

UPDATED 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.

Writing assignments will include drafting Discovery Requests and Responses; and instead of a final exam, you will be preparing the motion documents oral arguments for a summary judgment/dismissal motion that will be argued 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. For in-class assignments and the summary judgment/dismissal motion assignment, you will work in teams.

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. 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 their laptops for note taking. **BUT 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 phones), 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.**

GRADE PERFORMANCE EVALUATION

Class Participation	25%
Drafting Complaint/Answer	15%
Drafting Summary Judgment Motion Documents	35%
Summary Judgment Motion Argument	25%

REQUIRED READING

1 There is no Casebook required for the class. Reading assignments will be handed out each week either by email or in class as appropriate.

Turner, Dennis. Steele v, Kirchner, NITA (2004) is the case file that will be used as the foundation of the writing assignments and oral argument. You should purchase a copy of this case file. It will be available for purchase in the bookstore.

The Steele v, Kirchner case will be used throughout class and will provide the information you will use in writing your in-class discovery assignments and the summary judgment/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

Knowledge of Facts

Knowledge of Record and case law

B. Legal Argument: Content

Knowledge of § 145.682

Knowledge of Rule 56, Minnesota Rules of Civil Procedure, Rule 56, et. Other

Knowledge and application of case law applicable to § 145.682, statute of limitations, etc.

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

Notice of Motion and Motion

Memorandum

Order

Affidavit of Service

Exhibits

B. Legal Argument

Knowledge of § 145.682, statute of limitations, etc.

Knowledge of Rule 56, Minnesota Rules of Civil Procedure, Rule 56, et. Other

Knowledge and application of case law applicable to § 145.682, statute of limitations, etc.

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**