

**Department of Public Health Sciences
University of Miami School of Medicine**

COURSE SYLLABUS

EPH 654 - Public Health Ethics and Law

Spring 2014

Instructor: Reid Cushman, PhD
UM Department of Medicine
and Ethics Programs
rcushman@med.miami.edu

Class Location: CRB 995
Class Times: Tuesdays, 1:00 – 3:00 pm
Prerequisites: None

Course Description

What is best for the public's health? Measures that might maximize agreed-upon indicia of population health are not always consistent with society's view of what is legal, ethical, or good policy. (And we may not even be able to agree on the most relevant measures.) This course focuses on key concepts of law and ethics, economics and epidemiology, and policy analysis, as applied to public health. It seeks to demonstrate with both current and historical examples, how these perspectives empower and constrain public health decision-making and actions. The organizing framework is legal structure, but approached from the perspective that a society's established laws are the clearest exemplars of agreed-upon societal notions of ethics.

The course will combine lecture (minimally), "Socratic" in-class dialogue, in-class group discussion and exercises, as well as online and offline assignments, in approaching its topics. The course may include some guest presentations by visiting experts from the University of Miami, other universities, and state and local governments.

Program Learning Objectives

Upon completion of the Master's in Public Health, our graduates will be able to:

- Be knowledgeable about the public health issues of epidemiologic and public health importance globally, in addition to domestically
- Identify the causes of social and behavioral factors that affect health of individuals and populations
- Identify basic theories, concepts and models from a range of social and behavioral disciplines that are used in public health research and practice
- Identify strategies for applying health education and disease prevention models to the development, implementation and evaluation of behavior change interventions.
- Apply theoretical perspectives in analyzing the behavioral, cultural, and social dimensions of a community health problem

- Understand the concept of common pathways for development of disease and disability

Course Learning Objectives

- Be knowledgeable about the intersecting philosophical, political, economic, and legal dimensions of government interventions designed to preserve and improve population health
- Understand the foundational principles and approaches of each of these disciplines in the context of public health, both currently and historically
- Understand the history of how these perspectives have been applied to particular population health issues in the past, particularly in the United States
- Understand the different approaches to public health interventions taken by different countries, and the outcomes of these varying strategies
- Apply what has been learned to explore issues such as emergency preparedness, control of emerging infectious diseases, chronic disease prevention, and genetic-genomic medicine

Required Textbooks and Supplemental Readings

- Lawrence O. Gostin, Public Health Law: Power, Duty, Restraint, University of California Press / Milbank Memorial Fund (2008) ISBN 9780520253766 (hereinafter abbreviated as “PDR”)
- Lawrence O. Gostin (ed), Public Health Law and Ethics, University of California Press / Milbank Memorial Fund (2010) ISBN 9780520261921 (selected readings only)
- Supplemental optional readings will be posted on the course Blackboard site

Course Assignments and Deliverables

Course requirements include:

- regular attendance
- active participation in class discussions and group exercises
- completion of required readings (Gostin et al)
- completion of online examinations (Blackboard)
- completion of online surveys (Blackboard, Qualtrics/SurveyMonkey, and i>clicker)
- timely submission of deliverables, as discussed below

Deliverables include the following (grade weight in parentheses):

- open-book on-line quizzes administered via Blackboard, covering content from required course readings from the textbook and any supplements (~35%)
- class attendance and participation in exercises (~35%)
- three three-page issue briefs (~45%)
- leading class discussion for that session’s readings (~10%)
- one-page proposal for a new reading (~10%)

The assignments are structured to yield greater than 100 percentage points of credit, so that some can be missed without detriment to the final grade. Students who complete more than 100 percentage

points of credits can receive a grade on their “best 100” as well as some extra credit acknowledging their extra effort. Details of these assignments and their deadlines will be available in the Assignments section of the course’s Blackboard site. Grades will be posted immediately upon grading and available in the My Grades section of the Blackboard site.

Written components of assignments must be submitted via Blackboard SafeAssignment. Please note that you are not allowed to submit work previously submitted for another course or project without the express permission of the instructor. SafeAssignment detects similarities not only with other work on the public Internet but also work previously submitted for UM courses. Late assignments will be subject to penalty.

Every class will make use of i>clicker Audience Response System devices. Responses will not be graded, but will be used as a record of class attendance. These devices will be provided free at the start of the semester, and must be returned in working condition at the end of semester.

Class Sessions and Topics

The bulk of readings are from the Gostin textbook (PDR), supplemented by the Gostin (ed) reader. Additional readings may be assigned and provided via the Blackboard course site. Note the “(required)” indicator for each session’s readings.

0. Orientation to the course and its requirements [Jan 14]

- Learning objectives
- Textbook and readings
- Assignments and deliverables
- Use of Blackboard, i>clickers, etc.

1. The Public’s Health – Theoretical and Legal Definitions [Jan 21]

- PDR, chapter 1 (required)
- Ali H. Mokdad et al., Actual Causes of Death in the United States
- Geoffrey Rose, Sick Individuals and Sick Populations
- Dan Beauchamp, Community: The Neglected Tradition of Public Health
- Norman Daniels, Bruce Kennedy, and Ichiro Kawachi, Justice Is Good for Our Health
- Lawrence O. Gostin and Madison Powers, What Does Social Justice Require for the Public’s Health? Public Health Ethics and Policy Imperatives
- Lawrence O. Gostin, Jo Ivey Boufford, and Rose Marie Martinez, The Future of the Public’s Health: Vision, Values, and Strategies

2. Public Health Ethics and Public Health Regulation [Jan 28]

- PDR, chapter 2 (required)

- The National Commission for the Protection of Human Subjects of Biomedical and Behavior Research, The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research
- Ronald Bayer and Amy L. Fairchild, The Genesis of Public Health Ethics
- James F. Childress et al., Public Health Ethics: Mapping the Terrain
- Daniel Callahan and Bruce Jennings, Ethics and Public Health: Forging a Strong Relationship
- Supreme Court of Vermont, Benning v. State
- Marian Moser Jones and Ronald Bayer, Paternalism and Its Discontents: Motorcycle Helmet Laws, Libertarian Values, and Public Health
- Stephen Breyer, Breaking the Vicious Circle: Toward Effective Risk Regulation
- Richard Wilson and E. A. C. Crouch, Risk Assessment and Comparisons: An Introduction

3. Public Health Duties and Powers [Feb 4]

- PDR, chapter 3
- Supreme Court of the United States, DeShaney v. Winnebago County Department of Social Services
- Supreme Court of the United States, Castle Rock v. Gonzales
- William J. Novak, Governance, Police, and American Liberal Mythology
- Supreme Court of the United States, South Dakota v. Dole
- Supreme Court of the United States, United States v. Lopez
- Supreme Court of the United States, Gonzales v. Raich
- Supreme Court of the United States, New York v. United States

4. Public Health and the Protection of Individual Rights Feb 11]

- PDR, chapter 4 (required)
- Supreme Court of the United States, Jacobson v. Massachusetts
- Circuit Court, Northern District of California, Jew Ho v. Williamson
- Supreme Court of the United States, City of Cleburne v. Cleburne Living Center
- Bureau of National Affairs, Second Amendment Shields Individual Rights, Is Violated by D.C.'s Prohibition of Handguns
- Supreme Court of Appeals of West Virginia, Greene v. Edwards

5. Public Health Governance: Direct Regulation for the Public's Health and Safety [Feb 18]

- PDR, chapter 5 (required)
- Supreme Court of the United States, Gonzales v. Oregon
- Supreme Court of the United States, Food and Drug Administration v. Brown & Williamson Tobacco Corp.
- New York Court of Appeals, Boreali v. Axelrod
- Supreme Court of the United States, Massachusetts v. EPA
- Lawrence O. Gostin, The Deregulatory State

6. Tort Law and the Public's Health: Indirect Regulation [Feb 25]

- PDR, chapter 6 (required)
- Stephen P. Teret, Litigating for the Public Health
- Wendy E. Parmet and Richard A. Daynard, The New Public Health Litigation
- Tom Christoffel and Stephen P. Teret, Epidemiology and the Law: Courts and Confidence Intervals
- Supreme Court of the United States, Daubert v. Merrell Dow Pharmaceuticals, Inc.
- Peter W. Huber, Galileo's Revenge: Junk Science in the Courtroom
- Jon S. Vernick, Lainie Rutkow, and Stephen P. Teret, Public Health Benefits of Recent Litigation against the Tobacco Industry
- Court of Appeals for the Second Circuit, Pelman v. McDonald's Corp.
- Lawrence O. Gostin, The Deregulatory Effects of Preempting Tort Litigation

7. Global Health Law: Health in a Global Community [Mar 4]

- PDR, chapter 7 (required)
- Lawrence O. Gostin, Why Rich Countries Should Care about the World's Least Healthy People
- Laurie Garrett, The Challenge of Global Health
- David P. Fidler and Lawrence O. Gostin, The New International Health Regulations: An Historic Development for International Law and Public Health
- Allyn L. Taylor and Douglas W. Bettcher, WHO Framework Convention on Tobacco Control: A Global "Good" for Public Health
- Jonathan M. Mann et al., Health and Human Rights
- United Nations Committee on Economic, Social, and Cultural Rights, The Right to the Highest Attainable Standard of Health
- M. Gregg Bloche and Elizabeth R. Jungman, Health Policy and the WTO
- Lawrence O. Gostin, Meeting the Survival Needs of the World's Least Healthy People: A Proposed Model for Global Health Governance

8. Surveillance and Public Health Research: Privacy and the "Right to Know" [Mar 18]

- PDR, chapter 8 (required)
- Ronald Bayer and Amy L. Fairchild, Public Health: Surveillance and Privacy
- Amy L. Fairchild, Ronald Bayer, and James Colgrove, Panoptic Visions and Stubborn Realities in a New Era of Privacy
- Sandra Roush et al., Mandatory Reporting of Diseases and Conditions by Health Care Providers and Laboratories
- Ronald Bayer and Kathleen E. Toomey, HIV Prevention and the Two Faces of Partner Notification
- James G. Hodge Jr., An Enhanced Approach to Distinguishing Public Health Practice from Human Subjects Research

- David R. Buchanan and Franklin G. Miller, Justice and Fairness in the Kennedy Krieger Institute Lead Paint Study: The Ethics of Public Health Research on Less Expensive, Less Effective Interventions
- Supreme Court of the United States, *Whalen v. Roe*
- Centers for Disease Control and Prevention and Department of Health and Human Services, HIPAA Privacy Rule and Public Health: Guidance from CDC and the U.S. Department for Health and Human Services
- Lawrence O. Gostin, James G. Hodge Jr., and Ronald O. Valdiserri, Informational Privacy and the Public's Health: The Model State Public Health Privacy Act

9. Health, Communication, and Behavior [Mar 25]

- PDR, chapter 9 (required)
- Sonya Grier and Carol A. Bryant, *Social Marketing in Public Health*
- Ruth R. Faden, *Ethical Issues in Government-Sponsored Public Health Campaigns*
- Supreme Court of the United States, *44 Liquormart, Inc. v. Rhode Island*
- Supreme Court of the United States, *Lorillard Tobacco Co. v. Reilly*
- Court of Appeals for the Second Circuit, *International Dairy Foods Association v. Amestoy*
- United States District Court for the Southern District of New York, *New York State Restaurant Association v. New York City Board of Health*

10. Medical Countermeasures for Epidemic Disease: Bodily Integrity [Apr 1]

- PDR, chapter 10 (required)
- Garrett Hardin, *The Tragedy of the Commons*
- Supreme Court of the United States, *Zucht v. King*
- Supreme Court of Mississippi, *Brown v. Stone*
- United States District Court for the Eastern District of Arkansas, *Boone v. Boozman*
- James Colgrove, *Expansion and Backlash: Vaccination at the Turn of the Twenty-first Century*
- Ruth R. Faden, Nancy Kass, and Madison Powers, *Warrants for Screening Programs: Public Health, Legal and Ethical Frameworks*
- Supreme Court of the United States, *Ferguson v. City of Charleston*
- Ronald Bayer and David Wilkinson, *Directly Observed Therapy for Tuberculosis: History of an Idea*
- Supreme Court of Wisconsin, *In re Washington*
- James Hodge et al., *Expedited Partner Therapy for Sexually Transmitted Diseases: Assessing the Legal Environment*

11. Public Health Strategies for Epidemic Disease: Association, Travel, and Liberty [Apr 8]

- PDR, chapter 11 (required)
- J. M. Eager, *The Early History of Quarantine: Origin of Sanitary Measures Directed against Yellow Fever*

- Supreme Court of South Carolina, Kirk v. Wyman
- Supreme Court of Ohio, Ex parte Company
- Supreme Court, Queens County, City of New York v. Antoinette R.
- Lawrence O. Gostin, Ronald Bayer, and Amy L. Fairchild, Ethical and Legal Challenges Posed by Severe Acute Respiratory Syndrome: Implications for the Control of Severe Infectious Disease Threats
- Howard Markel, Lawrence O. Gostin, and David P. Fidler, Extensively Drug-Resistant Tuberculosis: An Isolation Order, Public Health Powers, and a Global Crisis
- Ezekiel J. Emanuel and Alan Wertheimer, Who Should Get Influenza Vaccine When Not All Can?
- Lawrence O. Gostin, Public Health Law in an Age of Terrorism: Rethinking Individual Rights and Common Goods
- George J. Annas, Bioterrorism, Public Health, and Human Rights

12. Economic Liberty and the Pursuit of Public Health [Apr 15]

- PDR Chapter 12 (required)
- Supreme Court of the United States, Dent v. West Virginia
- Supreme Court of the United States, Camara v. Municipal Court of the City and County of San Francisco
- United States District Court for the Southern District of New York, Players, Inc. v. City of New York
- Supreme Court of New York, New York v. New St. Mark's Baths
- Supreme Court of the United States, Lochner v. New York
- Supreme Court of the United States, Lucas v. South Carolina Coastal Council
- Supreme Court of the United States, Kelo v. City of New London

13. Concluding Reflections on the Field: Case Studies on Biosecurity, Genomics, and Obesity [Apr 22]

- PDR, chap 13 (required)
- Donald A. Henderson, The Looming Threat of Bioterrorism
- David L. Heymann, The Evolving Infectious Disease Threat: Implications for National and Global Security
- Halla Thorsteinsdóttir et al., Genomics—A Global Public Good
- Wendy C. Perdue, Obesity, Poverty, and the Built Environment: Challenges and Opportunity