

Syllabus for Health Law Organization and Finance
Professor Lucinda Jesson
Fall 2010

Course: Health Law Organization and Finance

Credits: 3

Time: Sunday, 1:15-4:15 p.m.

Place: Room 105

Professor: **Lucinda Jesson**
Office 229E Law Grad Building
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I am available by email to schedule meetings or to answer short inquiries. If you have substantive questions and comments, however, please visit me by phone or in person.

COURSE DESCRIPTION

Welcome to Health Law Organization and Finance!

This course does not require math skills or an accounting background. Rather, it addresses what every politician today is discussing: the regulation, structure, and financing of the American health care system. It will focus on the cost and access issues which permeate health care. The class will examine how health care is funded through both private and public insurance, including Medicare and Medicaid. The regulation of private health insurance will be reviewed, as the policy questions about addressing access to the large uninsured population. The course will also review the forms and structure of health care enterprises, with a focus on the creation and regulation of tax-exempt organizations. The fraud and abuse laws, including the False Claims Act, the Anti-Kickback law and STARK, will be reviewed both from the perspective of the compliance department and of the lawyer who must structure health care entities with these laws in mind. Finally, the course will review how the antitrust laws impact the structure and conduct of health care providers.

LEARNING OUTCOMES

By the end of the course, students should be able to:

- Understand how health care is financed in the United States
- Identify the impediments to access for the uninsured and the cost drivers in health care
- Analyze how the laws that govern finance and cost controls also drive how organizations are structured
- Advise clients about how to achieve their goals within the bounds of the intricate health care laws and regulations
- Interpret government regulations and identify the ambiguities that lurk within them
- Identify the governance obligations of the health care nonprofit
- Critically analyze national health reform legislation

COURSE MATERIALS

All reading assignments are from the required text, *Health Law: Cases, Materials and Problems* by Barry R. Furrow et al, (West 6th Edition) and its supplement. This is the required text for both parts of our survey classes: this course and Health Law Quality and Liability. However, if you are only taking Health Law Organization and Finance, there is a softbound portion of the larger text available for purchase from West. You will have to adjust the page assignments in the syllabus, but the softbound version is less expensive if you are not planning on taking both survey classes. A number of articles and a few up to date cases will be assigned and posted on TWEN, as will any Power Points used by Professor Jesson during class. However, the Power Points will only be posted after the class ends.

CURRENT AWARENESS

You are taking this course at an historic time. 2010 will bring momentous changes in health law and policy. Accordingly, I expect that each of you will keep up with news in health law and policy. Everyone is encouraged to share copies of articles and news items of interest to the class, and we will start each class with a discussion of current events and how they relate to our course.

TECHNOLOGY POLICY

In order to facilitate focused interactive class and small group discussion, there will be occasions when the class will be asked to close their notebook computers and/or turn off technology they have been using. At other times, students may use laptops for note taking. **If a student uses classroom time to read or send e-mail messages, visit web sites or engage in any other online or technology based**

activities (including cellular telephones) that student will have his or her grade lowered by one-half of a letter. If this occurs a second time, that student will be asked to drop the course and will not receive academic credit for the class.

COURSE EVALUATION

Completion of the following assignments and examinations is required to obtain a passing grade in the course:

- Client advice letter assignment
- Short assignments (TBD)
- Final examination

Subject to the caveat below regarding class preparedness and participation, seventy percent of your course grade will be based on one self-scheduled, anonymous, two hour final examination, which shall include essay and objective questions. Thirty percent of your grade will be based on a client advice letter assignment which is due October 30. The client advice letter will be submitted on TWEN and graded anonymously. The assignment will be posted five days before on TWEN. It will take three to five hours to complete. Students may use the designed class time (or otherwise) to complete the advice letter.

The caveat is that your course grade may be adjusted one-half of a letter (up or down) based on class preparedness and participation in accordance with Hamline University Academic Rules 1-107C5 and 1-110. More specifically, I reserve the right to: 1) raise your course grade by one-half of a letter if you participate substantially when not called on, distinguish yourself when called on, distinguish yourself in your small group presentation and any assignments, and/or share intriguing and pertinent news articles with the class; or 2) lower your course grade by one-half of a letter if you are not prepared when called on. Your active participation in small group exercises will be assessed as part of your class preparedness. Non J.D. students may be graded on a separate curve.

ATTENDANCE

At the beginning of each class, I will distribute a class roster for you to sign. If you are not present within five minutes of the commencement of class, your tardiness will count as an absence. If you are absent for more than two classes, your absences will be treated as “excessive” in accordance with Hamline University Academic Rule 1-110.

COURSE SCHEDULE

This syllabus will be updated to reflect revised readings, and any short assignments described above. **It will also be updated to include readings in the Supplement which will become available in August.** Please always refer to TWEN for the most up-to-date copy of the syllabus.

August 15

Introduction to course; explanation of course syllabus, grading and class preparation requirements. Overview of current system of health care financing and how health reform aims to change things.

- Reading:*
- Health Law pages 26-28, 560-574
 - Leonardhardt, *Making Health Care Better* (NY Times 11/8/2009), posted on TWEN
 - Gawande, *The Cost Conundrum* (New Yorker 6/1/2009), posted on TWEN

- Reference*
- Summary of 2010 Patient Protection and Affordable Care Act

Focus on Access

August 22

The structure and role of public health care programs: an overview of Medicare and Medicaid.

- Reading:*
- Health Law pages 785-803
 - Supplement pages 58-88 and pages 131-153
 - Summaries of Medicare and Medicaid Programs posted on TWEN

August 29

Introduction to Private Health Insurance and its regulation by states.

- Reading:*
- Health Law pages 638-644, 660-678
 - Supplement pages 96-120
 - Primer on Private Health Insurance, posted on TWEN

Guest Speaker: Bob Seng, Target Corporation

September 12

The federal regulation of private health insurance: ERISA. The federal regulation of private health insurance, continued: ERISA, HIPAA and a look beyond Managed Care to consumer driven products.

- Reading:*
- Health Law pages 678-710, 734-752
(skip note 2 on page 741)

- Supplement pages 121-130

Focus on Structure and the Implications of Nonprofit Status

September 19

Introduction to the forms of health care organizational structures, the obligations of the Board of Directors and the implications of nonprofit status.

- Reading:*
- Health Law pages 909-945, 952-967
 - Supplement pages 154-158

September 26

Further discussion of health care facilities as charities and the community benefit requirements of tax-exempt organizations. Address joint ventures between Tax-Exempt and For-Profit Organizations. Discussion on role of lawyer in providing client advice. Small group role play of St. James Hospital System problem, set one.

- Reading:*
- Health Law pages 966-1009
 - Supplement pages 158-162

October 3

Examine excess benefit transactions and the Corporate Practice of Medicine Doctrine. Read and discuss excerpts from the Minnesota AG investigation of a nonprofit health care provider.

- Reading:*
- Health Law pages 945-952; 1009-1022
 - Excerpts from AG investigation posted on TWEN

Fraud and Abuse Laws

October 10

Begin section on the False Claims Act and the impact of Federal Fraud and Abuse Laws on health care providers' financial arrangements. *Each Student is to bring one press release and background piece on a recent False Claims Act judgment and/or settlement which will be discussed in class.* Examine the role qui tam claimants play in enforcement of the Fraud and Abuse laws. Role play in small groups the St. James Hospital Problem part 2, to be passed out in class.

- Reading:*
- Health Law pages 1023-1053
 - Supplement pages 163-171
 - Rhoad et al., *A Gathering Storm* (The Health Lawyer 2009), posted on TWEN
 - Problem distributed in class

- Assignment:*
- Bring one press release and background piece on a recent False Claims Act judgment and/or settlement, which will be discussed in class.

October 17

Continue section on Fraud and Abuse with examination of referral fees and the Anti Kick Back Law. (Pay close attention to the problems set out in the text.).

Reading: • Health Law pages: 1053-1081

October 30

Client Advice Letter Due on TWEN before 4:00 p.m.

November 7

Examine the Stark Laws: a transactional approach to self-referrals.

Lecture on HIPAA basics. (Students who have taken HIPAA may be excused from the last hour of class during this overview.)

Reading: • Health Law pages 1081-1094.
• Supplement pages 171-174

Antitrust Issues in Health Care

November 14

Introduction to antitrust issues in health care, focusing on alleged restraint of trade and boycotts by professional associations and addressing how antitrust laws impact professional standards and staffing decisions.

Reading: • Health Law pages 1095-1159.

November 21

Discuss how antitrust laws impact professional standards and staffing decisions.

Small groups will review and role play exercises involving two antitrust problems distributed in class. Next we will address the antitrust issues raised by the integration and financing of health care enterprises as well as the impact of antitrust laws on mergers and acquisitions.

Reading: • Health Law pages 1160-1185
• Supplement pages 175-181
• Problems passed out in class