

**HAMLIN LAW SCHOOL
HEALTH CARE MERGERS AND ACQUISITIONS
SUMMER, 2011
MONDAY, JUNE 6 TO THURSDAY, JUNE 9, 2011
5:30 P.M. - 8:50 P.M.
SYLLABUS**

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COURSE DESCRIPTION

The course will look at the legal, tax, business and practical aspects of health care mergers, acquisitions and affiliations, involving both tax-exempt and taxable organizations, with an emphasis on provider side transactions. Taught by experienced health care transaction attorneys, the course will look at transaction structure, valuation, drafting and negotiating issues, from the perspective of both inside and outside legal counsel.

PRE-READS

Fraud and Abuse and Tax-Exemption Chapters from *Fundamentals of Health Law* (American Health Lawyers Association). Three copies on reserve in the Hamline Law Library.

GRADES

Grades are based on a take-home test distributed on June 9, 2011 and due on Friday, June 24, 2011. Consideration for a half grade increase will be given for class participation,

I. JUNE 6-BACKGROUND

A. Rationale for Transactions

1. Expand services/market
2. Horizontal Integration
3. Vertical Integration
4. Clinical Integration

B. Types of Transactions

1. Asset Purchases
2. Stock Purchases
3. Mergers
4. Affiliations
5. Joint Ventures

C. Transaction Flow

D. Legal/Regulatory Issues

1. Tax-exempt Status
2. Tax-exempt Financing
3. Tax consequences on Buyer and Seller
4. Corporate Practice of Medicine
5. Certificate of Need Compliance
6. Anti-kickback and Stark Compliance
7. Corporate Governance Implications
8. State Law Issues/Filings
9. Antitrust
 - i. Hart Scott Rodino
 - ii. Market Share
 - iii. Due diligence

II. JUNE 7-THE TRANSACTION

- A. Asset Purchase, Stock Purchase, Merger, Divestiture, Affiliation, Joint Ventures, Networks
- B. The Key Business Terms
 - 1. Price
 - 2. Governance
 - 3. Representations and Warranties; Indemnifications
 - 4. Terms of Employment for Key Personnel
 - 5. Covenants
 - 6. Conditions
- C. Choice of Transaction-Structure Issues
- D. Control Issues
 - 1. Management solutions
 - 2. Governance solutions
 - 3. Member/shareholder solutions/Reserve powers
 - 4. Contractual solutions

III. JUNE 8-AGREEMENT DRAFTING

- A. Key Agreements
 - 1. Confidentiality Agreements
 - 2. Letters of Intent/To do or not to do
 - 3. Asset/Stock Purchase agreements
 - 4. Merger agreement
 - 5. Affiliation Agreements
 - 6. LLC Agreements
- B. Negotiation Issues
- C. Drafting issues

D. Closings

IV. JUNE 9-SPECIAL ISSUES

A. Due Diligence

1. How conducted
2. How to address issues

B. Valuation Issues

1. Methods
2. Outside Valuations
3. Purchase Price Allocations
4. Intangible Assets/Corporate Goodwill, Personal Goodwill, other intangible assets

C. Choice of Entity Issues