

**Health Law Practicum (Law 9650-6)**  
**Syllabus**  
**Hamline University School of Law**  
**Spring 2009**

Selected Thursdays: 6:00pm to 7:50pm.

Class Room: LAW 240A

Adjunct Professor: **Peter B. Hofrenning**

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Office hours: After class and by appointment.

Practicum Administrator: Vickie Jauert

Practicum Director:

**Course Description:** Participants in the Health Law Practicum meet to discuss issues in health law and policy that relate to their practicum placements. There will be several guest lecturers to help introduce students to various types of health law practices. I expect each student to ask at least one question in each class. The purpose of the classroom component of the practicum is to provide students with a theoretical context against which to consider their own potential careers in health law. Because there are limited class sessions, it is essential that students attend each class. If you are truly unable to attend a class, contact the instructor before class. Missing a single class can be the basis for involuntary withdrawal from the Practicum. The Practicum is graded on a pass/no-pass basis. You must also comply with all other Practicum Requirements of Hamline University School of Law.

In addition to the classroom sessions, I encourage all students to attend the monthly breakfast meetings of the Health Law section of the Minnesota State Bar Association. The breakfast meetings are a great place to network with practicing health lawyers and to learn about current health law topics. The breakfast meetings are free to students and the schedule can be found at: <http://www2.mnbar.org/sections/health-law/notices.asp>.

**Instructor Biography:** Peter Hofrenning is a graduate of Columbia University Law School. He also earned a Master's degree in public policy from the Kennedy School of Government, and a BA in Philosophy and Economics from St. Olaf College. He brings industry and a regulator's perspective to the Health Law Practicum having worked for the Minnesota Attorney General, BlueCross BlueShield of Minnesota and HealthPartners. Hofrenning litigated several antitrust and Medicaid financing cases as an Assistant Minnesota Attorney General in state and federal courts. He also served as a principal attorney for over five years at BlueCross BlueShield of Minnesota where he counseled Blue Cross on many health law topics including HIPAA, Medicare and ERISA. Currently, he is an Associate General Counsel at HealthPartners, Inc. (an integrated healthcare system comprising a health plan, clinics and Regions Hospital) where he provides counsel on a wide variety of issues.

## **Class Schedule (subject to change):**

### **Session 1. Mandatory Meeting with the Director of Practicums:**

Location, Date and Time to be announced.

(No Class on evening of Thursday, January 22)

### **Session 2. (First meeting)**

**January 29, 2008**

**6pm to 7:50pm.**

Room: LAW 240A

Introductions. Lecture/Discussion on: **Sources of Confidentiality of Health**

**Information.** Print out and read the following documents before the January 18 class, and consider the questions.

#### **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

Read: "Summary of the HIPAA Privacy Rule" (U.S. Dept. of Health and Human Services) found at: <http://www.hhs.gov/ocr/privacysummary.pdf>

*Question:* Is your placement a "covered entity" or a "business associate"? Does your placement have any "protected health information" (PHI)? What are the penalties for improper release of PHI?

#### **Minnesota Health Records Act (Minn. Stat. Secs. 144.291 to 144.298)**

Read the about the requirement of patient consent to release of medical records in Minn. Stat. Sec. 144.293, subd. 2, which can be found at:

[http://ros.leg.mn/bin/getpub.php?pubtype=STAT\\_CHAP\\_SEC&year=current&section=144.293&image.x=27&image.y=9](http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current&section=144.293&image.x=27&image.y=9)

*Question:* Is your placement a "provider"? If not, does it receive health records from a provider? What are the consequences of releasing health records without a patient's signed and dated consent? What is the definition of a health record?

#### **Minnesota Insurance and HMO Laws**

**Insurance Laws ("72A"):** Read about the requirement that an insurance company "must not disclose any personal or privileged information ... without a written authorization" in Minn. Stat. Sec. 72A.502, subd. 1, which can be found at [http://ros.leg.mn/bin/getpub.php?pubtype=STAT\\_CHAP\\_SEC&year=current&section=72a.502](http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current&section=72a.502).

**HMO Laws ("62D"):** Read about the requirement that an HMO "is prohibited from disclosing to any person any individually identifiable data or information" in Minn. Stat. Sec. 62D.145, subd. 2 which can be found at:

[http://ros.leg.mn/bin/getpub.php?pubtype=STAT\\_CHAP\\_SEC&year=current&section=62d.145&image.x=21&image.y=8](http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current&section=62d.145&image.x=21&image.y=8).

*Question:* What is the difference between an HMO and an insurance company? Is your placement an HMO or an Insurance company? If so what are the penalties for disclosing "personal" or "individually identifiable" information?

### **Minnesota Government Data Practices Act (“Chapter 13”)**

Read: “A Data Practices Overview” (By: Deborah K. McKnight, Minnesota House Research Department) found at:

<http://www.house.leg.state.mn.us/hrd/pubs/dataprac.pdf> and  
<http://72.14.205.104/search?q=cache:AMVb7Z3fLm8J:www.house.leg.state.mn.us/hrd/pubs/dataprac.pdf+%22a+data+practices+overview%22&hl=en&ct=clnk&cd=1&gl=us>.

*Question:* Does your placement have any “Private data on individuals?” What are the penalties for improper release of such data?

### **Trade Secrets**

Minn. Stat. Section 325C; Minn. Stat. Section 13.37, Subd. 1(b):

Read the definition of “trade secret” in Minn. Stat. Sec. 325C.01, subd. 5. It can be found at:

[http://ros.leg.mn/bin/getpub.php?pubtype=STAT\\_CHAP\\_SEC&year=current&section=325C.01&image.x=22&image.y=9](http://ros.leg.mn/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=current&section=325C.01&image.x=22&image.y=9).

*Question:* Does your placement have “trade secrets.”? What is your obligation to keep them secret?

### **Attorney-Client Considerations**

Read: Rule 1.6 of the Minnesota Rules of Professional Conduct found at:

<http://www.courts.state.mn.us/lprb/05mrpc.html#r16>.

*Question:* What are the consequences of improperly disclosing “information relating to the representation of a client?”

### **Other sources of privacy of health information?**

#### **Session 3. (February 5, 2009)**

##### **Healthcare Market Consolidation in Minnesota.**

##### **Nonprofit and for-profit ownership in Health Care.**

Lecture and discussion.

Reading: Handout to be distributed.

#### **Session 4. (February 12, 2009)**

##### **Medicare Overview.**

Lecture/discussion by **Frank Fernandez** (Hamline Alumnus, JD 2005).

Fernandez is an attorney and is Vice President of Government Programs at BlueCross BlueShield of Minnesota. Prior to law school, Fernandez also worked on medicare products for Ovations, a United HealthGroup division.

Reading: Handout to be distributed

**Session 5. (February 19, 2009-tentative)**

**Health Plan Legal Compliance**

Lecture and discussion by **Judith Walker** (Vice President of Regulatory Affairs and Deputy General Counsel, BlueCross BlueShield of Minnesota).

Walker is a Hamline Law School Alumna. Prior to working at Blue Cross, Walker worked at the Minnesota Department of Health. Walker is responsible for all compliance efforts at Blue Cross.

Reading: Handout to be distributed.

**Session 6. (February 26, 2009)**

**Health Provider Legal Compliance**

Lecture and discussion by **Steve Lokensgard**. Lokensgaard is an attorney in the healthcare practice group at Faegre & Benson. Prior to joining Faegre, Lokensgard served as an Assistant Minnesota Attorney General and Associate General Counsel and Vice President of Compliance at Allina Hospitals and Clinics. Lokensgard is also a colonel in the Minnesota National Guard and served several years active duty in the US Army's JAG program.

**Session 7. (March 12, 2009-tentative)**

**Tobacco, Law and Public Health**

Lecture and discussion by **Julie Ralston Aoki**. Aoki is a graduate of Yale University and the University of Iowa Law School. As a law student, she was awarded the Hubbard Human Rights Award. She also helped to found, and served as the first Editor in Chief for, the *Iowa Journal of Gender, Race & Justice*. Aoki spent ten years as an Assistant Minnesota Attorney General in the consumer and antitrust divisions. She was involved in the State of Minnesota's lawsuit against the tobacco companies. She also helped conduct investigations and audits of large health care companies. Currently, Aoki is the lead attorney for the Public Health Policy Initiative of the Tobacco Law Center.

**Session 8 (April 9, 2009)**

**Discussion and wrap-up of fieldwork placements.**

Each student should be prepared to give a 10-minute presentation summarizing his or her work over the past two months. This summary should include reflections from your experience such as a unique challenge, or something you could have handled better. What are your goals for your remaining weeks in the placement. Has your understanding of Health Law Changed? What was your most interesting project?