

HEALTHCARE¹ & THE LAW

3 September 2020

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| Instructor | Prof. Molly McNulty, J.D. {LinkedIn} |
| Office | No physical office hours this semester |
| E-mail | m.mcnulty@rochester.edu |
| Office hours | By appointment |
| TA | Ms. Astghik Baghinyan WhatsApp (+374 43 183382) or abaghiny@u.rochester.edu |
| Credit hours | 4 credit hours |
| Time | Tuesdays and Thursdays 2:00 – 3:15 pm |
| | Zoom Classroom |

Course Description

This course introduces the legal foundations of healthcare in America. The material covers a broad range of legal issues in medical care², including constitutional issues related to federalism, an introduction to legal thinking, rules of judicial interpretation and judicial review. The course also provides an overview of specific legal issues in the health law and policymaking universe, including immunizations, medical malpractice “reform”, the opioid epidemic, health care reform including the Affordable Care Act (“Obamacare”), the Americans with Disabilities Act, transgender issues, abortion, the doctrine of informed consent, surrogate decision making in health care, and end-of-life advance directives. The course introduces problem-solving skills in healthcare and law and explores the various legal solutions reached by legislatures, agencies, and the courts. Guest speakers will complement the course material. The course is divided into five modules.

¹ “Health Care or Healthcare?” <http://www.arcadiasolutions.com/final-word-healthcare-vs-health-care/> This course uses “healthcare”, to indicate a system.

² Public health law issues are covered in my spring course, PH PSC 230 Public Health Law and Policy.

Module 1: This first part of this course covers core concepts such as the importance of voting, and definitions of health and law.

Module 2 will cover ethics and the law, which will cover the right to life, the right to die, and surrogate decision-making.

Module 3 addresses legal foundations, such as fundamental legal concepts and how they relate to healthcare. You will obtain the skills necessary to find, read, understand, and analyze primary legal documents (legislation and legal opinions). The content will include the structure of government, the foundations of health law, and an introduction to legal thinking.

Module 4 covers key aspects of health care financing and reform efforts; topics will include an overview of the U.S. health care system, government health insurance programs, the Affordable Care Act, and tort law and malpractice.

Module 5 will cover discrimination and other access barriers to health care, such as discrimination on the basis of socio-economic class, religion, disability, and sex.

Course Objectives

Upon completion of this course students will be able to:

1. Describe the role of governments and law in promoting and protecting health, including the functions of courts, legislatures, and administrative agencies in relation to health care law and policy
2. Apply key concepts related to values, voting, and definitions of health and law
3. Explain the ethical dimensions of rationing, surrogate decision making, and advance directives
4. Apply legal skills including finding, reading, and analyzing judicial opinions (cases) and statutes
5. Identify the legal underpinnings of the healthcare system
6. Identify civil rights protections in the healthcare setting for patients

Course Materials

1. **TEXTBOOK** Wilensky & Teitelbaum, *ESSENTIALS OF HEALTH POLICY & LAW (NEW 4th edition)*
 - Free through the library [here](#)
 - Buy print version through Barnes & Noble, or
 - Buy print and/or ebook version from the Publisher at 25% off, free shipping, from Jones & Bartlett, www.jblearning.com with coupon code FALL25OFF
2. **NEW YORK TIMES:**

- <http://libguides.lib.rochester.edu/az.php?q=new%20york%20times>, directly select and access the database “[New York Times - ProQuest](#)”.
 - Note that this is a *database* of NYT articles, not an online newspaper – so good for searching but not daily reading
 - There is a NYT news feed about health news located on the [LibGuide for Public Health](#)
3. **PRIMARY LAW** – statutes, regulations and cases, all of which are on Blackboard

Academic Integrity

At Rochester, we are committed to academic excellence, which depends on academic honesty. Academic honesty means being truthful in our academic pursuits, maintaining ownership of our own work, and acknowledging our debt to the work of others. All assignments and activities associated with this course—including, but not limited to, collaboration, citation, and use of outside resources—must be performed in accordance with the University of Rochester's [Academic Honesty Policy](#). You must write the magic sentence on all your case brief questionnaires: **“I affirm that I will not give or receive any unauthorized help on this assignment, and that all work will be my own.”**

Late Assignments

Written case questionnaires are due at noon before class starts on the due date. Late assignments will be marked down for the first 2 weeks after the deadline. Assignments handed 2+ weeks late will not be accepted; you will receive a failing grade of zero for that assignment, unless you have arranged something different with me before the initial deadline. I am mindful that this semester may be particularly challenging due to COVID-19 – if you find yourself struggling with assignment deadlines, please let me know and we can make accommodations.

Incomplete Policy

Sometimes, life events beyond a student’s control can interfere with learning, such as illness or emergency, causing students to miss class and/or deadlines for assignments. By the end of the semester, grades may not reflect the student’s mastery of the material. In these situations, students may negotiate with professors to extend deadlines past the end of the semester for extra time to finish the coursework. A formal contract will be created to specify the work needed, and the deadlines; this contract is put on file with the Registrar’s office. The availability of an “incomplete contract” is **decided solely by the professor**. Documentation may be requested (e.g. medical notes for depression/anxiety).

<https://www.rochester.edu/college/CCAS/handbook/Incompletes.html>

Overwhelmed students are encouraged to contact the University's CARE team, <https://www.rochester.edu/care>. I make liberal use of the CARE network and will refer you if you are missing a lot of classes, have failed to hand in homework, or are consistently failing assignments. An important life skill is recognizing when you need help, and asking for it.

Grading

Grades for assignments for this course are assigned a numerical value. The final grade is comprised of the cumulative points earned out of 100 points possible. Note that, for the unannounced open-book, in-class quizzes, only 2 of the 3 grades will be included. The lowest quiz score will get dropped.

| ASSIGNMENT | DUE DATE AT NOON | POINTS |
|----------------------------------|-------------------------------|--------|
| Academic Honesty Affirmance | 9/1/2020 | 1 |
| Course Information Quiz | 9/1/2020 | 1 |
| Pew Political Typology Quiz | 9/1/2020 | 2 |
| Voter Registration | 9/10/2020 | 2 |
| Miller, and Baby K | 9/15/2020 | 10 |
| Advance Directives | 9/29/2020 | 5 |
| Jacobson | 10/6/2020 | 10 |
| James, and DeSoto | 10/15/2020 | 10 |
| Presidential Report Card | 10/23/20 & 10/29/2020 | 2 |
| Hobby Lobby | 11/5/2020 | 10 |
| Sutton | 12/1/2020 | 10 |
| Discussion Forums (primary post) | 9/11, 9/27, 10/16, 11/1, 12/5 | 5 |
| Discussion Forums - 2 replies | 9/14;9/30;10/19;11/4;12/8 | 0 |
| Module Quizzes (5) | 9/14;9/30;10/19;11/4;12/8 | 10 |
| Open-Book Unannounced Briefs | tba | 20 |
| News Presentation (group) | 12/8 | 2 |
| | | 100 |

| | |
|------|---------------|
| A | 94.0% - 100% |
| A- | 90.0% - 93.9% |
| B+ | 86.0% - 89.9% |
| B | 82.0% - 85.9% |
| B- | 78.0% - 81.9% |
| C+ | 74.0% - 77.9% |
| C | 70.0% - 73.9% |
| C- | 66.0% - 69.9% |
| Fail | <66% |

[Students on Pass/Fail must achieve a 70 or higher.]

Course Assignments

Academic Honesty Affirmance (1 point)

You are required to read and affirm the University's policy on academic honesty (1 point)

Course information quiz (1 point)

You are required to read all the materials in the first module, called Course Overview and Information. The quiz tests your knowledge of these course policies. (1 point)

Values Identification: Pew Political Typology Quiz (2 points)

You will take this quiz in class.

Presidential Candidate Report Card (2 Points)

Students will sign up for specific legal and policy issues, research them, and write them up.

News Presentation (2 points)

Students will research the news as a group exercise, and prepare a class presentation addressing the nature of the problem, the laws involved, and predict the outcome of the legal debate.

Voter Registration (2 points)

You will be required to register to vote, including developing a 'get out the vote' message and strategy.

Lochner Case Brief Questionnaire (0 points)

This is an ungraded case brief questionnaire, designed to guide you through your first independent analysis of a judicial opinion.

Advance Directive (5 points)

Health care and the law intersect markedly at the end of life. Students will be asked to read the New York State advance directives law, and using a guided form, reflect on their own values and fill out legally valid advance directives.

Quizzes (10 points)

Each module will conclude with a quiz to test whether you have read and viewed the assignments, and whether you understand the material.

Discussion Forum Posts (5 points)

Each module will conclude with a Discussion. The professor will post specific questions, to which students must provide a primary answer, and then respond to 2 other classmates' posts.

In-class Open-Book case Brief Questionnaires (3 10-point assignments – lowest grade will get dropped)

During three unannounced class sessions, each student will write and turn in case brief questionnaires; i.e. answers to questions about the assigned case. These in-class assignments are open book and worth 10% each. Students may drop one assignment during the semester to allow for unanticipated absences. Your total grade for the in-class assignments will be the sum of the top 2 out of the 3 grades.

Case brief questionnaires (5 assignments; 50 points total)

Reading legal documents is a skill that requires practice. The 5 case brief questionnaires will provide you with questions to facilitate a close reading and understanding of the different components of primary material, and I expect to see gradual improvement over the course of the semester in your analysis. You will have one ungraded case brief questionnaire toward the beginning of the semester.

Schedule of Topics

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| CLASS # | DATE | TOPIC | LEARNING ACTIVITIES | *Asgnt Due |
|-----------------|---------------------|--|---|-------------------------------|
| MODULE 1 | 8/27 – 9/14 | CORE CONCEPTS | | |
| 1 | 8/27/2020 | Overview of the course & syllabus. Hot topics in the news | Course Information Quiz; Academic Honesty Affirmance; news article discussion | |
| 2 | 9/1/2020* | Values in U.S. Health Policy | Pew Quiz; Voter registration | Pew (in class) |
| 3 | 9/3/2020 | What Is “Health?” | Read or listen to 2 of the 5 multimedia items | |
| 4 | 9/8/2020 | What is “Law?” | Constitution history; Constitutional transcript; Wilensky; Teitelbaum | Voter Registration |
| 5 | 9/10/2020 | Legal Skill: How to Read An Opinion | Kerr; <i>Phillips</i> ; <i>Lochner</i> ; Quiz; Discussion | CQ <i>Lochner</i> |
| MODULE 2 | 9/15 – 9/30 | ETHICS AND THE LAW | | |
| 6 | 9/15/2020 | Decision making in health care (<i>Miller/BabyK</i>) (Dr Margie Shaw) *CONFIRMED | <i>Miller & Baby K</i> ; video <i>Dying in Your Mother’s Arms</i> | CQ <i>Miller & Baby K</i> |
| 7 | 9/17/2020 | The Doctrine of Informed Consent (<i>Schloendorf et al.</i>) | <i>Schloendorf</i> ; <i>Salgo</i> ; <i>Natanson</i> | |
| 8 | 9/22/2020 | Advance Directives (Dr. David Kaufman) *CONFIRMED | NYS Act; NYS Booklet, Podcast, Fill-In Forms (Write Advance Directive); | Advance Directive |
| 9 | 9/24/2020 | Surrogate decision making in health care(adults) (Dr. Demme) *CONFIRMED | <i>Quinlan</i> ; Listen to Cruzan oral argument | |
| 10 | 9/29/20 | NO ZOOM CLASS | Quiz; Discussion | |
| MODULE 3 | 10/1 – 10/19 | LEGAL FOUNDATIONS & SKILLS | | |
| 11 | 10/1/2020 | Vaccine Wars | View Frontline video | |
| 12 | 10/6/2020* | Intro to Common Law and the Police Power | <i>Jacobson</i> | CQ Jacobson |
| 13 | 10/8/2020 | Legal Skill: How to Find and Analyze A Case | <i>Katskee</i> | |

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|-----------------|--------------|---|---|-----------------------|
| 14 | 10/13/2020 | Legal Skill: How to Interpret Statutes | EMTALA (the "patient dumping" statute) | |
| 15 | 10/15/2020 | Legal Skill: Identifying judicial review standards | <i>James; Lopez-Soto</i> ; Quiz; Discussion | CQ James & Lopez-Soto |
| MODULE 4 | 10/20 – 11/4 | HEALTH CARE SYSTEM | | |
| 16 | 10/20/2020 | Overview of the US Healthcare System | Wilensky Chap 4 | |
| 17 | 10/22/2020 | Gov't Health Insur. Programs: Medicaid, Medicare & CHIP | Wilensky Chap 11 | |
| 18 | 10/27/2020 | Health reform: An historical perspective | Wilensky Chap 10 | |
| 19 | 10/29/2020 | Patient Protection and Affordable Care Act ("Obamacare") | <i>Sebelius</i> | |
| 20 | 11/3/2020 | Torts and Medical Malpractice | Peckham; White; Quiz; Discussion | |
| MODULE 5 | 11/5 – 12/8 | HEALTHCARE ACCESS AND DISCRIMINATION | | |
| 21 | 11/5/2020 | Religious Discrimination: Affordable Care Act (<i>Hobby Lobby</i>) | <i>Hobby Lobby</i> | CQ Hobby Lobby |
| 22 | 11/10/2020 | Sex Discrimination: Contraceptive Mandate: After <i>Hobby Lobby</i> | | |
| 23 | 11/12/2020 | Sex Discrimination: LGBTQ issues in healthcare law | Section 1557 of the Affordable Care Act; Regulation | |
| 24 | 11/17/2020 | Sex Discrimination: "T.R.A.P.ed" video | View video | |
| 25 | 11/19/2020 | Sex Discrimination: Regulation of Abortion | June Medical v Russo, others tba | |
| 26 | 11/24/2020 | Disability Discrimination: Americans with Disabilities Act | <i>Sutton</i> | CQ Sutton |
| 27 | 12/1/2020 | Disability Discrimination: Rationing Care in the COVID-19 era (Richard Dees, guest speaker) CONFIRMED | White & Lo; Emanuel; NYS Task Force | |
| 28 | 12/3/2020 | Disability Discrimination: Opioid Epidemic & Legal Responses | View Heroin(e) video | |
| 29 | 12/8/2020 | News Presentations | News Presentations; Quiz; Discussion | |

(Last updated 9/3/2020 1:54 PM)

First class: Overview of the course & syllabus. Hot topics in the news.

1. Student Introductions were made via VoiceThread. Please go in and check them out! And please reply to 2 classmates' introductions.
2. Hot topics in the news – *bring a news story to the first class to share– (this is DIFFERENT FROM the graded news presentation that you will be doing later in the semester).*

SOURCES:

- American Public Health Association – News & Media <https://www.apha.org/news-and-media>
- Kaiser Health News <https://khn.org/> (Includes a health policy haiku!)
- Findlaw - <https://healthcare.findlaw.com/>
- National Health Law Program (I used to work here!) <https://healthlaw.org/news/>
- New York Times health law coverage <https://libguides.lib.rochester.edu/PH> - has NYTimes health news headline feed & database link (open access; free)
- The Network for Public Health Law - News & Insights - <https://www.networkforphl.org/news-insights/>
- U.S. Centers for Disease Control and Prevention <https://www.cdc.gov/php/news/current.html>

Module 1 Core Concepts

Civic engagement and the law: voting exercises

Learning Objectives:

1. To identify your own political values, party alignment, and civics knowledge
2. To identify candidates who will be on your ballot and their positions on health law
3. To register to vote, and create a practical strategy for election day
4. To be able to explain to others why they should vote

Assignment - Pew Political Typology Quiz (in class)

- Assignment: Where do you fit in the national political typology? Pew Research Center, Political Typology Quiz, **Group Quiz URL:** <https://www.people->

[press.org/quiz/political-typology/?groupID=pBoSu](https://www.press.org/quiz/political-typology/?groupID=pBoSu). Group name is PH 236 Test
(Note submission instructions on Blackboard).

Assignment – DUE in October, start thinking and researching now.

- Presidential Candidate Report Card (Discussion board assignment; you will need to make a primary post, and then Reply to 2 other students)

SPECIAL NOTE: Interested in doing more around the election? RCCL has suspended its Election Fellow program this year, but students are still welcome to register to serve as an inspector through the Monroe County Board of Elections! <https://www2.monroecounty.gov/files/boe/Working%20As%20A%20Poll%20Worker.pdf>. If interested in getting more engaged politically, contact Abbie Deacon, abigail.deacon@rochester.edu, at the Rochester Center for Community Leadership.

What Is “health”? What is “disease”? What is “disability?”

Of the 5 readings below, **read 2** that interest you the most. Be prepared to share your observations with the class.

1. ALS: Podcast, “Second Language” (2017) on the Reply All program, starting at 16:01 minutes. (about 15 minutes)
2. ASPERGERS: Baron-Cohen. Is Asperger syndrome/high functioning autism necessarily a disability? [Baron-Cohen 2000 PDF](#)
3. DWARFISM: [Passing My Disability On to My Children](#)
4. ADHD A Diagnosis Can Give Students Extra Test Time (Money Helps) [ADHD 2019 PDF](#)
5. One Man's COVID-19 Death Raises The Worst Fears Of Many People With Disabilities (2020) [COVID Death Disability 2020](#)

Reading Focus Questions: Come to class prepared to discuss these items, focusing particularly upon differences in the interpretations of “health” and how definitions can differ depending upon one’s point of view. What are some of the implications for how health care is obtained?

In-class exercise: Creating definitions.

What is “law”? The law and government: The Constitution

- [A More Perfect Union: The Creation of the U.S. Constitution](#)
- [The Constitution of the United States: A Transcription](#)
- Wilensky & Teitelbaum, [Chapter 3, Law and the Legal System](#)

- Essentials of Health Justice [Chapter 1](#) Context and Background: Health-Harming Legal Doctrines, Historical Discrimination, and Implicit Bias

Reading Focus Questions:

1. What is the primary function of the law? Why is the law characterized as “imperfect”? What does the law have to do with health policy?
2. What were the various views of the delegates attending the Constitutional Convention concerning a central government and state sovereignty? How are the debates about the roles of the various governmental structures relevant today?

In-class exercise: Deep analysis of one constitutional provision, current relevant legal debates about the specific provision.

Legal Skill: How to Read An Opinion

- Orin S. Kerr, How to Read a Legal Opinion: A Guide for New Law Students, 11 Green Bag 2d 51 (2007).
- Reading Strategies for the Law: Skim, Scan or Close Read?
- Phillips v. City of New York, 775 F.3d 538 (2015)
- Handout for Analyzing Cases (optional template)
- Assignment: Brief Lochner (ungraded)

In class exercise: Practice briefing a case (Phillips v. City of New York)

Module 2 Ethics and the Law

Decision making in health care – the babies cases (Guest Dr Margie Shaw)

- Miller ex rel. Miller v. HCA, Inc., 118 SW 3d 758 (2003).
- In The Matter Of Baby “K”, 16 F.3d 590; 1994 U.S. App. Lexis 2215; 3 Am. Disabilities Cas. (BNA) 128.
- *View Dying in Your Mother’s Arms*

The Doctrine of Informed consent

- Schloendorff v. Society of New York Hospital, 211 NY 125, 129-130, N.E. (1914)
- Salgo v. Leland Stanford Jr. University Board of Trustees, 154 Cal App2d 560, 317 P2d 170 (1957).
- Natanson V. Kline. 354 P.2d 670 (Kan. 1960).

Surrogate decision making in health care – adult cases (Guest Dr. Rich Demme)

- In the Matter of Karen Quinlan. 70 N.J. 10; 355 A.2d 647 (1976).
- Listen to "[Cruzan by Cruzan v. Director, Missouri Department of Health.](#)" Oyez, 28 Nov. 2017

Advance Directives (Guest Dr David Kaufman)

- NYS Family Health Care Decisions Act
- NYS Planning Your Health Care In Advance

Module 3 Legal Foundations & Skills

The Vaccine Wars (video)

We will view a video: Frontline's The [Vaccine War](#) (53 minutes) – questions to think about while watching –

- what are the legal issues involved? in other words, what is the fight about?
- what is the rationale for parents who refuse to or delay obtaining childhood vaccinations?
- do you think there is sufficient public interest to justify requiring parents to vaccinate their children? If so, describe the interest.
- do you think their fears are legitimate?

"Common Law" and its contours: Immunizations and the "Police Power"

- Jacobson v. Massachusetts, 197 U.S. 11, 12 (1905)
- Phillips v. City of New York

Legal Skill: How to Analyze A Case Using rules of judicial interpretation

The purpose of this class and the readings is to illuminate the way that courts *interpret* legal language and rationalize the outcome of their opinions. Please read *Katskee* carefully (at least twice).

- *Katskee v. Blue Cross/Blue Shield of Nebraska*, 245 Neb. 808, 515 N. W.2d 645.

Reading focus questions:

1. What is the nature of health insurance?
2. What is wrong with Sindie Katskee?
3. What is the nature of Katskee's complaint?
4. Do you think Katskee has an "illness"? Be prepared to explain your answer.

Statutes (Legislation) and how courts interpret them

This class will continue our exploration of how legal thinking works. This class will examine a different type of law: legislation (statutes) as opposed to cases (judicial opinions) and its interpretation, and will reflect on the role that evidence plays – or does not play – in the enactment of legislation.

- Richard H. Dees and Jennifer Kwon, “The Ethics of Krabbe Newborn Screening.” *Public Health Ethics* 6 (2013): 114-19
- Nijssing, Krabbe Newborn Screening: The Issue of Informed Consent, *Public Health Ethics*
- 42 U.S.C. § 1395DD “EMTALA – Emergency Medical Treatment and Active Labor Act”

Reading focus questions:

1. Reflecting on the Dees article, what initiated legislation? What role did scientific evidence play?
2. What does EMTALA require of Emergency Department staff when an individual comes into the ED?
3. Describe an "emergency medical condition" and what it means to “stabilize” someone having an emergency medical condition. Provide examples.

Legislation and judicial review

- *James v. Sunrise Hospital*, 86 F.3d 885 (1996)
- *Lopez-Soto v. Hawayek*, 175 F.3d 170 (1999)
- Sutherland, *The Problem of Ambiguity*
- Recommended for Skimming: *How to Interpret Statutes - Or Not: Plain Meaning and Other Phantoms* (BB)
- Symposium: *June Medical* and the many faces of judicial discretion, [SCOTUS Blog](#)

Reading focus questions:

The cases are arguments about how to interpret the federal statute “EMTALA”.

1. In *Sunrise*, what part of the statute are the patient and the hospital fighting about?
2. In *Lopez-Soto*, what part of the statute are the parties fighting about?
3. What role does stare decisis (precedent deference) play in these opinions?

Tip: The rules of interpretation are opposing in the 2 opinions:

- *Sunrise* – Hospital won
 - b/c all 3 statute provisions must be met together (“and”)
- *Lopez-Soto* – Patient won
 - b/c all 3 statute provisions are “disjunctive” and can be read separately (“or”)

Module 4 Healthcare System & Financing

Overview of the U.S. Health Care System

- Wilensky, Chapter 4, Overview of the United States Healthcare System
- Key Facts About the Uninsured

Government Health Insurance Programs: Medicaid, Medicare and CHIP³

- Wilensky, Chapter 11, Government Health Insurance Programs: Medicaid, CHIP and Medicare

Health reform: An historical perspective

- Bruce Vladeck "Universal Health Insurance in the United States: Reflections on the Past, Present, and the Future," American Journal of Public Health, 93 (2003), pp. 16-19
- TBA

Patient Protection and Affordable Care Act ("Obamacare") (Sebelius) (Heavy Reading)

- From the SCOTUS⁴ blog: Sebelius in Plain English, parts [1](#) and [2](#).
- 1 of 5 excerpts of Sebelius opinion (to be assigned)

Module 5 Healthcare Access and Discrimination

Religious Discrimination: Patient Protection and Affordable Care Act & Freedom of religion (Hobby Lobby)

- Burwell v. Hobby Lobby Stores, Inc.

Sex Discrimination: The Contraceptive Mandate: After Hobby Lobby and Legal Responses

- Trump Administration Rolls Back Birth Control Mandate
- Doubtful Science Behind Arguments to Restrict Birth Control Access
- Contraception New Laws - Reading Focus Questions

Sex Discrimination: LGBTQ Issues in Healthcare Law

- Tovar v Essential Health Amicus Brief
- Liszewski (2018), Persons of Nonbinary Gender: Awareness, Visibility, and Health Disparities

³ Allow extra time for reading this chapter – it is very dense with many new concepts

⁴ SCOTUS = Supreme Court of the United States

- ASAPANSA-JOHNSON WALKER v. Azar opinion

Sex Discrimination: Regulation of Abortion: "T.R.A.P.ped" video

- Abortion in the US Fact Sheet <https://www.guttmacher.org/fact-sheet/induced-abortion-united-states>
- TRAPPED video (Targeted Regulation of Abortion Providers)

Sex Discrimination: Regulation of Abortion

- June Medical vs Russo ((Sct 2020)
- Greenhouse, L. We Just Saw the Future of Anti-Abortion Laws, [NYTimes](#)
- Howe, A., Federal government's brief in abortion case supports Louisiana's position, raises possibility of overruling *Whole Woman's Health*, [SCOTUS BLOG](#)

Disability Discrimination: The Americans with Disabilities Act

- The Americans with Disabilities Act excerpt pp 8-22, and
- Sutton v United Airlines.

Disability Discrimination: COVID-19 and Rationing of Care

- White & Lo (2020), A Framework for Rationing Ventilators and Critical Care Beds During the COVID-19 Pandemic
- Emanuel (2020), Fair Allocation of Scarce Medical Resources in the Time of Covid-19
- New York State Task Force on Life and the Law (2015), Ventilator Allocation Guidelines
- Sabatello (2020), Disability, Ethics, and Health Care in the COVID-19 Pandemic

Disability Discrimination: The Opioid Epidemic and Legal Responses

Readings:

- National Institutes of Health website on opiates: surf the site
- States Sue Manufacturers
- Complaint Multnomah County

Reading Focus Questions:

NIDA Webpage (for exploration; try clicking a few links of interest)

1. How does NIDA describe the problem of opiates?
2. What statistics does it refer to?
3. Can you tell which NIH agency is taking the lead on the opioid epidemic (FDA, HHS, NIDA)? Why does this matter?

States Sue Manufacturers

1. Why do states think that the manufacturers should pay for the opioid epidemic?
2. What are the lawsuits about? What claims do they make?
3. Do you agree that manufacturers should be held responsible? Why or why not?

Multnomah County Complaint (for skimming, not close read)

1. What does the county/plaintiff claim the defendants/manufacturers have done wrong?
2. What specific laws have been broken?
3. What specific costs of the epidemic does the complaint describe?
4. Do you agree with the theory of the case (that mfgrs are responsible)? Why or why not?