

ADVANCED HEALTH LAW SEMINAR

Spring Term, 2011
Hamline University School of Law
Professor Katrina Pagonis

SYLLABUS

Contact Information

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Class Meetings

Thurs. 3:00-4:50pm, Law 240A

Office Hours

In-office: Thurs. 5:00-6:00 *or by appointment*

Walking: Thurs. 11:00 am (Walker Fieldhouse, Indoor Track)

INTRODUCTION & COURSE OBJECTIVES

Health law is a vast and dynamic discipline. Some health lawyers focus on the regulation, financing, and organization of the *health care system* in the United States or abroad. Others are primarily concerned with issues in *law and medicine*, focusing on legal questions arising from the doctor-patient or researcher-subject relationship and a range of problems traditionally examined in the field of bioethics. Still others are primarily concerned with *public health law*, which examines the role of governments in regulating the social determinants of health to improve health on a population level. And, lastly, there is the growing area of *global health law*, which examines the complex web of international relationships that influence health on a global scale. All of you have studied one or more of these areas of health law.

This course, *Advanced Health Law*, is the culmination of study in these areas. Topics to be covered in this course include public health law, health care policy and financing, biomedical issues, and global health law. Each of these broad subjects brings to the field of health law a number of fascinating and at times controversial legal and ethical problems, which we will selectively explore.

Because this is an advanced class, the focus is not on instruction of doctrine but on lively and rigorous conversation and debate focusing on cutting-edge issues. Consequently, many of the classes will be led by distinguished outside speakers and then the students themselves.

This is a class that will emphasize research and writing. We will devote considerable time to the research and writing process. We will particularly concentrate on the idea of stating, developing, and defending a thesis as part of a scholarly project.

Prerequisites. Completion of a core health law class (Quality of Care & Liability, Organization and Finance, or Bioethics) or instructor approval is required for enrollment in this class.

I. LOGISTICS

- A. **Time and Place.** This three-credit course will meet once a week on **Thursdays** from **3:00-4:50 p.m.** in **Room 240A** of the law school building.
- B. **Textbook and Readings.** For our first class, we will read and discuss Rebecca

Skloot's *The Immortal Life of Henrietta Lacks* (2011) (ISBN-13: 9781400052189). For subsequent classes, course materials will consist of articles and cases. Where these materials are not available on Westlaw, I will post them to TWEN. ***If you would prefer that I make these materials available in course packets to be purchased from the bookstore, let me know ASAP and I will look into it.***

- C. **TWEN Site.** Course documents, updates, and supplemental readings will be posted on the class TWEN site. I will be posting updated syllabi over the course of the semester, and *it is your responsibility to check TWEN for updated reading assignments.*

II. COURSE REQUIREMENTS & POLICIES

A. **Attendance**

Attendance is important and required by the ABA and Hamline University School of Law. At the beginning of each class, I will distribute a class roster for you to sign. *If you are absent for more than **two classes**, your absences will be treated as "excessive" in accordance with Hamline University Academic Rule 108 unless you obtain approval from me in advance.*

To receive a passing grade, you must be present for your own paper presentation and your partner's paper presentation (see "Peer Learning" below).

B. **Preparedness and Punctuality**

Punctuality and preparedness are both important: they demonstrate your respect for your peers and me and they allow you to get the most out of the class. ***If you are more than 10 minutes late, you have missed a substantial part of that day's class; your tardiness will therefore count as an absence and you will be prohibited from signing in as present for that class.***

C. **Participation**

Most class sessions will be based on lectures, or a student presentation in the later classes, followed by class discussion of the issues raised by the lecture, presentation, and readings. Class discussions showing rigorous thought and an informed understanding of the subject matter will be an integral part of the learning process. ***You must read all of the assigned materials before class to facilitate discussions.*** All students are expected to actively participate in class discussions.

D. **Technology Policy**

Laptops: Students are expected to use technology in a professional and productive manner. The use of laptops in a manner that does not further our learning objectives or a manner that distracts others is strictly prohibited. If a student uses technology in a way that distracts others, he or she may have his ***grade lowered by one-half of a letter***; if the student does so again, he or she may be asked to ***drop the course*** without receiving academic credit for the class.

Cellphones and Similar Devices: You are prohibited from using cellphones and smartphones during class time. If you use such a device during class, you will have your *grade lowered by one-half of a letter*. If you do so again, you may be asked to *drop the course* without receiving academic credit for the class.

III. COURSE EVALUATION

The grade for the course will be based on your fulfillment of the course requirements, allocated as follows:

Factor	Portion of Final Grade
Class Participation, In-Class Paper Presentation, and Peer Learning Work	25%
Final Paper	75%
Timely Submission of <i>All</i> Written Assignments	Required for a passing grade

A. **Class Participation**

Class participation will be assessed on a qualitative rather than quantitative basis.

B. **Presentations**

Students will prepare a scholarly paper for the course on a relevant subject in health law, and they will be assigned to make a presentation in class on the subject of their scholarly paper. Presentations should be thoughtful and well prepared. An imaginative method of presentation is strongly encouraged to aid in the pedagogic process.

Students who wish to hand out materials for the class to facilitate discussion of their proposed topics must do so the week prior to delivering their presentation.

C. **Peer Learning**

Students will be assigned to work with one another during the course of the writing process. Student peers should assist each other with the research and thought processes of their paper topics and be prepared to offer commentary of their assigned student's presentation. In my experience, peer relationships are an important part of the learning process.

Written Proof of the Peer Learning Process. Each student will be expected to provide written proof (2-3 paragraphs) of the nature and quality of the assistance provided and received through the peer learning process. Written proof should be submitted via TWEN when submitting your final paper.

D. **Papers**

Students will prepare a scholarly paper for the course on a relevant subject in health law. The objective is to produce papers of sufficient quality that they can be published in a law, medical, or health policy journal. I would be happy to

provide additional assistance for students who wish to have their papers published, even after the class has ended.

Technical Requirements for Papers. Papers are expected to be a minimum of 6,000 words (exclusive of footnotes). Legal style citations (*Bluebook*) are *required unless* a different method of citation is justified and the student obtains instructor permission to use an alternative method of citation (e.g., AMA or *Chicago*). In addition to the final paper, students are required to prepare and submit a topic proposal, short thesis proposal, full thesis statement and initial outline, detailed outline, and first draft (see descriptions below).

Written Assignments. Each assignment must be *submitted via TWEN and e-mailed to your student peer before the start of class*. Descriptions and due dates are as follows:

Topic Proposal (<i>1-2 paragraph description of your paper topic</i>)	Due: Feb. 9
The topic must be relevant to the subject matter of the course, touching on health law (broadly construed). Once approved, students are strongly encouraged not to consider changing the nature of the topic, although changes in the thesis are expected.	
Short Thesis Proposal (<i>Several paragraphs stating the thesis you plan to systematically develop through research and argument</i>)	Due: Feb. 23
A well-crafted thesis is integral to the development of a high quality research paper. The thesis is the theory or main idea of the paper—the principal point the paper advances. The thesis is not the same as the topic (“this paper will cover X”), but the central theme (i.e., what the paper seeks to demonstrate, the method of argumentation, and why it is important).	
Full Thesis Statement and Initial Outline (<i>thesis: 2-3 pages setting out the paper’s theory, method of development, and forms of argumentation; a substantial initial outline</i>)	Due: Mar. 15
Typically, your thesis statement would include a detailed statement of what the paper expects to prove, why it is important, how the thesis will be developed, and what main forms of argumentation you will employ. The initial outline should be based on the your independent research and should present the title and subject matter of the eventual first draft of the paper. The outline should also feature headings and subheadings with sentence-length descriptions of the findings and subject matter within each heading. Well-organized outlines might also contain footnotes. These outlines allow me and your student peer to analyze the current status of your research, provide commentary and suggestions, and assist you in organizing, researching, and writing the first draft.	
Detailed Outline (<i>laying out the paper title, parts, and subparts and the main point of each paragraph; citations are not required but are strongly recommended at this stage</i>)	Due: Mar. 29
Preparing the detailed outline requires revisiting the previously submitted outline and strengthening it so that the structure and coherence of the paper is guaranteed.	

A detailed outline finalizes the initial groupings that were made and re-evaluates whether they will be the best organizational approach for the paper that is in progress.	
<i>First Draft</i> (a <u>complete</u> first draft of your paper, meeting all the technical specifications for the final paper)	Due: April 12
First drafts should be complete; they should <i>not</i> be partial drafts or mere extended versions of the outline. Rather, these drafts should feature complete analysis of all headings and subheadings and more extensive footnoting. These papers allow the Professor and student peer to fully review the student's topic and provide meaningful commentary and suggestions.	
<i>Final Paper</i> (Note: written proof of the peer learning process—see below—is due along with your final paper)	Due: May 7th 5 p.m.

Due Dates. Please review carefully the due dates and requirements concerning the paper writing process. Students will be expected to meet all deadlines.

Extensions will not be granted except in emergency situations.

Improving Your Writing. I will provide detailed feedback and comments on your first draft, and your student peer will provide feedback throughout the writing process. We are also available to provide additional guidance during scheduled office hours or appointments.

IV. INSTRUCTOR AVAILABILITY

I want to be fully available to help whenever you need assistance in this class. To this end, I will hold office hours as follows:

- Traditional Office Hours: Thursdays 5:00-6:00 p.m., 218 East Hall
- Additional Office Hours by Appointment: e-mail me to schedule
- Walking Office Hours: TBD, Indoor Track, Walker Fieldhouse

V. FINAL THOUGHTS

I am fascinated by health law and hope you will share my enthusiasm for the intellectually challenging ideas presented in the readings and the class work. I look forward to getting to know you and to our many thoughtful discussions. If I can ever be of assistance, please come by and see me at any mutually convenient time.

READING SCHEDULE: FIRST TWO WEEKS

January 19

Course Overview

Ethical Issues in Tissue Research: HeLa

We will preview and discuss upcoming lectures, the paper writing process, the method of grading, and other course requirements. The research and writing expectations for students will be described to prepare students for the eventual task of drafting and presenting a publishable-quality article. Students may be asked to share their interests in the subject matter and to begin thinking about potential paper topics.

- Reading
- REBECCA SKLOOT, *THE IMMORTAL LIFE OF HENRIETTA LACKS* (2010)
Note: You can skip or skim the portions about Henrietta's life, the lives of her children, and Skloot's efforts to reconstruct Henrietta's history. Our class will focus on the ethical issues raised by tissue research and the use of HeLa cells.

January 26

Vaccine Safety and the Constitution

We will preview and discuss upcoming lectures, the paper writing process, the method of grading, and other course requirements. The research and writing expectations for students will be described to prepare students for the eventual task of drafting and presenting a publishable-quality article. Students may be asked to share their interests in the subject matter and to begin thinking about potential paper topics.

- Reading
- *Jacobson v. Massachusetts*, 197 U.S. 11 (1905)
 - *DeShaney v. Winnebago County*, 489 U.S. 189 (1989)
 - Pagonis, *Smallpox Vaccination from Jenner to Jacobson: The Police Power, Individual Liberty, and Government Responsibility* [Draft] (on TWEN)

It is your responsibility to check TWEN for updated reading schedules for the remainder of the semester. Further topics will be selected on the basis of class interest and the preferences of guest lecturers. The last few classes will consist of student paper presentations.

Note: As soon as the Supreme Court announces its calendar for consideration of the Affordable Care Act appeals, we will add this to the course schedule. I expect that we will devote 1-2 classes to discussing the appeal in late March or early April.