

Syllabus for Health Law Organization and Finance
Professor Lucinda Jesson
Fall 2008

Course: Health Law Organization and Finance

Credits: 3

Time: Mondays and Wednesdays, 4-5:15 p.m.

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I have office hours by appointment. Or just drop by-- I am usually on campus and available during the weekdays.

Please email me to schedule something or to make a short inquiry or comment. If you have substantive questions and comments, however, please visit with me either on the phone or in person.

Description:

Welcome to Health Law Organization and Finance!

This course does not require math skills or an accounting background. Rather, it addresses what every politician running for President 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:

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 proposals

Course Materials:

All reading assignments are from the required text, Health Law 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 Professor Jesson during class. However, the Power Points will only be posted after the class ends.

Group Presentations:

Small groups assignments will be made the third week of class. Each group will select another country and prepare and present to the class an overview of how that country (in comparison to the U.S.) organizes and pays for its health care system. 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:

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:

Subject to the caveat below regarding class preparedness, 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 in accordance with Hamline University Academic Rules 1-107C5 and 1-110. More specifically, I reserve the right to: 1) raise your course grade by one-half of a letter if you participate substantially when not called on or distinguish yourself when called on; or 2) lower your course grade by one-half of a letter if you are not prepared when called on. Your active participation in small group exercises and the group class presentation will be assessed as part of your class preparedness.

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 three 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.

Assignments:

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

August 20

Introduction to course; explanation of course syllabus, grading and class preparation requirements; overview of current system and cost drivers in health care finance.

Reading: Health Law pages: 560-574. Commonwealth Fund Report, “Slowing the Growth of U.S. Health Care Expenditures: What Are the Options?” and “Perverse Incentives Limit Any Savings In Treating Cancer”, both posted on TWEN.

Focus on Access

August 25 and 27

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

Reading: Health Law pages 7767-803; 820-845 and summaries of Medicare and Medicaid Programs posted on TWEN.

September 3

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.

September 8 and 10

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

Reading: Health Law pages 688-710; 734-752; 678-687

Focus on Structure and the Implications of Nonprofit Status

September 15 and 17

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 and 952-967.

September 22 and 24

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: Pages 966-1009

September 29 and October 1

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

Fraud and Abuse Laws

October 6

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.

October 8

Guest Speaker on Coverage Disputes and the Realities of Non Profit Status for the Health Insurer. Jim Jacobson, General Counsel of Medica

Reading: *To Pay or Not to Pay, That is the Question: Coverage Disputes Between Health Plans and Members* by James Jacobson and posted on TWEN.

October 13

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 and problem distributed in class.

October 15 and 20

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

October 22

Assign Client Advice Letter. (Use your midterm exam numbers!) Then come to class and examine the Stark Laws: a transactional approach to self-referrals.

Reading: Health Law pages 1081-1094.

October 27

Client Advice Letter due to Registrar before Class!

Fraud and Abuse issues in the Drug and Medical Device Industry

Guest Speaker and materials to be posted on TWEN.

THERE WILL NOT BE CLASS ON OCTOBER 29. THE CLASS WILL TAKE PLACE AT THE REGULAR TIME AND PLACE ON THE MAKE UP DAY.

Antitrust Issues in Health Care

November 3 and 5

Guest Speaker, Tom Pursell, will provide an overview of antitrust issues with emphasis on principles applicable to health care practitioners. (November 3). We will then examine cases involving alleged restraint of trade and boycotts by professional associations and address how antitrust laws impact professional standards and staffing decisions.

Reading: Health Law pages 1095-1126.

November 10 and 12

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. (Monday). Then, we will address the antitrust issues raised by the integration and financing of health care enterprises.

Reading: Health Law p. 1126-1159 and problems passed out in class.

November 17 and 19

We examine the impact of antitrust laws on mergers and acquisitions.

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

Small Group Presentations:

November 24 and 26

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

Makeup Class

The Massachusetts Health Plan: a model for state reform?

Reading: Materials posted on TWEN.