 1965).

October 4: The operation and regulation of hospitals and health care facilities (Guest Lecture)

Assignment: In the Matter of Karen Quinlan. 70 N.J. 10; 355 A.2d 647 (1976).

November 15: Death and dying

Assignment: Quill, Timothy. "Death and Dignity: A case of individualized decision making." New England Journal of Medicine. Sounding Board, March 7, 1991.

November 20: Reproductive rights

Assignment: Sections I, II, and V - X in Justice Blackmun's opinion in Roe v. Wade, 410 U.S. 113 (1973).

November 22: Reproductive rights

Assignment: Excerpt of Planned Parenthood v. Casey, 505 U.S. 833 (1992).

November 27: State and federal control over decisions affecting health

Assignment: People v. Lochner, 177 N.Y. 145; 69 N.E. 373; 1904 N.Y. LEXIS 918.

November 29: State and federal control over decisions affecting health

Assignment: Lochner v. New York, 198 U.S. 45; 25 S. Ct. 539; 49 L. Ed. 937; 1905 U.S. LEXIS 1153.

December 4: The Patient Protection and Affordable Care Act

Assignment: National Federation of Independent Business et al. v. Sebelius, 567 U.S. ___ (2012), Opinion of Chief Justice John G. Roberts, pp. 1-17.

December 6: The Patient Protection and Affordable Care Act

Assignment: National Federation of Independent Business et al. v. Sebelius, 567 U.S. ___ (2012), Opinion of Chief Justice John G. Roberts, pp. 17-33.

December 11: The Patient Protection and Affordable Care Act

Assignment: National Federation of Independent Business et al. v. Sebelius, 567 U.S. ___ (2012), Opinion of Chief Justice John G. Roberts, pp. 33-59.