



PHLT/PSCI 236

Healthcare and the Law

Fall 2022

Dewey 2110E

Faculty

Instructor: Prof. Molly McNulty, m.mculty@rochester.edu, Office Hour Wednesday 12:30-1:30pm EST or by appointment (Zoom link on Blackboard Course Home Page)

Teaching Assistants:

Saylor Lewtschenko, s.lewtschenko@u.rochester.edu, Office Hour Monday 5:30-6:30PM or by appointment (Zoom link on Blackboard Course Home Page)

Abbey Fitzpatrick, a.fitzpatrick@u.rochester.edu, Office Hour Monday Monday 5:30-6:30 or by appointment (Zoom link on Blackboard Course Home Page)

Course Description

This course introduces the legal foundations of healthcare in America. The material covers a broad range of legal issues in healthcare. Module 1 introduces the role of values and political ideologies in health politics, policy and law; introduction to U.S. law and the legal system; an overview of the U.S. healthcare system, and a methods class on how to read and analyze a judicial opinion. Module 2 addresses the common law and the “police power.” Module 3 provides an overview of how constitutional law relates to healthcare; how the bill of rights specifically has been applied to selected legal issues such as gun control, racism in healthcare, and access to abortion. Module 4 addresses healthcare reform in the U.S., including its history, passage of the Patient Protection and Affordable Care Act, and implementation of the “contraceptive mandate” within the PPACA. Module 5 concludes with an overview of the relationship between ethics and the law, which will cover the doctor-patient relationship, when doctors can refuse care and when they are obligated to deliver it, the right to life, the right to die, and surrogate decision-making. Module 6 provides students with an independent opportunity to research, identify, analyze, and present a healthcare law case of their choosing via VoiceThread.

Course Objectives

Upon completion of this course students will be able to:

Apply the principles of health law and policy analysis to public health, private insurance, Medicaid, and mental health at the Federal & State, both public and private.

Demonstrate knowledge of the current situation in healthcare law

Describe how the principles of ... political science apply to health policy

Demonstrate knowledge of health policy as it relates to the organization, financing, and provision of health care

Course Materials

1. **TEXTBOOK:** Wilensky, Essentials of health policy and law (2023 Edition) (purchase required as “Perusall license” from Barnes and Noble bookstore. Access the purchase link through the “Textbook” folder in Blackboard Navigation pane.
2. **PRIMARY LAW** – Judicial opinions are uploaded to Blackboard
3. **ARTICLES** – available on Blackboard

Academic Integrity Affirmation

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 your 3 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, ” and sign it.**

Late Assignments

Written case questionnaires are due the day before the class starts at 11:59pm (e.g. Monday at midnight for Tuesday’s class). Late assignments will be marked down 1 point daily for the first week after the deadline. Assignments handed 1+ week 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.

Help

CARE Overwhelmed students (you are not alone!) 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

Biography Voicethread	2%
Values in Political Party Platforms	2%
Quizzes (In-Class)	6%
Case questionnaire I	10%
Case questionnaire II	12%
Case questionnaire III	15%
Debate	5%
Discussion Boards	10%
Glossary	10%
Living Will	5%
Perusall Annotations	8%
Participation (Including Learning Teams)	5%
Final Case Presentation Voicethread	5%
Attendance/Quickly	5%

Course Assignments

Academic Honesty Affirmance (ungraded but tracked in Grading Center)

You are required to read and affirm the University's policy on academic honesty

Attendance (5 %)

Attendance is an important components of learning about the law. To maintain fairness, the Quickly attendance tool will be used to evaluate attendance. A unique code will be shown at the beginning of every class and you must enter this into the tool to be counted as present.

Participation (5 %)

Valid participation includes equal contribution to the regular work of your Learning Team. This is an upper-level class; therefore, you are expected to participate evenly – neither dominating the discussing, nor quietly residing in the back row. All of you have valid observations to make, based on your own lived experiences as well as your course work.

Case brief questionnaires - 3 assignments (37 % total)

Reading legal documents is a skill that requires practice. The 3 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.

In-class unannounced case brief questionnaires (ungraded)

To further promote the skill of case analysis, in November there will be 2 classes with unannounced case brief questionnaires. These will be ungraded.

Debate (5%)

The class will prepare and debate the U.S. Supreme Court case ruling on the constitutionality of the contraceptive mandate in the Affordable Care Act.

Glossary (10%)

Learning Teams will be assigned one term per Module, which they will then research and present to the class for discussion and modification. A final Learning Team consensus definition will then be uploaded to Blackboard. Once approved by Prof. McNulty, the definition will be uploaded to the Blackboard Glossary page by the TA.

Discussion Board Forums (10%)

For each of the 5 Modules, the professor will post a broad question to the Discussion Board. To each credit, students should respond to the question thoughtfully, drawing upon both the class readings and current events. Then, students should respond to the posts of 2 of their classmates, pulling in external references where appropriate.

Advance Directive/Living will (5 %)

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 [note: these become legally effective only if witnessed and signed by others].

Final Healthcare Law Case Presentations (5 %)

For the last 2 classes of the semester, individual students will research a healthcare law case from the last 3 years that represents a significant legal debate. Using Voicethread, students will record their summary and analysis of the case, and then also post 2 responses to classmates' cases.

Values in Political Party Platforms (2%)

Students will analyze the platforms of the major political parties to assess the ways in which political ideologies infuse the policy stances on healthcare issues.

Perusall Social Annotations (8 %)

Perusall is a "social annotation" tool embedded within Blackboard. It is used to assure that students complete the assigned reading, that they understand the reading, and that they engage in dialogue with their classmates about interesting points.

Course Schedule and Activity Deadlines

Please Note:

- There usually will be additional readings, viewings, podcasts, Youtube videos, etc posted on Blackboard. **These are also required preparation for the class.**
- **Each class has a question – come to class prepared to discuss your answers in light of your own personal experiences and the Blackboard assignments.**

Module 1 Foundations of Healthcare Law

9/6 – 9/22

Module Learning Objectives

Students will be able to describe their own political ideologies, to investigate media bias in coverage of healthcare law issues, and to identify values embedded within political party platforms.

Students will be able to interpret a legal opinion.

MODULE 1 Graded Assignments

Discussion Board (2%)

- Post Your Initial Response 9/17 by 11:59pm
- 2 Responses to Classmate Posts 9/20 by 11:59pm

Glossary – Learning Team Presentation on 9/22 (2%)

- Initial Definition Due in Google Doc 9/20 by 2:00pm
- Revised Definition Due in Blackboard Assignment Submission Link 9/24 by 11:59pm

Final day of Module: 9/22

CLASS # 1 9/6/2022 Introduction to the course

What will you learn in this course and how?

Preparatory Assignments

- Complete questionnaire on prior knowledge before Class 2.
- Create biographical sketch in Discussion Board (graded assignment) before Class 2.
- Comment on 2 classmates' biographical sketches before Class 2.

Graded Assessment(s) of Mastery

- Biographical Sketch + 2 Responses (2%)

CLASS # 2 9/8/2022 The Ubiquity of Law and Embedded Values

How is the law present in our everyday lives?

Preparatory Assignments

- Pew Foundation Report, Red vs. Blue: The Political Typologies
- Wilensky Chapter 1 Understanding the Role of and Conceptualizing Health Policy and the Law.
(View in Perusall, ungraded introduction to Perusall social annotation process)

CLASS # 3 9/13/2022 Politics, Policy and Law

How do different value systems affect the way law is created and enforced?

Preparatory Assignments (View in Perusall)

Wilensky Chapter 2 Policy and Policymaking Process

Graded Assessment(s) of Mastery

- Values and Political Party Platform Analysis (2) % Due Sep 14 by 11:59 pm

CLASS # 4 9/15/2022 Introduction to U.S. Law

What is US Law and the Legal System?

Preparatory Assignments (View in Perusall)

- Wilensky Chapter 3 Law and the Legal System;
- Wilensky Chapter 6 Excerpt "Law As A Driver Of Health"

Graded Assessment(s) of Mastery

- In-Class Quiz (3) % Due Sep 15

CLASS # 5 9/20/2022 Introduction to the U.S. Healthcare System

What is the U.S. healthcare system?

Preparatory Assignments (View in Perusall)

- Wilensky Chapter 4 Healthcare System
- Wilensky Chapter 5 Public Health

Graded Assessment(s) of Mastery

- In-Class Quiz (3) % Due Sep 20

CLASS # 6 9/22/2022 How to Interpret A Legal Opinion

How to read and interpret a legal opinion?

Preparatory Assignments

- General Overview
 - View Youtube "How To Read A Case."

- Listen, McNulty Recorded Lecture
- Read Sutherland on The problem of ambiguity
- McNulty List of Standard Reading Focus Questions.
- Case Study
 - Katskee Reading Focus Questions
 - Katskee v. Blue Cross/Blue Shield, 515 NW 2d 645 - Neb: Supreme Court 1994 (view in Perusal)
 - Slides, Analysis of Katskee Opinion

Module 2: Common Law

9/27 – 10/4

Module Learning Objectives

Students will be able to identify and describe how common law affects the healthcare system

MODULE 2 Graded Assignments

Discussion Board (2%)

- Post Your Initial Response 9/29 by 11:59pm
- 2 Responses to Classmate Posts 10/2 by 11:59pm

Glossary – Learning Team Presentation on 10/4 (2%)

Initial Definition Due Revised Definition Uploaded to Blackboard Assignment Submission Link 10/5 by 11:59pm

Final Day of Module: 10/4

CLASS # 7 9/27/2022 Common Law History

What are the legal doctrines of "common law" and "precedent"?

Preparatory Assignments

- Reading, Review Wilensky Chapter 3 Law and the Legal System, Excerpt on “The Definitions and Sources of Law” (view excerpt in Perusal)

CLASS # 8 9/29/2022 Common Law - Police Power

How does common law doctrine of the "police power" relate to healthcare law?

Preparatory Assignments

- Jacobson v. Massachusetts, 197 US 1 Supreme Court 1905
- Mariner, W. K., Annas, G. J., & Glantz, L. H. (2005). Jacobson v Massachusetts: It’s not your great-great-grandfather’s public health law. American Journal of Public Health

Graded Assessment(s) of Mastery

- Case questionnaire, Jacobson v. Massachusetts (10) % Due Oct 3

CLASS # 9 10/4/2022 Common Law - Police Power & COVID Aftermath

How has the police power doctrine been applied in the time of COVID?

Preparatory Assignments

- Sandro Galea, Introduction: **Politics, Policies, Laws, and Health in a Time of COVID-19**, in COVID-19 POLICY PLAYBOOK: LEGAL RECOMMENDATIONS FOR A SAFER, MORE EQUITABLE FUTURE • MARCH 2021
- Supreme Court Opinion Summaries (Jan. 2022), Biden v. Missouri, Bicerria v. Louisiana

Module 3 Constitutional Law

10/6 – 10/27

Module Learning Objectives

How does the constitution influence healthcare law?

How have the legal doctrines of federalism and "separation of powers" been applied?

How have the Bill of Rights amendments been applied to promote or hinder health equity?

MODULE 3 Graded Assignments

Discussion Board (2%)

- Post Response 10/22 by 11:59pm
- 2 Responses to Classmate Posts 10/25 by 11:59pm

Glossary – Learning Team Presentation on 10/27 (2%)

- Initial Definition Due in Google Doc 10/22 by 2:00pm
- Revised Definition Due to Blackboard Assignment Submission Link 10/29 by 11:59pm

Final day of Module: 10/27

CLASS # 10 10/13/2022 Separation of Powers & Federalism

Preparatory Assignments

- The Constitution Center, "Interactive Constitution"

Graded Assessment(s) of Mastery

- Perusall Annotate "Supreme Court Review 2022" (2) % Due Oct 12

CLASS # 11 10/18/2022 Bill of Rights & the 14th Amendment

Preparatory Assignments

- Wilensky Ch 6 Individual Rights in Healthcare and Public Health;
- Ch 7 "Law As A Driver Of Health" section .

CLASS # 12 10/20/2022 Second Amendment - Right to Bear Arms

Preparatory Assignments

- SCOTUS Blog, In 6-3 ruling, court strikes down New York's concealed-carry law (in NYS Rifle & Pistol Assn v. Bruen (SCt 2022))
- Oral arguments, New York State Rifle & Pistol Association Inc. v. Bruen, Oyez.org coverage

Graded Assessment(s) of Mastery

- Perusall Annotation (2) % Due Oct 17 11:59 pm

CLASS # 13 10/18/2022 Racial Justice

Preparatory Assignments

- 'Color of Health' report focuses on impacts of racial inequity in healthcare (July 2021)
- The Color of Health: The Devastating Toll of Racism on Black Lives (July 2021)
- Goodwin & Lynch, Health Law and Anti-Racism: Reckoning and Response (The Journal of Law, Medicine & Ethics, (2022)

Graded Assessment(s) of Mastery

- Perusall (2) % Due Oct 21

CLASS # 14 10/25/2022 The history of reproductive justice

Preparatory Assignments

- Oyez.org summary, Roe v Wade Excerpts, U.S. Supreme Court (1973) (in Perusall)

Graded Assessment(s) of Mastery

- Case questionnaire (12) % Due Oct 30

CLASS # 15 10/27/2022 The future of reproductive justice

Preparatory Assignments

- Read New York Times annotated opinion of Dobbs v. Mississippi (2022)
- Oyez.org coverage of Dobbs, <https://www.oyez.org/cases/2021/19-1392>

Graded Assessment(s) of Mastery

- Perusall, ABA article on role of precedent in SCOTUS. (2) % Due Oct 24

CLASS # 16 11/1/2022 Catching Up Class

Module 4: Health Reform

11/3 – 11/15

Module Learning Objectives

Identify key aspects of health care financing and legal reform efforts including history.

MODULE 4 Graded Assignments

Discussion Board (2%)

- Post Your Initial Response 11/10 by 11:59pm
- 2 Responses to Classmate Posts 11/13 by 11:59pm

Glossary – Learning Team Presentation on 11/15 (2%)

- Initial Definition Due in Google Doc 11/10 by 2:00pm
- Revised Definition Due to Upload to Blackboard Assignment Submission Link 11/17 by 11:59pm

Final Day of Module: 11/15

CLASS # 17 11/3/2022 History of Health Reform

What has the history of health reform been?

Preparatory Assignments

- 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.
- Wilensky Ch 8 Understanding Health Insurance

Graded Assessment(s) of Mastery

CLASS # 18 11/8/2022 Government Insurance Programs

What are the major public insurance programs?

Preparatory Assignments

- Wilensky Ch 10 Government Health Insurance Programs

CLASS # 19 11/10/2022 Patient Protection and Affordable Care Act

What is the Patient Protection and Affordable Care Act?

Preparatory Assignments

- Wilensky, Ch 11 Excerpt on The U.S. Supreme Court’s Decision in National Federation of Independent Business v. Sebelius;
- SCOTUS Blog, The mandate is constitutional, in plain English (on the 2012 Sebelius opinion); SCOTUS Blog, The mandate is constitutiona

-
- <https://www.oyez.org/cases/2011/11-393>
- <https://www.youtube.com/watch?v=JZkk6ueZt-U&t=58s>

CLASS # 20 11/15/2022 PPACA & Contraceptive Mandate

How does the PPACA relate to reproductive justice?

Preparatory Assignments

- Burwell v. Hobby Lobby Stores, Inc., 134 S. Ct. 2751 - Supreme Court 2014
- <https://www.oyez.org/cases/2013/13-354>

Graded Assessment(s) of Mastery

In-Class Debate (5) %

Module 5 Ethics and the Law

11/17-12/6

Module Learning Objectives

Students will be able to identify healthlaw issues that have ethical implications for patient care and resource allocation.

MODULE 5 Graded Assignments

Discussion Board (2%)

- Post Initial Response 12/1 by 11:59pm
- 2 Responses to Classmate Posts 12/4 by 11:59pm

Glossary – Learning Team Presentation on 12/6 (2%)

- Initial Definition Due in Google Doc 12/1 by 2:00pm
- Revised Definition submitted to Blackboard Assignment Submission link 12/8 by 11:59pm

Final Day of Module: 12/6

CLASS # 21 11/17/2022 DR PATIENT RELATIONSHIP/INFORMED CONSENT

Under what circumstances can competent adults refuse treatment?

Preparatory Assignments

- Schloendorff
- Salgo
- Natanson

CLASS # 22 11/22/2022 When Healthcare Providers Need Not Provide Medical Care - And When They Must

Under what circumstances must healthcare providers provide healthcare?

Preparatory Assignments

- James
- Lopez-Soto
- Statute; Social Security Act § 1867, 42 U.S.C.A. § 1395dd.
- 2022 Executive Regulations Applying EMTALA to Medical Abortion in Hospital Emergency Departments

CLASS # 23 11/29/2022 When A Mentally Competent Adult Can Refuse Medical Care

When can an adult patient refuse to consent to medical treatment?

Preparatory Assignments

- Quill v Vacco

CLASS # 24 12/1/2022 Surrogate Decision Making-- Babies

When can parents substitute their medical judgment for treatment of minors?

Preparatory Assignments

- Miller v HCA
- Baby K (EMTALA)

CLASS # 25 12/6/2022 Surrogate Decision Making-- Adults (Living Wills)

When can other adults substitute their judgments for treatment of other adults?

Preparatory Assignments

- In the matter of Karen Ann Quinlan, An Alleged Incompetent (NJ 1976)

Graded Assessment(s) of Mastery

Living Will (5) % Due Dec 8

Module 6 Healthcare Law in the News

Module Learning Objectives

Students will be able to identify and analyze current health law cases related to the organization, financing, and access to healthcare and social services.

CLASS # 26 12/8/2022 Final Case Presentations

What does current case law say about health law?

Preparatory Assignments

- Locate a healthcare law case from the past 3 years that represents a significant debate within healthcare law
- Analyze the case using a provided outline

Graded Assessment(s) of Mastery

- Upload Case Analysis to VoiceThread (5) % Due Dec 13
- Response to 2 Classmates' VoiceThread analysis Due Dec 15