

**College of Public Health, HPM**  
**Health Care Law, Regulation and Ethics**  
**PHC#6420-901**  
**COPH Room 2016**  
**Tuesday, 6:00-8:50**

**Spring 2008**

**John Petril**  
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**Text:** Health Law: Cases, Materials and Problems. (5th Ed. West Publishing 2004)  
Furrow, Greaney, Johnson, Jost, and Schwartz.

**Supplemental Readings:** Supplemental readings will be assigned periodically during the course and will be available through links on Blackboard.

**Blackboard:** Blackboard will be used for course announcements, communications, and any additional assignments.

**Instructor Availability:** I can be reached by email or phone and am available to meet with students at the convenience of the student.

**General Course Description:**

This course surveys current legal and ethical issues from the perspectives of health care administrators, practitioners, and patients. The course examines legal principles relevant to the business of health care, to administrative and practitioner liability, and to patient autonomy. In doing so, it also explores the ethical principles that lie at the core of health care debates, and considers whether certain trends in health care (for example, in financing) should result in a reconsideration of those principles.

The course relies primarily on legal texts (judicial opinions, statutes) and class discussion based on case vignettes is a significant part of the class. Students are expected to participate in class discussion.

Grading will be based on two major examinations (a mid-term and a final), brief course papers, and class discussion.

**Course Objectives:**

1. To acquaint students with significant health care law issues and their resolution.
2. To give students an understanding of the interplay between individual and societal values and health care law.

3. To assist students in understanding key policy issues in health care and the ways in which the law shapes resolution of those issues.
4. To enable students to read primary legal documents, for example, judicial opinions and statutes, making them better consumers of legal advice.
5. To give students an understanding of legal reasoning.

### **Course Topics and Weekly Readings:**

#### **January 8 Course Overview/Overview of Legal System/Reading Court Opinions**

#### **January 15 The Role of "Disease" in the Law/Licensing of Health Care Professionals**

<b>Text:</b> Problem: The Couple's Illness	9 - 10
<b>Text:</b> Introduction and Katskee v. Blue Cross	1 - 9
<b>Text:</b> Enthoven: What Medical Care Is...	10 - 14
<b>Text:</b> Licensing of Health Care Professionals	114-115
<b>Text:</b> In re Wilson	115-117
<b>Text:</b> Hoover v. AHCA and Notes and Questions	117-126
<b>Text:</b> Alternative & Complementary Medicine: State Board v. McDonough	127-135

**Blackboard:** Readings on discipline and licensing laws

#### **January 22 Introduction to Malpractice/Standards of Care/Health Care Professionals As Malpractice Defendants**

<b>Text:</b> Problem: Patient's Choice	292
<b>Text:</b> The Problem of Medical Error	27-44
<b>Text:</b> The Professional - Patient Relationship	294-295
<b>Text:</b> Dingle v. Belin and Notes	295-303

<b>Text:</b> Hall v. Hilbun and Notes and Questions	185-202
<b>Text:</b> Practice Guidelines and Proof of Negligence	204-211
<b>Text:</b> Problem: Evidentiary Hurdles	211-217
<b>Blackboard:</b> Readings on Malpractice Reform Efforts	

### **January 29 Liability, Financial Incentives, and Managed Care**

<b>Text:</b> Wickline v. State	232-241
<b>Text:</b> Muse v. Charter	448-450
<b>Text:</b> Physicians as Advocates	241-242
<b>Text:</b> Bush v. Dake	602-604
<b>Text:</b> Introduction to ERISA	644-646
<b>Text:</b> ERISA Preemption	670-677
<b>Text:</b> Pegram v. Herdrich	660-669
<b>Blackboard:</b> AETNA Health, Inc. v. Davila	

### **February 5 Professional Staff Issues/ Introduction to Antitrust Law**

<b>Text:</b> Notes	810-812
<b>Text:</b> Mateo-Woodburn v. FCH and notes	818-824
<b>Text:</b> Mahan v. Avena St Lukes and Notes	824-828
<b>Text:</b> Problem: Dr. Bennett	829-830
<b>Text:</b> Potvin v. Met Life and Notes	830-834
<b>Text:</b> Wright v. Shriner's	837-841
<b>Text:</b> National Labor Relations Act	841
<b>Text:</b> Amerihealth and United Food...Union	850-853
<b>Text:</b> Introduction to Antitrust Law	1046-1051

**Blackboard:** Reading on physicians and unionization

**February 12 Antitrust Law**

<b>Text:</b> In Re Michigan State Medical Society and notes	1051-1057
<b>Text:</b> Wilk v. AMA and notes	1072-1074
<b>Text:</b> Arizona v. Maricopa County Medical Society	1078-1085
<b>Text:</b> U.S. DOJ and FTC Statements	1086-1093
<b>Text:</b> FTC/Med South	1093-1101
<b>Text:</b> Physician Unions	1101-1105
<b>Text:</b> Hospital Corporation of America	1113-1124
<b>Text:</b> Notes on mergers	1129-1133
<b>Blackboard:</b> Future of antitrust law as applied to health care	

**February 19 Access and Discrimination Law: Common Law, EMTALA and the Americans with Disabilities Act**

<b>Text:</b> Problem: HIV-Positive Physician	331-332
<b>Text:</b> Access to health care/obligation to provide care	528-529
<b>Text:</b> Williams v. United States	534-535
<b>Text:</b> ADA/Rehab Act Section 504	551-552
<b>Text:</b> Bragdon v. Abbott	555-561
<b>Text:</b> Howe v. Hull and notes	552-554
<b>Text:</b> Title VI Civil Rights Act	561-565
<b>Text:</b> Estate of Mauro v. Borgess Medical Center	858-864
<b>Text:</b> EMTALA	538-541
<b>Text:</b> Matter of Baby K	1334-1339

**February 26 MID-TERM EXAM (CLOSED BOOK/NO NOTES)****March 4 Review of Mid-Term Exam/Taxation**

<b>Text:</b> Forms of Business Enterprises	868-870
<b>Text:</b> Manhattan Eye, Ear, Throat...	886-894
<b>Text:</b> Integration and New Organizational Structures	906-911
<b>Text:</b> Utah County v. Intermountain Health Care	920-927
<b>Text:</b> IHC Health Plan Cases	933-943
<b>Text:</b> Redlands Surgical v. IRS	953-961
<b>Text:</b> Inurement/Private benefit	961-967
<b>Blackboard:</b> Health care tax credits: An alternative...	

**March 11 SPRING BREAK/NO CLASS****March 18 Informed Consent**

<b>Text:</b> Problem	378-379
<b>Text:</b> Origins of the Informed Consent Doctrine	356-358
<b>Text:</b> Canterbury v. Spence and notes	358-369
<b>Text:</b> Tests of Competency to Consent to Treatment	1381-1384
<b>Text:</b> President's Commission	1384-1385
<b>Text:</b> Johnson v. Kokemoor and notes	369-379
<b>Text:</b> Moore v. Regents	392-400
<b>Text:</b> Note 4	400
<b>Text:</b> Nuremberg Code	1515-1517
<b>Text:</b> Federal Research Regulations	1524-1529
<b>Text:</b> Grimes v. Kennedy Krieger	1529-1539

**Blackboard:** Easy to read consent statement...

**March 25      Abortion and Reproductive Rights**

**Text:** Legal Recognition of the Beginning of Life      1144-1152

**Text:** Roe v. Wade      1156-1159

**Text:** Planned Parenthood v. Casey 1162-1173

**Text:** Stenberg v. Carhart and notes      1173-1185

**Blackboard:** Gonzales v Carhart

**Text:** RU-486      1190-1192

**Blackboard:** FDA decision on morning-after pill

**April 1      Surrogate Parenting; Genetics**

**Text:** Problem      1209-1210

**Text:** Uniform Parentage Act      1215-1218

**Text:** Davis v. Davis and notes      1224-1235

**Text:** Matter of Baby M and notes      1235-1239

**Text:** Johnson v. Calvert      1242-1247

**Text:** Prato-Morrison v. Doe      1250-1254

**Text:** In re A.C. and notes      1265-1278

**Text:** Cloning      1258-1264

**Text:** Genetics      1287-1295

**Text:** Safer v. Pack      1295-1299

**Supp:** Stem Cell Research Enhancement Act of 2005      Blackboard  
President's Veto Message

<b>April 8</b>	<b>Right to Die; Physician-Assisted Suicide</b>	
	<b>Text:</b> Problem	1315-1316
	<b>Text:</b> Development of “Brain Death” Definition	1317-1320
	<b>Text:</b> In re T.A.C.P.	1325-1328
	<b>Text:</b> Use of Neonates as Donors	1328-1334
	<b>Text:</b> Cruzan v. Director, Missouri Dep’t of Health and notes	1349-1358
	<b>Text:</b> Advance Directives	1389-1403
	<b>Text:</b> Conservatorship of Wendland	1417-1427
	<b>Text:</b> Guardianship of Schiavo	1433-1438
	<b>Blackboard:</b> Terri’s Law	
	<b>Text:</b> Washington v. Glucksberg; Vacco v. Quill	1471-1485
	<b>Text:</b> Oregon’s Death with Dignity Act	1493-1500
<b>April 15</b>	<b>Fraud and Abuse</b>	
	<b>Text:</b> False Claims	976
	<b>Blackboard:</b> DHS/DOJ 2005 Health Care Fraud Report	
	<b>Text:</b> US v Krizek and notes	977-991
	<b>Text:</b> US v Greber	1011-1014
	<b>Text:</b> Qui Tam Actions	1003-1004
	<b>Text:</b> US v Strauss	991-999
	<b>Text:</b> Stark I and Stark II	1034-1038
	<b>Text:</b> US v Stark	1017-1022
<b>April 22</b>	<b>Confidentiality/HIPAA</b>	
	<b>Text:</b> Problem: The Tour Bus	356

<b>Text:</b> Humphers v. First Interstate Bank	318-325
<b>Text:</b> Doe v. Medatlastic	325-329
<b>Supp:</b> Tarasoff v. Regents (summary)	Blackboard
<b>Text:</b> Federal Standards (HIPAA)	332-351
<b>Text:</b> Problem: Leaking Patient Information	351
<b>Blackboard:</b> State ex rel. Cincinnati Enquirer v. Daniels	

**April 29 FINAL EXAMINATION (CLOSED BOOK/NO NOTES)**

**Grading** Grades will be based on the following:

Occasional short papers and assignments (20 percent).

A mid-term examination (35 percent)

A final examination (45 percent).

Examinations will be closed book. The format of the examination will be discussed during the course of the semester. Examinations will be given only at the scheduled time. **PLEASE DO NOT ASK FOR AN EXCEPTION.**

**Grading Percentages:**

**The University's recommended grading scale will be used as follows:**

97-100 points= A+

94-96 points=A

90-93 points=A-

87-89 points=B+

84-86 points=B

80-83 points=B-

77-79 points=C+

74-76 points=C

73 and <=C- through F

Grades will be submitted electronically as required by the University.

**Attendance** Attendance will be taken at the beginning of each class. If a student knows in advance that class will be missed, it is requested that the instructor be notified



prior to the class. Absent medical cause, more than two absences from class will be taken into consideration in grading.

**Students with Disabilities:** It is the policy of the University of South Florida to accommodate students with disabilities pursuant to federal and state law. Any student with a disability who requires special accommodation should inform the instructor at the beginning of the course.

**Religious Observances:** In accordance with University policy, students are expected to notify the instructor if they intend because of religious observances to be absent for a class or scheduled examination. No student shall be compelled to attend class or sit for an examination at a day or time prohibited by his or her religious belief.