

**OVERVIEW OF
MEDICAL MALPRACTICE COURSE**

Hamline University School of Law

Fall Semester 2008

Adjunct Professors
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MEDICAL MALPRACTICE COURSE FALL SEMESTER 2008

INSTRUCTORS:

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MEDICAL MALPRACTICE COURSE SCHEDULE

**Saturdays 9:15 a.m.-11:15 a.m.
Room: 240A**

PURPOSE AND OBJECTIVES

This course is intended to provide an overview of substantive health care liability, theories, case law and statutes, focusing mainly on Minnesota, although there will be some discussion of Wisconsin and Iowa case law and statutes; and to give you an opportunity to practice pretrial litigation skills in a courtroom setting.

ASSIGNMENTS

Your reading assignments will be identified each week, utilizing the required case, statute, and handout materials.

CLASS EXPECTATIONS

You will be expected to participate in all class discussions, to read all the assignments, and to be prepared to discuss the cases, statutes, and handout materials. As you can see below, class participation is a portion of your grade and this will include your presentation of the cases, statutes, and handout materials and your overall responsiveness when called on in class.

Instead of a final exam, you will be preparing and arguing a summary judgment/dismissal motion before the judicial and legal community who have volunteered their time. Therefore, we will expect you to be well prepared and you should begin allotting your time accordingly early in the course with regard to

preparing the written motions documents and oral argument.

We will allow you to bring your laptop computers to class and your use of it during class to the extent that it facilitates class discussion and is thus conducive to our learning objectives. But we expect that you will refrain from using the computer for purposes unrelated to class.

GRADE PERFORMANCE EVALUATION

Class Participation	25%
Summary Judgment Motion Submissions	50%
Summary Judgment Motion Argument	25%

REQUIRED READING

1. Case Law Handbook and Statute Handbook.
2. Geraghty, Thomas, Advanced Case File, Farrel, et al. v. Strongline, NITA (Several copies will be available on reserve in the library).

This will be the Case we use as an example throughout class and will provide the expert information you will utilize in writing your dismissal motion at the end of the course.

3. Additional Materials will be distributed by email or in class as appropriate.

MEDICAL MALPRACTICE COURSE **SYLLABUS FALL SEMESTER 2008**

August 16, 2008

CLASS TOPIC: Introduction/Class Expectations

- Discuss Class Materials
- Discuss Class Content Overview and Assignments
- Review of Malpractice Litigation Process
- Expectations for Students
- Review Video and Class Discussion of Medical-Legal Issues in that malpractice situation.

August 23, 2008

CLASS TOPIC: Liability of Health Care Professionals

August 30, 2008

NO CLASS-LABOR DAY WEEKEND

September 6, 2008

CLASS TOPIC: Liability of Health Care Professionals:
Defenses, statute of limitations, expert affidavit

September 13, 2008

CLASS TOPIC: Introduction to Case Problem and Assignment:
Review of Minn. Stat. § 145.682 Requirements and Cases

September 20, 2008

CLASS TOPIC: Damages, Causation, Breach of Contract

September 27, 2008

CLASS TOPIC: Professional-Patient Relationship: Confidentiality and duty to disclose

October 4, 2008

CLASS TOPIC: Professional-Patient Relationship: Informed Consent

October 11 2008

CLASS TOPIC: Professional-Patient Relationship: Informed Refusal

October 18, 2008

MID-TERM BREAK - NO CLASS

October 25, 2008

CLASS TOPIC: Wrongful Death and Product Liability Claims

November 1, 2008

CLASS TOPIC: Liability of Healthcare Entities

Moving Party: Submit Motion Papers

November 8, 2008

CLASS TOPIC: Peer Review and Medical Liability

November 15, 2008

CLASS TOPIC: Vulnerable Adult and Impact on Liability: Individual & Institution

Opposing Party: Submit Motion Papers

November 22, 2008

CLASS TOPIC: Managed Care Liability: EMTALA and ERISA

November 29, 2008

THANKSGIVING BREAK-NO CLASS

ORAL ARGUMENTS-SUMMARY JUDGMENT/DISMISSAL MOTIONS

Tentatively December 4 (3:00 p.m.-6:00 p.m.), December 5 (3:00 p.m.-6:00 p.m.), or December 6 (9:00 a.m.-3:00 p.m.): in the Moot Courtroom (reserved for oral arguments).

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Fall Semester 2008

§ 145.682/SUMMARY JUDGMENT MOTION GRADING GUIDELINES

I. ORAL ARGUMENT

A. Preparation

- 1) Knowledge of Facts
- 2) Knowledge of Record and case law

B. Legal Argument: Content

- 1) Knowledge of § 145.682
- 2) Knowledge of Rule 56, Minnesota Rules of Civil Procedure, Rule 56, et. Other
- 3) Knowledge and application of case law applicable to § 145.682, statute of limitations, etc.
- 4) Knowledge and application of case law applicable to Rule 56, etc.

C. Organization of Argument

D. Style/Technique

E. Ability to Respond and Handle Court's Questions

F. Responsiveness to Other Attorney's Argument

G. Comments Generally

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§ 145.682/SUMMARY JUDGMENT MOTION GRADING GUIDELINES

II. WRITTEN DOCUMENTS

A. Proper Format and Organization

- 1) Notice of Motion and Motion
- 2) Memorandum
- 3) Order
- 4) Affidavit of Service
- 5) Exhibits

B. Legal Argument

- 1) Knowledge of § 145.682, statute of limitations, etc.
- 2) Knowledge of Rule 56, Minnesota Rules of Civil Procedure, Rule 56, et. Other
- 3) Knowledge and application of case law applicable to § 145.682, statute of limitations, etc.
- 4) Knowledge and application of case law applicable to Rule 56, etc.

C. Style/Overall Format

D. Comments Generally

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Case and Statute Discussion Guide: Include the Following Areas

- **Procedural Posture**
- **Facts**
- **Issues**
- **Contentions of Defendant(s)**
- **Contentions of Plaintiff(s)**
- **Decision of Court**
 - **Holding, Dicta, Dissent (if significant)**
 - **Underlying Policy Issues (if any)**
- **Ultimate Outcome of Case**
- **What Case Adds to Status of Doctrine/Theory**
- **The “Rule” or “Law” of the Case**