Health Law: Quality of Care & Liability
Syllabus

Spring 2010
Professor Barbara Colombo
Hamline University School of Law

General Course Information

Course:	Health Law: Quality of Care & Liability
Credits:	3
Classroom:	TBD
Days/Times:	Saturdays 8:15-11:15am
Professor:	Barbara Colombo
Office Hours:	By appointment
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Course Description and Objectives

Welcome to *Health Law: Quality of Care & Liability*. This health law course will explore a variety of different laws designed to assure the quality of health care including provider self-regulation, professional licensure, credentialing, certification, accreditation, government regulation, and the tort system. Special attention will be given to definitional approaches to sickness, health, and quality in health care; medical staff membership and clinical privileges; relationships between medical and allied health professional staff members and scope of practice issues; physician peer review, peer review immunity, the confidentiality of peer review proceedings, and National Practitioner Data Bank reporting and querying; medical errors, sentinel events, and adverse event reporting; professional and regulatory discipline of health care providers who fail to adhere to the standard of care or other professional and regulatory requirements; physician and hospital liability; managed care liability and ERISA preemption thereof; and the regulation of research involving human subjects. The objectives of this course include learning how to apply a range of statutory, regulatory, accreditation, and common law principles to a variety of health care quality and liability issues.

Course Materials

The required text is BARRY R. FURROW, THOMAS L. GREANEY, SANDRA H. JOHNSON, TIMOTHY S. JOST, ROBERT L. SCHWARTZ, HEALTH LAW: CASES, MATERIALS, AND PROBLEMS, 6th ed. (West 2008). The syllabus will occasionally include links to various articles and cases which you are expected to review in advance of

class. I will be using PowerPoint for most classes, and will post the slides on TWEN after each class.

Technology Policy:

In order to facilitate an interactive class and small group discussion, there will be occasions when the class will be asked to close their 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 email messages, visit web sites or engage in any other online or technology based activities (including cellular telephones) that student will be asked to drop the course *and will not receive academic credit for the class.***

Course Evaluation

There are two requirements for the *Health Law: Quality of Care & Liability* course:

1. **Class Participation*:*** This course is designed to be highly interactive with weekly opportunities for simulation-based learning. Students should come to class prepared to discuss the course material and actively participate in class discussions and activities. Students will be divided into four groups for purposes of analyzing various problems. Groups will be identified on the first day of class. **Class participation will account for 25% of a student's final grade.** "Participation" is based on attendance, preparedness, and ***thoughtful*** classroom commentary.
2. **Final Exam*:*** A take-home (open-book) final exam will be given. Final exam date pending. **The exam will account for 75% of a student's final grade.**

Course Attendance

At the beginning of each class, I will distribute a class roster for you to sign. If you are absent for more than four classes, your absences will be treated as "excessive" in accordance with Hamline University Academic Rule 1-110 unless you have approval from me in advance.

Course Schedule

Unless otherwise noted, all readings are from our required text, BARRY R. FURROW, THOMAS L. GREANEY, SANDRA H. JOHNSON, TIMOTHY S. JOST, ROBERT L. SCHWARTZ, HEALTH LAW: CASES, MATERIALS, AND PROBLEMS, 6th ed. (West 2008), along with web sites and cases noted under each week's readings.

WEEK 1: January 23

Defining Sickness and Quality in Health Care
Text: 1 – 40
http://www.newyorker.com/fact/content/articles/050404fa_fact
Problem: p. 10 ("The Couple's Illness"): Students whose last names begin with A-M prepare to argue for coverage on behalf of the Hendersons; students whose last names begin with N-Z be prepared to argue against coverage.

WEEK 2: January 30
Access to Health Care: The Obligation to Provide Care
Text: 596-623
http://www.msnbc.msn.com/id/19207050/ (Come to class prepared to discuss this article)
Problem: p. 607 ("Cheryl Hanacheck") Students in group 1 and 2 prepare arguments on behalf of Ms. Hanacheck; students in groups 3 and 4 prepare arguments in defense of Drs. Cunetto and Simms.
Problem: p. 622 ("Mrs. Miller") Students in group 1 prepare arguments on behalf of Mrs. Miller; students in group 2 highlight arguments included in Dr. Martig's motion for summary judgment; students in group 3 prepare arguments in defense of General Hospital; students in group 4 assume you are the judge in the case, be prepared to rule on the summary judgment motion and respond to the arguments presented by Mrs. Miller and General Hospital.

WEEK 3: February 6
Liability of Health Care Providers
Professional Relationships in Health Care Enterprises: Staff Privileges
Text: 327-363
Text: 849-859, 865-873
Students in group 1 will be class experts on Hall , group 2 on Hinlicky, group 3 on Helling, and group 4 on Sokol. All students brief Mahan.
Problem: p. 872 ("Dr. Bennett and Onyx General Hospital") Students in groups 1 and 2 should be prepared to advise Onyx General Hospital on what it should do about Dr. Bennett; students in groups 3 and 4 prepare arguments on behalf of Dr. Bennett.

WEEK 4: February 13
Liability of Health Care Institutions: Employees, Independent Contractors, Hospital Direct Liability-Negligence and Corporate Liability
Text: 437-480
Students in group 1 will be class experts on Grimm and Scott, group 2 on Burless and Washington, group 3 on Muse and Thompson, and group 4 on Carter.
Problem: p. 480 ("Cascading Errors") Students in groups 1 and 2 identify and present the various theories of liability available to Carolyn Gadner's family; students in groups 3 and 4 present a detailed plan of action to the Bay Hospital Board of Directors.

WEEK 5: February 20

Liability of Health Care Institutions: Hospital Liability-Peer Review
Tort Liability and Managed Care
Text: 481-498, 504-531
Students in group 1 will be class experts on Larson, group 2 on Petrovich, group 3 on Pagarigan, and group 4 on Shannon.
Problem: p. 498 ("Proctoring Peers") Students in groups 1 and 2 advise Hilldale Adventist Hospital concerning any potential theories of liability for using Dr. Hook as a proctor and whether Dr. Hook could be directly liable for failing to stop negligent work by Dr. DiBianco.
Problem: p. 498 ("The "Love" Surgeon") Students in groups 1, 2 and 3 should be prepared to argue on behalf of Ms. Helen Brown in a medical malpractice action against the hospital; students in group 4 should be prepared to present arguments to defend the hospital.

WEEK 6: February 27
Medical Errors, Tort Reform, Voluntary Reporting Systems
Text: 41-71, 539-552
http://www.health.state.mn.us/patientsafety/ae/adverse27events.html
http://www.ahrq.gov/qual/psoact.htm
http://www.sorryworks.net/
Problem: ("Disclosing Errors") Students in group 1 prepare to address #1; students in groups 2 and 3 prepare to address #2; students in group 4 prepare to address #3.

WEEK 7: March 6
Confidentiality and Disclosure in the Physician-Patient Relationship
Duty to Third Parties
Text: 289-326
Problem: p. 325 ("Leaking Patient Information") Students in group 1 prepare to address #1 and #2; students in group 2 prepare to address #3 and #4; student in group 3 prepare to address #5 and #6; students in group 4 prepare to address #7.
Reisner v. Regents of the University of California, 31 Cal.App.4th 1195, 37 Cal.Rptr.2d 518 (2d Dist. 1995) – Print, brief, and bring to class prepared to discuss.

WEEK 8: March 13
Informed Consent: The Physician's Obligation, the Institution's Obligation
Text: 230-288
Students in group 1 will be class experts on Canterbury, group 2 on Johnson, group 3 on Aroto, and group 4 on Moore and Canterbury (causation complexities).
Problem: p. 258 ("Disclosing Physician Risks") Students in group 1 prepare to address #1 and #2, students in group 2 prepare to address #3 and #4.
Problem: p. 267 ('Information Overload") Students in group 3 will assist Gladstone Women's Clinic in drafting guidelines to help the clinic decide what to disclose to patients about a range of available tests.
Problem: p. 288 ("Automating Consent") Students in group 4 will advise the community hospital CEO about the advantages and disadvantages of implementing an automated process.

WEEK 9: March 20
Regulation of Research Involving Human Subjects
Text: 1568-1611
Problem: p. 1583 ("Is it Research?") Determine if the activities are subject to regulation.
Students in group 1: #1
Students in group 2: #2
Students in group 3: #3
Students in group 4: #4

WEEK 10: March 27
Professional Licensing, Discipline, CAM
Text: 115-158. Students in group 1 will be class experts on Williams, group 2 on Hoover, group 3 on McDonough, and group 4 on Ruebke. Everyone brief Gonzales.
Problem: p. 156 ('Physicians, Physician Assistants, and Nurses") Students in groups 1 and 2 have been retained by Drs. Jones and Johnson. Prepare to advise them on whether their plans are consistent with the laws regulating practice in Allstate, and how they might comply while maintaining a low-cost practice. Students in groups 3 and 4 have been retained by Ms. Mayo. Prepare to advise her on whether she ought to affiliate with the doctors and whether her current practice is authorized in Allstate.

April 3: Spring Break!

WEEK 11: April 10
Regulation of Insurance and Managed Care; ERISA Preemption
Text: 648-660, 710-734
http://content.healthaffairs.org/cgi/reprint/hlthaff.w4.417v1
Students in group 1 will be class experts on Lubeznik , group 2 on Curiale, group 3 on Pegram, and group 4 on Davila.
Problem: p. 660 ("Expanding Insurance Coverage") All students come prepared with ideas to reduce the number of uninsured.

WEEK 12: April 17
Quality Control Regulation of Health Care Institutions
Text: 159-194
Problem: p. 176 ('Residents' Rights") Students in groups 1 and 2 should be prepared to advise the Pine Acres Nursing Home administrator regarding her concerns about Francis Scott. Students in groups 3 and 4 should be prepared to advise the administrator regarding her concerns about Emma Kaitz.

WEEK 13: April 24
Approaches to Expanding Access and Controlling Costs

Text: 560-595
Problem: p. 594 (“Health Reform”) All students should work through this problem, draft a brief outline of your initial thoughts for a reformed health care system and be prepared to present your ideas to the class.
We will view the PBS documentary, “Unnatural Causes: Is Inequality Making Us Sick”
http://www.pbs.org/unnaturalcauses/