

**HSA 6427 Legal and Ethical Aspects of Health Administration
Fall 2013**

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Classroom: G316

Course Textbooks:

Furrow, Barry et. al. Health Law, Cases, Materials, and Problems, sixth edition. St. Paul: West, 2001. ISBN: 0314-15154-0

Levine, Carol. Taking Sides: Clashing Views on Bioethical Issues, most current edition. Dubuque, Iowa: McGraw-Hill.

Jenkins, Randall et. al. *Innovative Teaching for Health Law: A Case Study of a Hospital Medical Malpractice Lawsuit Simulation: The Journal of Health Administration Education.* Arlington, VA: AUPHA, Winter 2007. (Article included with course packet distributed first day of class).

Course Content and Competencies Developed:

This class is designed to provide a general introduction to the legal and ethical environment of health services administration. The course will cover a variety of ethical and legal issues facing health service administrators including the government regulation of healthcare false claims, fraud and abuse and antitrust compliance and litigation, informed consent, hospital and provider individual and corporate negligence, general contract law, the legal basis for hospital governance, and the principals and basis for health care malpractice insurance. Upon completion of the course the student should demonstrate the following competencies:

1. Students will continually scan and interpret how the legislature, judiciary and executive branches of government individually and collectively through a system of checks and balances influence and respond to current legal trends in the health care environment by interpreting specific judicial responses to legislative and constitutional laws governing healthcare facilities and providers.
2. Students will monitor, comply and demonstrate knowledge of the laws and regulations affecting health care organizations and health care professionals as well as gain exposure through specific case studies to how the legal system operates to ensure patient safety and protect the interests of organizations, providers, patients, and ultimately the public at large.

3. Students will analyze how to improve clinical and organizational performance and how to redesign organizational systems and processes by studying the differing operational structures employed by a variety of healthcare organizations such as nursing homes, small provider practices and large healthcare corporations. Students will analyze and critically identify areas for clinical and organizational performance improvements after assessing the legal and ethical shortcomings which contributed to the instant case lawsuits.
4. Students will be able to articulate, model and promote professional values and ethics in health care business and clinical decision making through analysis of bioethical and business ethical issues such as a patient's right to refuse medical treatment and disputes among family members.
5. Students will develop important professional skills required for health care leaders through the Socratic Method course instruction format that requires students to utilize written, verbal and interpersonal communication skills by analyzing for fellow students the rule of law or judicial reasoning used to defend the court ruling or ethical issues for each assigned reading. Students will also have to identify and effectively use appropriate communication vehicles to debate with other students the opposing sides of controversial legal and ethical issues.
6. Students will demonstrate their progression of critical thinking and problem solving skills related to healthcare law and ethics by assembling a team and using effective group processes to hold team members accountable individually and collectively as participants on a plaintiff team, defendant team or juror team member in the experiential learning simulated lawsuit exercise culminating the course. Students apply their understanding of healthcare law and ethics in a mock trial lawsuit brought by a dissatisfied patient against a hospital and health care providers. A post-trial debriefing session allows the jury team to explain the rationale for reaching a verdict in favor of either the plaintiff or defense team and allows for both individual and collective accountability for jury findings.

Course Requirements:

- 1. Attendance and Participation:** Each class meeting will consist of discussion about the assigned topic, the readings and student opinions. I expect students to engage in discussion and debate with their fellow students. Therefore, it is mandatory that you attend class. Due to the high value I place on participation, class discussion will constitute 10% of your grade. Participation will be based on the quality of your comments during general class discussion as well as on the presentation of any other assignments described below. Quality participation is demonstrated through an understanding of the assigned readings and exercises and contributions to the learning experience of other members of the class.
- 2. Assignment 1:** Distributed 8/27/13, Due 9/3/13; FIRAC a case
This assignment shall not exceed 2 typed pages. Pass/fail grade.
- 3. Assignment 2:** Distributed 8/27/13, Due 9/10/13; Briefing and Arguing a Case
This assignment shall not exceed 2 typed pages and constitutes 10% of your final grade.
- 4 Ethics Projects and in-class activities:** Each student team will be assigned different sides of chapters to study and interactively present opposing sides of ethical issues to the class from the *Taking Sides* text. The ethics presentations/quizzes contribute 10% towards your final grade. Ethics quizzes may also be given during class to ensure comprehension of the material.
- 5. Mock Trial:** Each student will be assigned a role as a participant in a medical malpractice lawsuit to develop and present during a mock trial simulation. The possible roles will include lawyers for the patient and hospital, fact witnesses and jury members. The mock trial constitutes 30% of your grade for the course.
- 6. Final Exam:** An In-class closed book exam covering the assigned readings and lecture material. The final exam constitutes 40% of your final grade for the course.

Grading for all written assignments will be based on the quality of your reasoning, the coherency of your arguments, and the clarity with which you present your position. Excellent spelling and syntax are also expected. All late assignments will be penalized; substantially late assignments will not be accepted.

Assigned Readings and Class Schedules: The assigned readings should be completed by the start of class, as the class discussions will build upon the material from the text and require student participation at a level only possible by reading the materials before class.

8/27/13 Class (Tues): Introduction and Governmental Separation of Powers:

Introduction and review of class objectives

FIRAC: How and why to brief a case: Distribute Assignment 1

Introduction to government regulation of healthcare law: Class discussion of Florida constitutional amendments designed by the Florida Trial Lawyers and the Florida Medical Association (Class Handout). Question: *“Is this governmental separation of powers at work or failed government?”*

9/3/13 Class: Law: Regulatory Control of the Healthcare System: False Claims and Fraud and Abuse:

In Class FIRAC Assignment and Discussion

Assignment 1 due

Regulatory control of Providers’ financial Relationships: False Claims: *Read chapter 14 pages 1023-1053, read very carefully U.S v. Krizek and U.S ex rel Mikes v. Straus*

Regulatory control of Providers’ financial Relationships: Fraud and Abuse: *Read chapter 14 1053-1094, read very carefully U.S v. Greber*

Regulatory Control of Providers’ financial Relationships: Read Chapter 15 pages 1095-1119. Read: FTC v. California Federation of Dentists.

Handout and discuss FTC v. Indiana Federation of Dentists and Oksanan v. Page Memorial Hospital

9/10/13 Class: Law: Regulatory Control of the Healthcare System: Antitrust

Regulatory Control of Providers' financial Relationships: Read Chapter 15 pages 1095-1119. Read: FTC v. California Federation of Dentists.

Handout and discuss *FTC v. Indiana Federation of Dentists and Oksanan v. Page Memorial Hospital*

Introduction to Ethics and Taking Sides

In Class Assignment and Discussion: How the Florida Legislature responded to the amendment 7 constitutional amendment passed by voters- enabling Statute

Assignment 2 Due: "Briefing and Arguing Cases: NME Properties v. Rudich." Making and Using Oral Argument as a Foundation for Mock Trial Experiential Learning Simulation

9/17/13 Class: Introduction to Litigation and Healthcare: Healthcare Professionals:

Tort Liability and Malpractice: Liability of healthcare professionals: *Read Chapter 5 pages 327-380. Be prepared to discuss in detail Hall v. Hilbun, Mastro v. Brodie (packet)*

How Courts Respond to Amendment 7- A Case Study: *Bowen*

Ethics: See Handout of Assignments

Mock Trial: Assignment of Teams/Roles

9/24/13 Class: Litigation and Healthcare: Healthcare Professionals Defenses To A Lawsuit

Tort Liability and Malpractice: Liability of healthcare professionals: *Read Chapter 5 pages 381-421. Be prepared to discuss in detail Chumbler v. McClure and Henderson v. Heyer and Ostrowski v. Azzara and McKenna handout.*

In Class Assignment- Florida Statute of Limitations: *Beck v. Holloway*

Ethics: See Handout of Assignments

Mock Trial: Discuss the medical aspects of pressure sores and Distribute pressure sore policy of Gator Teaching Hospital. Meeting with Plaintiff team after class

10/1/13 Class: Law: Litigation and Healthcare: Healthcare Institutions

Tort Liability and Malpractice: Liability of healthcare organizations: *Read Chapter 6 pages 437-468. Read carefully, Washington v. Washington and course packet.*

In Class Assignment: 1st DCA and Non Delegable Duty: *Juliania v. Shands*; Case Study: Non delegable duty refined: *Jones v. Tallahassee Memorial*

Ethics: See Handout of Assignments

Mock Trial: Meeting with defense team after class

10/8/13: Law: Insurance Companies, Healthcare Professionals and Institutions: Who pays who? Professional Relationships in the Healthcare Organization

Medical Malpractice Insurance Crisis: *Read Chapter 6 pages 539-552*

Professional Relationships in Healthcare: *Chapter 12 pages 850-864 and 878-882, Wright v. Shriners.*

Ethics: See Handout of Assignments

Mock Trial: Motions in Liminie and final questions of plaintiff and defense teams.

10/15/13 Class: Law: Introduction To The Legal Framework of Informed Consent and HIPAA: The Contract Between Patient and Physician, Promises and Warranties of Cure, Partial Limitations on the Right to Sue, Exculpatory Clauses and Patient Rights v Provider Rights. READING: Text pages 195-245 and HIPAA readings in Text

Ethics: See Handout of Assignments

10/22/13 Class: Final Exam: Multiple Choice and Short Answer

10/29/13 Class: Medical Malpractice Simulation Final Review and Preparations

11/5/13 Class: Mock Trial Applied Learning Simulation