

## PH PSC 230    Public Health Law & Policy

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“The most important social debates about public health take place in legal forums – legislatures, courts, and administrative agencies – and in the law’s language of rights, duties, and justice.”

(Gostin)

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PH 230/ PSC 230	Spring 2019
Monday & Wednesday	Morey 205, 6:15pm – 7:30pm
Office hours & location:	Harkness Hall 316 (Pol. Sci Dept) Mon & Wed 5:15 pm – 6:00 pm
	Or by appointment
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## Course description

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*Law in Public Health Practice* is about the legal and social justice framework for urgent public health issues, such as regulation of vaccinations, tobacco control and non-communicable diseases and injuries. The course focuses on the U.S. Constitution and the way in which it defines government powers, duties, and restraints to assure the health of all populations. The course also examines the theories and concepts behind public health law, the constitutional tensions between public health efforts and the counterbalancing rights to liberty, freedom of speech, of association, and others. Students also will learn how to identify the policymaking issues involved with implementation of laws in a community, including public health community organizing and advocacy efforts. The format of the course combines lectures with current-event case studies, and community field visits.<sup>1</sup>

The course differs from PH 236, *Healthcare and the Law*, (offered in the fall) in that this course PH 230 focuses on **governmental activity** and the health of **populations**. *Healthcare and the Law* focuses on the relationships between medical providers and patients.

The course is divided into 4 parts. Part I, Conceptual Foundations of Public Health Law will review definitions of public health, ethics, and the law. Part II, Legal Foundations of Public Health Law, reviews the law across the three branches of government: legislative (statutes), administrative (regulations), and judicial (cases). Part III, Modes of Legal Intervention, reviews the regulatory toolbox available for public health interventions. Part IV, Public Health Law in Context, presents major substantive areas of public health through numerous case studies.

Work required will be: a field trip to a local health coalition meeting, 2 quizzes, 1 legal research and analysis paper, 1 community analysis paper, and sundry small assignments related to voting, legal research skills, attendance and participation.

## Course Learning Objectives

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By the end of this course, students will be able to:

- Research and locate primary law materials (statutes, regulations, cases)
- Understand the constitutional sources of powers and duties for public health law
- Identify the individual constitutional rights that counterbalance specific public health powers (e.g. freedom of speech, of association, etc)

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<sup>1</sup> Travel will be coordinated by TA Kelly Palamar and travel costs will be reimbursed by the course.

- Analyze the ways in which community health coalitions are involved with the policymaking process
- Use new “real world” skills such as voting, persuasive writing, and group presentations

## Textbooks and Readings

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**Note:** Please support local businesses by using UR Rochester [Barnes & Noble for your textbooks](#) (link is to Find Course Materials page). B&N matches all the services that Amazon provides (campus delivery, price matching) plus additional services that Amazon does not (financial aid billing).

If you cannot afford to buy all 4 of the textbooks for this class, you have 2 options:

1. Do **all** the reading digitally from the Rush Rhees Library Reserves folder (links are below and also on Blackboard>Course materials>Textbooks Links). Please note that used books likely are not available in the bookstore for a couple of the books because they have just been published within the last 3 months (the *Reader* 3d edition, & *Essentials of Health Justice*)

2. Purchase the primary book, Gostin’s Public Health Law: Power, Duty, Restraint, 3d edition, and read the remaining 3 online via the library Reserves.

1. Lawrence Gostin, **Public Health Law: Power, Duty, Restraint**, 3d Edition (“*Gostin*”). Please don’t be daunted by the size of the book; in true lawyerly fashion, about one-third of the pages are footnotes. Available at the bookstore and also free online at the library.

<https://catalog.lib.rochester.edu/vwebv/holdingsInfo?searchId=388&recCount=50&recPointer=5&bibId=7018917>

2. Also required is the accompanying “Reader,” entitled **Public Health Law & Ethics: A Reader (3d Edition)** (“*Reader*”). This is available in the bookstore, and also available free online at the library. To access the free version, sign into the course on Blackboard, and click on “Reserves” in the left hand pane in Blackboard, then click on “Materials on Reserve in the Library.”

<https://catalog.lib.rochester.edu/vwebv/holdingsInfo?searchId=767&recCount=50&recPointer=1&bibId=7446255>

3. **Pocket Constitution** – at Barnes & Noble – also a free version is available at

<https://www.usconstitution.net/const.pdf>

4. **Essentials of Health Justice** by Tobin-Tyler & Teitelbaum

<https://catalog.lib.rochester.edu/vwebv/holdingsInfo?searchId=823&recCount=50&recPointer=0&bibId=6523630> (ebook)

Materials from the textbook may be supplemented with other reading packets available through Blackboard, as well as readings provided by our community partners.

## Student evaluation

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Student mastery of course material will be determined as follows:

<i>Student Evaluation Criteria</i>		
<b>Date<sup>2</sup></b>	<b>Activity</b>	<b>% Grade</b>
Ongoing	Class attendance & participation	10
2/20/19	Legal research exercise	10
3/6/2019	Quiz #1	15
4/1/2019	Public Comment on proposed regulations	25
Ongoing	Community health coalition project	20
	<i>Presentation to class – 5 points</i>	
	<i>Paper – 15 points</i>	
5/1/19	Quiz #2 (non-cumulative)	15
TBD	Voting exercise	5
	TOTAL	100

## Course Policies

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*Honesty and Ethics:* I take cheating and plagiarism very seriously; it constitutes theft of ideas and unfair advantage over other students. Please take [Honesty Quiz # 1](#) to test your knowledge of the [University's code](#). There are 3 times when you will be asked to insert and sign the compliance pledge with the University's code of honesty: the 2 quizzes and your final coalition paper, "I affirm that I have not given or received any unauthorized help on this assignment, and that this work is my own."

*Disability Statement:* Your success in this course is important to me, and it is the policy and practice of the University of Rochester to create inclusive learning environments consistent with federal and state law. If you have a documented disability (or need to have a disability documented), and need an "accommodation," please [contact me](#) privately as soon as possible so that we can discuss with the relevant office how to meet your specific needs and the requirements of the course. If you're not sure what counts as a disability, check out this page:

<https://www.rochester.edu/college/disability/faculty/common-disabilities.html>

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<sup>2</sup> Dates are subject to change depending upon the pace of the class.

General information about disability support services is here:

<https://www.rochester.edu/college/disability/>

## **Course Assignments**

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This is an *overview* of course requirements. More detailed information will be given with each assignment.

### Class attendance & participation – 10 points

Class attendance is required. Periodic use of unannounced class sign-in sheets will be used

Participation likewise is required: this means you must put away all distractions such as laptops, tablets, and phones during class.

Reading the assignments is required; intelligent participation also is expected to further discussion of the reading material and the concepts of public health law.

### Voting exercise – 5 points

This exercise involves mastering the logistics of informed voting, and the importance of voting to public health issues. 100% of the class will be registered to vote.

### Legal research exercise – 10 points

This exercise teaches how to locate statutes, regulations, and cases. Legal research tools will be used to locate the legal documents.

### Public Comment on proposed regulations – 25 points

This major exercise teaches how regulations are structured, how to analyze a regulation, and how to file a public comment. Students will write a formal Public Comment in response to proposed regulations.

### Quiz #1 – 15%

This quiz covers content knowledge from Chapters 1 through 6 in the Gostin text, and class material up to the March break. The format is multiple choice. Questions will be related to the learning objectives.

### Community health coalition project – 20 points - final deadlines vary by date of visit

This project involves an independent out-of-class visit to a community organization meeting to observe policymaking activities. Sign-ups and logistics will be coordinated by the teaching assistant, including information on travel reimbursement. There are 2 components to this assignment: a presentation, worth 5 points, and a paper, worth 15 points.

### Quiz #2 (non-cumulative) – 15%

Quiz #2 will cover Chapters 7 through 13 in Gostin, and classes from after March break to the end of the semester. It will not cover material tested in Quiz #1. Note there is no final exam; therefore, students will be completely done with course work by the end of the last class.

## Class Schedule and Reading Assignments

Class #	DATE	TOPIC & READING ASSIGNMENTS
1	1/16/2019	Introduction to course topics; public health law topics in the news
2	1/23/2019	<p><b>Theory and Definition of Public Health Law; Health Justice</b></p> <ol style="list-style-type: none"> <li>1. Readings and Questions Theories</li> <li>2. Gostin, CHAP 1 Excerpts (pp 2-4, 27-36)</li> <li>3. Reader [old Second Edition]: (PDF on Blackboard) <ul style="list-style-type: none"> <li>○ Definition of Public Health Chart</li> <li>○ Actual causes of death Table</li> </ul> </li> <li>4. Health Justice: Intro and Chapter 1</li> </ol>
3	1/28/2019	<p><b>Intro to Policy and the Policymaking Process Framework</b></p> <ol style="list-style-type: none"> <li>1. Readings and Questions 2</li> <li>2. Intro to the Policy Process (Birkland excerpt)</li> </ol>
4	1/30/2019	<p><b>Intro to Community Health Coalitions</b></p> <ol style="list-style-type: none"> <li>1. Readings and Questions Coalitions</li> <li>2. Public Policy Models and Their Usefulness in Public Health: The Stages Model</li> <li>3. University of Kansas Community Tool Box- Browse the <a href="#">Table of Contents</a> – Then read <a href="#">Toolkit 11</a> Influencing Policy Development, and Chapter 5, Sections <a href="#">5</a> and <a href="#">6</a> (Creating and Maintaining a Coalition)</li> </ol>
5	2/4/2019	<p><b>Justifications for Public Health Regulation</b></p> <ol style="list-style-type: none"> <li>1. Readings and Questions PH Regulation</li> <li>2. Gostin, Chapter 2</li> <li>3. Reader [old First edition – PDF is in folder, not in current book] <ul style="list-style-type: none"> <li>○ PDF, “Public Health Paternalism: A Case Study on Motorcycle Helmet Laws”</li> </ul> </li> </ol>
6	2/6/2019	<p><b>Paternalism</b></p> <ol style="list-style-type: none"> <li>1. Readings and Questions Paternalism</li> <li>2. Paternalism reading packet</li> </ol>
7	2/11/2019* Heavy reading week	<p><b>Community Health Disparities</b></p> <ol style="list-style-type: none"> <li>1. Readings and Questions Disparities</li> <li>2. <a href="https://www.commongroundhealth.org/health-disparities">https://www.commongroundhealth.org/health-disparities</a> <ul style="list-style-type: none"> <li>• What's Goin' On? Executive Summary</li> <li>• Nuestra Salud Executive Summary</li> </ul> </li> </ol> <p><b>GUESTS</b> Community Health Disparities &amp; Community</p>

		Coalitions (Candice Lucas and Gladys Burgos) [unconfirmed] 3. Health Justice, Chapter 2 – The effects of discrimination and implicit bias on health and health care 4. Health Justice, Chapter 3 Population Health Disparities
8	2/13/2019	<b>Legal Research Clinic</b> 1. Readings and Questions Legal Research 2. U.S. Constitution 1. Articles I – IV 2. Bill of Rights (Amendments 1 - 10), Amendment 14 3. Legal Treasure Hunt 4. Handout for analyzing cases 5. How to Read a Case 6. How to Read a Case Worksheet for notes 7. McNulty Legal Citation Guide 8. Library Guide to Law (access this through Blackboard, “Library Resources” link – skim the different tabs – note how complex finding the law can be!)
9	2/18/2019	Catching up day
10	2/20/2019 HW Due	<b>Constitutional Powers in Public Health</b> 1. Readings and Questions Constitutional Bases 2. Gostin CHAP 3, Public Health Law in the Constitutional Design: Public Health Powers and Duties 3. Reader: Corporate Federalism and Marijuana Regulation, pp 136-142 4. Reader, The Flint Water Crisis: A Case study on Public Health Duties and Powers, pp 100 - 108
11	2/25/2019 Heavy reading week	<b>Constitutional Limits on the Exercise of Public Health Powers: Safeguarding Individual Rights and Freedoms</b> 1. Readings and Questions Constitutional Limits 2. Gostin CHAP 4 3. Reader, Jacobson v. Massachusetts pp 146 - 152
12	2/27/2019	<b>Direct Regulation for the Public's Health and Safety</b> 1. Gostin, CHAP 6 2. Reader, Chapter 6, Information as Regulation: Public Disclosure Mandates, excerpt pp 246 - 251
13	3/4/2019	<b>GUEST Community Health Coalitions: Environmental Health [Dr Katrina Korfmacher]</b> 1. Collaborating for Primary Prevention: Rochester's Lead Law

14	3/6/2019	<b>QUIZ 1</b> Catching up day
15	3/18/2019	<b>GUEST</b> (confirmed) The role of the local health department in community health coalitions & policymaking, Dr Marielena Velez de Brown, Deputy Commissioner of the Monroe County Dept of Health 1. Gostin, Chap 5 excerpt pp 177-190
16	3/20/2019	<b>How to read a regulation</b> 1. Introduction to the Regulations Exercise (BB>Assignment Materials>Regulations Assignment)
17	3/25/2019	<b>Tort liability as indirect regulation</b> 1. Gostin, CHAP 7 2. Flint water packet 3. Opioid epidemic packet
18	3/27/2019	<b>GUEST (Dr. Theresa Green PhD MBA) The hospital's role in community health {invited 1.9.2019 for 3.27}</b>
19	4/1/2019 HW Due	<b>Guest, Stephanie David, JD MPH, Children's Health Policy Associate, Common Ground Health</b>
20	4/3/2019	<b>Reproductive Health – Contraception</b> 1. Readings and Questions Contraception 2. Read: Healthy People 2020 U.S. Family Planning Objectives (all tabs) a. <a href="https://www.healthypeople.gov/2020/topics-objectives/topic/family-planning">https://www.healthypeople.gov/2020/topics-objectives/topic/family-planning</a> 3. Haycock & McNulty excerpt, Validity of Religion-Based Challenges 4. New York Times, “Set It and Forget It: How Better Contraception Could Be a Key to Reducing Poverty” (Dec 18, 2018) 5. New York Times, “Judge Blocks Trump’s Attempt to Roll Back Birth Control Mandate” (Jan 14, 2019)
21	4/8/2019	<b>Reproductive Health – Abortion</b> 1. Readings and Questions Abortion 2. Abortion in the U.S.: Factsheet 3. Where US Abortion Fights Will Play Out in 2019 (Jan. 8, 2019)
22	4/10/2019	<b>Taxation, Spending, and the Social Safety Net: Hidden Effects on Public Health</b> 1. Readings and Questions Safety Net



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23	4/15/2019	<p><b>Catching up day</b> Voting homework handed out.</p>
24	4/17/2019	<p><b>Noncommunicable Disease Prevention</b></p> <ol style="list-style-type: none"> <li>1. Gostin, Noncommunicable Disease Prevention: Promoting Healthier Lifestyles (CHAP 12)</li> </ol>
25	4/22/2019 HW Due	<p><b>Infectious Disease Prevention and Control</b></p> <ol style="list-style-type: none"> <li>1. Gostin, CHAP 10</li> <li>2. Immunization case study - the “anti-vax” movement; California legislation.</li> </ol> <p>Voting homework due.</p>
26	4/24/2019	<p><b>Injury and Violence Prevention from a Public Health Perspective: Promoting Safer Lifestyles</b></p> <ol style="list-style-type: none"> <li>1. Gostin, CHAP 13</li> <li>2. Current Events Case study: Gun control</li> </ol>
27	4/29/2019	<p><b>Health Justice</b></p> <ol style="list-style-type: none"> <li>1. Health Justice, Chapter 7 – Advocating for Health Justice: What You Can Do</li> </ol>
28	5/1/2019	<b>Quiz 2</b>