

**Syllabus for Health Law Organization and Finance**  
*Professors Lucinda Jesson and Katrina Pagonis*  
*Spring 2010*

Course: Health Law Organization and Finance

Credits: 3

Time: Tuesdays and Thursdays, 1:00-2:15 p.m.

Place: Room 04

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*We are available by email to schedule meetings or to answer short inquiries. If you have substantive questions and comments, however, please visit with either of us by phone or in person.*

## **COURSE DESCRIPTION**

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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**

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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**

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All reading assignments are from the required text, *Health Law: Cases, Materials and Problems* by Barry R. Furrow et al, (West 6th Edition). 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 Professors Jesson and Pagonis during class. However, the Power Points will only be posted after the class ends.

## **CURRENT AWARENESS**

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You are taking this course at an historic time. The financing and organization of health care has been front page news for most of 2009, and it appears that 2010 will bring momentous changes in health law and policy. Accordingly, we 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 (either through in-class discussion or TWEN postings), and we will start each class with a discussion of current events and how they relate to our course.

## **GROUP PRESENTATIONS**

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Your small group presentation is a mandatory portion of your class participation. During the third week of class, we will distribute specific instructions for the group presentations (including potential topics) and make small group assignments. Presentations will be scheduled for the second half of the semester. Each presentation should include overheads or handouts and last approximately 15 to 20 minutes. Coverage of the class presentations will be included on the final exam.

## **TECHNOLOGY POLICY**

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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**

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

- Small group presentation
- 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 take home client advice letter assignment which will be assigned midterm (due one week after assignment) and graded anonymously.

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, we 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, offer a sub par small group presentation, or do not share news items of interest to the class. Your active participation in small group exercises and the group class presentation will be assessed as part of your class preparedness.

## **ATTENDANCE**

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At the beginning of each class, we 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 three classes, your absences will be treated as “excessive” in accordance with Hamline University Academic Rule 1-110 unless you have approval from us in advance.

## **COURSE SCHEDULE**

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This syllabus will be updated to reflect revised readings, any short assignments, and the small group presentations described above. Please always refer to TWEN for the most up-to-date copy of the syllabus.

### **January 19**

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

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

### ***Focus on Access***

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### **January 21 and 26**

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

- Reading:*
- Health Law pages 767-803, 820-845
  - Summaries of Medicare and Medicaid Programs posted on TWEN

### **January 28**

Introduction to Private Health Insurance and its regulation by states.

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

## **February 2**

The federal regulation of private health insurance: ERISA

- Reading:*
- Health Law pages 688-710, 734-746 (skip note 2 on page 741), 746-752
  - *Metlife v. Glenn*, — U.S. —, 128 S.Ct. 2343 (2008)
  - *Optional:* Jost, 'MetLife v. Glenn' (Health Affairs 2008), posted on TWEN

## **February 4**

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

- Reading:*
- **Review ERISA readings**
  - Health Law pages 748-752, 678-687

## ***Focus on Structure and the Implications of Nonprofit Status***

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### **February 9 and 11**

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

### **February 16 and 18**

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

### **February 23 and 25**

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
  - *Isles Wellness Center* case and excerpts from AG investigation posted on TWEN

## ***In-Class Project***

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### **March 2 and 4**

Materials relating to the class project will be distributed the week of February 22<sup>nd</sup>. You should come to class prepared to actively participate and contribute.

*Reading:* • TBD

### ***Fraud and Abuse Laws***

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#### **March 9**

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.*

*Reading:* • Health Law pages 1023-1037

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

#### **March 11**

Finish discussion of False Claims Act cases, including examination of 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 1037-1053

- Rhoad et al., *A Gathering Storm* (The Health Lawyer 2009), posted on TWEN
- Problem distributed in class

#### **March 16 and 18**

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

#### **March 23 and 25**

Finish discussion of the AntiKick Back Law. Examine the Stark Laws: a transactional approach to self-referrals.

*Reading:* • Health Law pages 1081-1094.

### ***Antitrust Issues in Health Care***

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#### **April 6 and 8**

**Tuesday: Assign Client Advice Letter. (Use your midterm exam numbers!)**

In class: 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 1095-1126.

#### **April 13 and 15**

**Tuesday: *Client Advice Letter Due on TWEN before 1pm!!***

Review introduction to Antitrust, beginning with the Michigan State Medical Society Case. Then, we will 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 (Tuesday). Then, we will address the antitrust issues raised by the integration and financing of health care enterprises.

- Reading:*
- Health Law p. 1126-1159
  - Problems passed out in class

**April 20 and 22**

Examine the impact of antitrust laws on mergers and acquisitions.

- Reading:*
- Health Law, pages 1160-1185
  - St. Mary's Hospital Problem passed out in class.

***Small Group Presentations:***

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**April 27 and 29**

Presentations by small groups and discussion of health reform models from other countries: which is the best pathway for the United States?

Sign up sheets for time slots will be passed out on November 10!