

PubH 7576, Section 320  
Legal Considerations in Health Services Organizations  
Summer Session 2015

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**Credits:** 2  
**Meeting Days:** June 29 - August 14, 2015  
**Meeting Time:** Online at <http://moodle.umn.edu>  
**Meeting Place:** Online at <http://moodle.umn.edu>  
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**I. Course Description**

The course is oriented to health professionals and administrators without significant academic exposure to law related issues. The course presents an overview of the American legal system and some of the health law issues likely to confront managers and providers in health care organizations. Although this course introduces basic areas of American health law, the course will emphasize legal issues arising in the course of implementation of the Patient Protection and Affordable Care Act (ACA).

Health care is one of the most heavily regulated industries in the United States. The course begins with a short introduction to the American legal system. We will then explore how the law affects the governance of healthcare organizations. During Lesson Three we briefly examine the enormous field of compliance and focus specifically on the privacy and security of patient information. The remainder of the course is divided among issues related to the Triple Aim and the “triangle” of health care quality, access

and cost. We will explore a variety of topics within these three areas including patient safety, professional and organizational liability, tax exemption, emergency room access and the Supreme Court decisions in *National Federation of Independent Business vs. Sebelius*, *Burwell v. Hobby Lobby* and *King v. Burwell*. We end the semester with a module on the interface between health law and health care ethics, with a focus on end of life care and advance directives.

## II. Course Prerequisites

Students must be enrolled in the School of Public Health Executive MHA Program.

## III. Course Goals and Objectives

This course will better enable students to identify, analyze, and resolve legal issues related to the administration of healthcare organizations. Reading assignments, course materials, and writing assignments will help students address legal issues encountered in the practice of medicine and health care management. By the end of the course, students will have developed basic skills in legal issue recognition and analysis. Students will have increased familiarity with key topics in health law and increased competence with which to make legal decisions in their professional practice.

In 2015, most health law texts have been divided into three separate texts – each suitable for an entire semester’s worth of work. This reflects how large the field has become and the abundance of statutes, regulations and case law is 21<sup>st</sup> century health law. The law governing health care organizations is an immense field that cannot be covered in seven weeks. Therefore, each week we will broadly survey a central topic within health law and then take a “deeper dive” into a specific sub-topic.

## IV. Methods of Instruction and Work Expectations

### Online Discussion and Postings

The course is organized into seven lessons. Each lesson includes assigned readings and exercises, and related course material.

During four of the seven weeks, students are required to participate in online discussions through **at least two** substantial postings each week to the discussion forum. *The first post must be an original contribution to the discussion. The second post should be responsive to another student’s postings.* Postings should be original, thought provoking, respond completely to the questions and stimulate further intellectual inquiry and investigation.

In order to create a genuine conversation (albeit an electronic one), the discussion forum for each lesson will be open for one week only. Students are required to post during that time. The discussion forum for each week will open on Monday at 8:00 am and close on Sunday at 11:55 pm (central time). To the extent feasible, the course readings, lectures

and assignment materials will be available before Monday to accommodate student who want to work ahead on the weekends. Each week's postings constitute 10% of your grade. All postings are due at 11:55 pm (central time) on Sunday. **Late postings will not be graded and will receive 0 points.**

Since we are a rather large group, students will be randomly divided into discussion groups. This will allow a more robust discussion to develop. The postings of all groups will be open to viewing, but students will be graded only on postings in their assigned group.

Students will receive an individual grade each week. The instructor will provide general feedback and on the quality of the postings to each discussion group as a group. Individual grades and discussion group feedback will be provided within approximately one week of the assignment due date.

Each lesson will open on Monday at 8 am and assignments are due on Sunday at 11:55 pm. All times throughout the syllabus are stated in Central Time (CT).

***Discussion Forum Guidelines and Grading Criteria***

An online course is a learning community. This means that communication, collaboration, knowledge creation, sharing, kindness, interaction, engagement, transformation, and hard work will guide us throughout the course.

A good posting responds intelligently to questions posed, engages rigorously with the assigned reading and communicates respectfully with others in the course. Think carefully about what you write. Be thoughtful and well-reasoned in your posting and make sure you give the reasons for your position. Acknowledge and address the moral complexity of an issue.

Write as clearly and succinctly as possible - more words do not necessarily make a post better. Read and edit your posting before submitting it. Be respectful in your communications. Constructive debate is encouraged and welcomed; personal attacks are never appropriate.

To post to a forum, click the "Add a new discussion topic" button and then type your post. You will have 30 minutes to make changes/edits or erase your post.

**General Discussion Grading Rubric (Assignments 1, 2, and 5)**

<b>Exemplary (9-10 points)</b>	<b>Satisfactory (7-8 points)</b>	<b>Unsatisfactory (1-6 points)</b>
<b>Initial post</b> contributes well explained, thoughtful ideas that demonstrates thorough understanding of the readings. Post stimulates inquiry and	<b>Initial post</b> contributes moderately well explained ideas that have some substance and depth and demonstrates partial	<b>Initial post</b> is vague, incomplete, or contributes poorly explained and weakly addressed ideas. Post does not stimulate

investigation.	understanding of the readings. Post stimulates some continued discussion.	discussion.
<b>Initial post</b> is completed by 11:55 pm on Thursday, allowing adequate time for colleagues to respond.	<b>Initial post</b> is completed after 11:55 pm on Thursday, allowing limited time for colleagues to respond.	<b>Initial post</b> is completed within 24 hours of the end of the lesson timeline, so that colleagues have inadequate time to respond.
<b>Responsive post</b> demonstrates a critical and thoughtful understanding of the topic and brings the discussion to a higher level of inquiry and investigation.	<b>Responsive post</b> demonstrates a basic understanding of the topic and brings the discussion to a higher level of inquiry.	<b>Responsive post</b> demonstrates a lack of understanding of the topic. Response is superficial or does not demonstrate critical understanding.
<b>Responsive post</b> to one or more colleagues in a timely manner, allowing ample time for colleagues to read and benefit from the postings.	<b>Responsive post</b> to one or more colleagues.	<b>Responsive post:</b> Does not respond to colleagues.
<b>Total points possible = 10</b>		

### **Small Group Assignment Guidelines and Grading Criteria**

During weeks Three and Four you will work in groups of 2 to 3 people. Your small group assignment can be found on the course homepage. We work in groups because as health care managers and leaders you will often be assigned to team based projects. You may choose how you wish to work together. You may use the discussion forum to communicate or you may meet offline – either in person or through email, Skype, Google docs, etc.

#### ***Group work***

Students sometimes find that that working in groups is more difficult and/or annoying than doing it on their own. Group members do have to cooperate, communicate, delegate and depend on each other. When engaged in small group project work, students are expected to *respectfully and actively participate in the group project*. This means: 1) contributing useful ideas; 2) listening to others; 3) engaging in respectful dialogue with teammates; 4) staying on task and 5) meeting all agreed upon deadlines.

Each group assignment constitutes 15% of your grade. All group members will receive the same grade with respect to the *substantive work product* (12 possible points). Group

members will also be graded on their *level of participation and contribution* to the final product (3 possible points). Since the instructor will not be part of your team process, each group member will evaluate every member of your group (including yourself) with respect to participation and contribution. This feedback will contribute to your participation points for the project. All evaluations will be confidential and for the instructor's information only, unless group members agree to share their evaluations.

The group memorandum should be posted to the discussion forum as a Word document, double-spaced in 12 point Times font. If you cite sources not read in class, please include citations to those sources in an endnote format. Group memoranda will be evaluated using the following criteria:

**Small Group Discussion Grading Rubric (Assignments 3 and 4)**

<b><i>Substantive Grading Criteria</i></b>	<b>Unsatisfactor y</b>	<b>Satisfactory</b>	<b>Exemplary</b>
Memorandum is clearly written, well organized and offer a logical, easily followed development of ideas.	0	1-2	3
Memorandum fully responsive to the questions and issues posed by the hypothetical problem.	0	1-2	3
Memorandum makes effective use of assigned readings and integrates course concepts and materials into final work product.	0	1-2	3
Memorandum reflects creative and thoughtful ideas and demonstrates understanding of the legal and management challenges inherent in the problem	0	1-2	3
<b><i>Participation Criteria</i></b>			
Initial participation by Thursday, 8:00 a.m. of the lesson week. As reported by other team members, respectfully and actively participates in the group project by contributing useful ideas, listening to others, engaging in respectful dialogue with project	0	1-2	3

members, staying on task and meeting all agreed upon deadlines.			
<b>Total points possible = 15</b>			

### **Written Commentary Assignment**

During Lesson Six, students will write a **1500 - 2000 word commentary**. The written commentary will constitute 30% of your final grade.

#### ***Commentary Guidelines and Grading Criteria***

When writing your commentary, draw upon the assigned readings and any additional material you wish to incorporate into your analysis. Your commentary should be well-constructed and reasoned in a thoughtful, considered manner. Commentaries should be double spaced in 12 point font. If you cite sources not read in class, please include citations to those sources in an endnote format. Your commentary will be evaluated using the following criteria:

#### **Written Commentary Grading Rubric (Assignment 6)**

	<b>Unsatisfactory</b>	<b>Satisfactory</b>	<b>Exemplary</b>
Is the commentary well written, well organized and offer a logical and easily followed development of ideas?	0-2	3-4	5
Does the commentary demonstrate a clear understanding of the legal arguments and counterarguments, as expressed by the majority, concurring and dissenting opinions?	0-2	3-4	5
Does the author clearly describe the likely implications of the Supreme Court's decision on health care access?	0-2	3-4	5
Does the analysis provide a substantive contribution from the author's own thinking?	0-2	3-4	5
Does the commentary make effective use of assigned readings and other resources?	0-2	3-4	5

Does the commentary include appropriate citations and references to course and supplemental material in an endnote format?	0-2	3-4	5
<b>Total points possible = 30</b>			

## V. Course Text and Readings

The primary text for the course is *Legal and Ethical Essentials of Health Care Administration*, by George Pozgar, Jones and Bartlett Publishers (2014) (hereinafter Pozgar). Secondary readings will be provided throughout the course and will be available on the course home page. **Please note that optional and resources readings really are optional!** They are provided in order to make it easy to access these helpful additional resources.

### **Lesson One - Introduction to the American Legal System**

#### **Required Reading and Viewing**

- Read the US Constitution which may be found at:
  - Archiving Early America:  
<http://www.earlyamerica.com/earlyamerica/freedom/constitution/text.html>
  - National Archives:  
[http://www.archives.gov/exhibits/charters/print\\_friendly.html?page=constitution\\_transcript\\_content.html&title=The%20Constitution%20of%20the%20United%20States%3A%20A%20Transcription](http://www.archives.gov/exhibits/charters/print_friendly.html?page=constitution_transcript_content.html&title=The%20Constitution%20of%20the%20United%20States%3A%20A%20Transcription)
  - U.S. Constitution, read by David Currie, Edward H. Levi Distinguished Service Professor Emeritus at the University of Chicago Law School,  
<http://www.law.uchicago.edu/audio/constitution>.
  - Orin Kerr, *How to Read a Legal Opinion, A Guide for New Law Students*, Parts I and II, George Washington University Law School, (2005).
- Adam Liptak, How Activist is the Supreme Court? New York Times, October 12, 2013.  
<http://www.nytimes.com/2013/10/13/sunday-review/how-activist-is-the-supreme-court.html?pagewanted=all>
- Pozgar, Chapter 1 (course text)
- Separation of Powers, Constitution with Peter Sagal (PBS) - an animated clip.  
<http://video.pbs.org/video/2365005484/>
- Member Forum, *Top Ten Health Law Issues in 2015*, AHLA Connections, American Health Lawyers Association (Feb. 2015).

#### **Optional Readings and Resources**

- National Federation of Independent Business v. Sibelius, 132 S. Ct. 2566 (2012), the Supreme Court decision on the constitutionality of the Affordable Care Act. <http://www.supremecourt.gov/opinions/11pdf/11-393c3a2.pdf>. Note: We will study this decision in greater depth during Lesson Six.
- Jeffrey Toobin, *The Oath*, chapters 22 (Broccoli) and 23 (the ‘Effective’ Argument) (Doubleday, New York, 2012). In two very readable chapters, Jeffrey Toobin, author and CNN correspondent, describes the Supreme Court politics of the NFIB decision.
- Listen to Jeffrey Toobin present an entertaining and fascinating public lecture on the history and politics of the Supreme Court including the ACA decision (Friends Seminary, New York City, 2012). <http://www.youtube.com/watch?v=wFAnVlcqaDQ>
- If you find yourself intrigued by the Constitution, there are many excellent non partisan resources. One of my favorites is the National Constitution Center, established by Congress to "disseminate information about the United States Constitution on a non-partisan basis in order to increase the awareness and understanding of the Constitution among the American people." <http://constitutioncenter.org/>. If you are more of a visual learner, I recommend *Constitution USA* with Peter Sagal, produced by the Public Broadcasting System (PBS). I use a few clips from the show throughout this course. The entire series may be watched online for free. <http://www.pbs.org/tpt/constitution-usa-peter-sagal/home/>

### **Lesson Two Readings – Legal Governance of HealthCare Organizations**

- Where’s Waldo? Adapted from Barry Furrow, Thomas Greaney, Sandra Johnson, Sandra Johnson, Timothy Jost and Robert Schwartz, *Health Law: Cases, Materials and Problems* (7<sup>th</sup> edition 2014) (hereinafter “Health Law”).
- Pozgar, Chapter 8 (course text)
- *Stern v. Lucy Webb Hayes National Training School for Deaconesses and Missionaries*, 381 F. Supp. 1033 (D.D.C.1974), as edited by Furrow et al.
- *Darling v. Charleston Community Memorial Hospital* (Supreme Court of Illinois, 1965), as edited by Furrow et al.
- Michael Peregrine, *Corporate Challenges Emerging from an Evolving Sector*, AHLA Connections (2013).
- Conflict of Interest Policy for Board of Directors, Hazelden Betty Ford Foundation (2015).

### **Lesson Three Readings – HealthCare Compliance and Protecting the Privacy of Patient Information**

- Donna Hammaker, *Health Care Management and the Law: Principles and Applications*, Chapter 3: Health Care Compliance Programs (Delmar Cengage Learning, 2011).
- Definition of a “breach” under the Omnibus Rule (section 164.402), including

comments from the OCR and a summary of public comments as to the reasons for changing the definition of a breach,

<https://www.federalregister.gov/articles/2013/01/25/2013-01073/modifications-to-the-hipaa-privacy-security-enforcement-and-breach-notification-rules-under-the#h-266>

- Breach Notification Rule, Office of Civil Rights, U.S. Department of Health & Human Services,  
<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/index.html>

### ***Optional Reading and Resources***

- Explore the Final Omnibus Privacy Regulations 45 CFR Parts 160 and 164, released January 25, 2013. This is a long and complicated regulation and one quick look explains why healthcare organizations need dedicated internal or external resources to understand and implement the rule. I like to use the Daily Journal of the Federal Register. It has a great summary of changes to HIPAA under the new rule and it is indexed. Here is the link:  
<https://www.federalregister.gov/articles/2013/01/25/2013-01073/modifications-to-the-hipaa-privacy-security-enforcement-and-breach-notification-rules-under-the>
- Review HHS Guide to Privacy and Security of Electronic Health Information, April 2015 - Chapter 7 focuses on breach notification  
<http://www.healthit.gov/sites/default/files/pdf/privacy/privacy-and-security-guide.pdf>
- Explore the Office of Inspector General (OIG) website, focusing on fraud and compliance. Check out the OIG Most Wanted Fugitives, Compliance 101 and Provider Education and peruse the latest enforcement actions posted on the OIG homepage [www.oig.hhs.gov](http://www.oig.hhs.gov)
- Visit the OCR "Wall of Shame" listing all entities with data breaches affecting more than 500 individuals [https://ocrportal.hhs.gov/ocr/breach/breach\\_report.jsf](https://ocrportal.hhs.gov/ocr/breach/breach_report.jsf)
- Review Annual Report to Congress on Breaches of Unsecured Protected Health Information for Calendar Years 2011 and 2012 (U.S. Department of Health and Human Services, Office of Civil Rights) (OCR issued this report in June, 2104.)  
<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/breachreport2011-2012.pdf>
- Skim an independent benchmark study conducted by Ponemon Institute LLC on Patient Privacy and Security Data, May, 2015.

### ***Lesson Four Readings – Tort Law, Quality of Care and Patient Safety***

- Pozgar, Chapters 4, 9 and 25 (course text)
- 2015 Hospital National Patient Safety Goals (Joint Commission),  
[http://www.jointcommission.org/assets/1/6/2014\\_HAP\\_NPSG\\_E.pdf](http://www.jointcommission.org/assets/1/6/2014_HAP_NPSG_E.pdf)
- 2015 Joint Commission Sentinel Event Policy,

[http://www.jointcommission.org/assets/1/6/2013\\_HAP\\_NPSG\\_final\\_10-23.pdf](http://www.jointcommission.org/assets/1/6/2013_HAP_NPSG_final_10-23.pdf)

- Apologizing Effectively to Patients and Families, Dr. Lucian Leape, Institute for Health Improvement  
<http://www.ihl.org/education/ihopenschool/resources/Pages/Activities/ApologizingEffectivelytoPatientsandFamilies.aspx> (this is a 6 minute video)
- Eliminating Serious, Preventable and Costly Medical Errors – Never Events (CMS Office of Public Affairs, 2006).
- Disclosure of Adverse Events to Patients, sections 1 through 9 (VHA Handbook, 2012).
- Mike Mitka, *Disclosing Medical Errors Does Not Mean Greater Liability Costs, New Study Finds*, JAMA 304(15) 2010.

### **Optional Reading and Resources**

- Adverse Events in Minnesota: The Annual Public Report, Minnesota Department of Health, January, 2015.
- Michelle Mello et.al., “Communication-And-Resolution Programs: The Challenges and Lessons from Six Early Adopters,” *Health Affairs*, 33 (1) 20-29 (2014).
- Danielle Ofri, “My Near Miss,” *The New York Times*, May 28, 2013,  
[http://www.nytimes.com/2013/05/29/opinion/addressing-medical-errors.html?\\_r=0](http://www.nytimes.com/2013/05/29/opinion/addressing-medical-errors.html?_r=0)
- Jerome Groopman, M.D. “What’s the Trouble – How Doctors Think,” *The New Yorker* (January 27, 2007).  
[http://www.newyorker.com/reporting/2007/01/29/070129fa\\_fact\\_groopman](http://www.newyorker.com/reporting/2007/01/29/070129fa_fact_groopman)

### **Lesson Five Readings – Tax Exemption, Cost of Care and Community Benefit**

- ACA, Section 9007, “Additional Requirements for Charitable Hospitals” (May, 2010).
- McDermott Will and Emery, IRS Releases Final Regulations Under Section 501(r), January 15, 2015, <http://www.irs.gov/pub/irs-drop/rp-15-21.pdf>
- Gary Young et. al., *Provision of Community Benefits by Tax- Exempt U.S. Hospitals*. 368 N Engl J Med 1519-27 (2013).
- Utah v. Intermountain Health Care, Inc. 709 P. 2d 265 (Utah 1985).
- Provena Covenant Medical Center v. Department of Revenue, 236 Ill.2d 368, 925 N.E.2d 1131 (Ill. 2010).
- State of Minnesota, Office of Attorney General, *Compliance Review of Fairview Health Services’ Management Contracts with Accretive Health, Inc., Violations of Federal and State Debt Collections Laws* (Volume 5, 2012).

### **Optional Reading and Resources**

- Gayle D. Nelson Carl H. Mueller, Teneil K Wells ,Cynthia L. Boddie-Willis & Cynthia Woodcock, *Hospital Community Benefits after the ACA: State Law Changes and Promotion of Community Health* Issue Brief, The Hilltop Institute (February 2015)). *Note: the Issue Brief gives special mention to the Minnesota experience with respect to community benefit and patient financial protections.*

- Final Charitable Exemption Regulations, published December 31, 2014. This is a long and complex regulation. <https://www.federalregister.gov/articles/2014/12/31/2014-30525/additional-requirements-for-charitable-hospitals-community-health-needs-assessments-for-charitable>. This link is to an indexed version. For purposes of the assignment, focus on sections 4 and 5 relating to financial assistance policies and limitation on charges. *Note: these regulations are summarized in the McDermott Will & Emery summary provided under assigned readings.*
- Catholic Health Association web-based resources on community benefit <http://www.chausa.org/communitybenefit/>
- Community Benefit/Community Health Needs Assessment, Health Services Research Information Center, US National Library of Medicine [http://www.nlm.nih.gov/hsrinfo/community\\_benefit.html](http://www.nlm.nih.gov/hsrinfo/community_benefit.html). This is a robust resource of data, tools, statistics, regulations, sample CHNA assessments and other helpful information in this area.

**Lesson Six Readings – Mandates, Access to Care and Affordability of Insurance  
(Note that Lesson Six will be amended to include the King v. Burwell decision)**

- American College of Emergency Physicians, summary of Emergency Medical Treatment and Active Labor Act (EMTALA) *Baber v. Hospital Corporation of America*, 977 F.2d 872(4<sup>th</sup> Cir. 1992), as edited by Furrow, et.al.
- Section 1501 Requirement to Maintain Minimum Essential Coverage
- The Requirement to Buy Coverage Under the Affordable Care Act <http://kff.org/infographic/the-requirement-to-buy-coverage-under-the-affordable-care-act/>
- *National Federation of Independent Business v. Sebelius, Secretary of Health and Human Services*, 132 S. Ct. 2566 (2012). [http://scholar.google.com/scholar\\_case?case=11973730494168859869&hl=en&as\\_sdt=40006](http://scholar.google.com/scholar_case?case=11973730494168859869&hl=en&as_sdt=40006)

This is a long decision. Read the sections that you wish to read to complete the assignment. The decision is divided into three major discussions: the commerce clause power, the tax power and the spending power.

- *Burwell, Secretary of Health and Human Services v. Hobby Lobby Inc.*, 134 S. Ct. 2451 (2014) [http://www.supremecourt.gov/opinions/13pdf/13-354\\_olp1.pdf](http://www.supremecourt.gov/opinions/13pdf/13-354_olp1.pdf). This is also a lengthy opinion. Read the sections that you wish to read to complete the assignment. Justice Alito writes the majority opinion, Justice Kennedy writes a concurring opinion and Justice Ginsburg authors the dissenting opinion. The decision is focused on whether a for profit non-religious corporation may assert free exercise claims under the Religious Freedom Restoration Act (RFRA) and whether the contraceptive mandate is the least restrictive means by which the government could achieve its goal of providing contraceptive services to all women covered by the ACA's essential benefit plan. This decision

construes a statute and does not interpret the First Amendment Free Exercise Clause.

- There are hundreds of summaries of both decisions available. Here are a few links to reputable sources:
  - Kaiser Foundation, A Guide to the Supreme Court's Affordable Care Act Decision <http://www.kff.org/healthreform/upload/8332.pdf>
  - SCOTUSblog, Case Page: *NFIB v. Sebelius* <http://www.scotusblog.com/case-files/cases/national-federation-of-independent-business-v-sebelius/>. This is a useful and objective site with a range of postings from respected lawyers on all sides of a Supreme Court case.
  - National Health Law Program, Summary of the Supreme Court's Decision on the ACA's Contraceptive Coverage Requirement <http://www.healthlaw.org/component/jfsfsubmit/showAttachment?tmpl=raw&id=00Pd000000C0ayYEAR>
  - SCOTUSblog, Case Page: *Burwell v. Hobby Lobby* <http://www.scotusblog.com/case-files/cases/sebelius-v-hobby-lobby-stores-inc/>.

### **Optional Resources**

- You may wish to visit the federal exchange at <https://www.healthcare.gov/> and/or the Minnesota exchange at <https://www.mnsure.org/>. Open enrollment closed on February 15, 2015 and will reopen on November 1, 2015 for 2016 enrollment. MNSure (the Minnesota exchange) also offered a special enrollment period for those who did not have health insurance in 2014 and owe a penalty for the 2014 tax year. That period closed on April 30, 2015.
- If you wish to hear any of the oral argument from the *NFIB* case, the audio and the transcript may be found at the Supreme Court website [http://www.supremecourt.gov/oral\\_arguments/argument\\_audio\\_detail.aspx?argument=11-393&TY=2011](http://www.supremecourt.gov/oral_arguments/argument_audio_detail.aspx?argument=11-393&TY=2011)
- If you wish to hear any of the oral argument from the *Hobby Lobby* case, the audio and the transcript may be found at the Supreme Court website [http://www.supremecourt.gov/oral\\_arguments/argument\\_audio\\_detail.aspx?argument=13-354&TY=2013](http://www.supremecourt.gov/oral_arguments/argument_audio_detail.aspx?argument=13-354&TY=2013)
- HHS EBSA Form 700 - Certification of Religious Accommodation Form

### **Lesson Seven Readings - Advance Directives and End of Life Care**

- Pozgar, Chapter 15, p.235-250 (course text)
- Uniform Health Care Decisions Act, as edited by Furrow et al.
- *Cruzan v. Director, Missouri Department of Health* 497 U.S. 261 (1990), as edited by Furrow et al.

- Patient Self Determination Act of 1990  
<http://thomas.loc.gov/cgi-bin/query/C?c101:./temp/~c101D4ZN41>
- Henry Perkins, *Controlling Death: The False Promise of Advance Directives*, 147 Ann. Intern Med. 51-57 (2007). This article may be found at:  
<http://www.annals.org/cgi/reprint/147/1/51.pdf>

**Optional Reading and Resources:**

- Atul Gawande, *Letting Go: What should medicine do when it can't save your life?* The New Yorker (August 2, 2010).  
[http://www.newyorker.com/reporting/2010/08/02/100802fa\\_fact\\_gawande](http://www.newyorker.com/reporting/2010/08/02/100802fa_fact_gawande)
- Frontline “Being Mortal” PBS February 10, 2015  
<http://www.pbs.org/wgbh/pages/frontline/being-mortal/>. This is an excellent documentary covering much of the same terrain as Dr. Gawande’s recent book “Being Mortal,” published in 2014.
- IHI Open School Course: *Having the Conversation: Basic Skills for Conversations About End-of-Life Care*. This is a 2 hour course introducing health professionals to basic skills for having conversations with patients and families about end-of-life care wishes. The course is free for students and requires registration on the Institute for Healthcare Improvement (IHI) website.  
[http://app.ihl.org/lms/coursedetailview.aspx?CourseGUID=5785f7cb-0f92-4d3d-ac5d-4bfcbe9bb0bd&CatalogGUID=6cb1c614-884b-43ef-9abd-d90849f183d4&utm\\_campaign=os-newsletter&utm\\_source=hs\\_email&utm\\_medium=email&utm\\_content=11988466&\\_hsenc=p2ANqtz-8r7qnGeh8q398\\_J8gfVBlb1Tv4GutSrCCLtjl8sCV20BTpd2XIYNIQuqizGc3Z1DiYAsbWFEsaPCmd7U-RCKTq8kqWPQ&\\_hsmi=11988466](http://app.ihl.org/lms/coursedetailview.aspx?CourseGUID=5785f7cb-0f92-4d3d-ac5d-4bfcbe9bb0bd&CatalogGUID=6cb1c614-884b-43ef-9abd-d90849f183d4&utm_campaign=os-newsletter&utm_source=hs_email&utm_medium=email&utm_content=11988466&_hsenc=p2ANqtz-8r7qnGeh8q398_J8gfVBlb1Tv4GutSrCCLtjl8sCV20BTpd2XIYNIQuqizGc3Z1DiYAsbWFEsaPCmd7U-RCKTq8kqWPQ&_hsmi=11988466)
- Ruth Mickelsen, Daniel Bernstein, Mary Faith Marshall and Steven Miles, *The Barnes Case: Taking Difficult Futility Cases Public*, J Law, Medicine & Ethics 39(1) 374-78 (Spring 2013). This article describes a Minnesota case where a spouse constructed a fraudulent version of an advanced directive and used it successfully for over 10 years to misrepresent her husband’s treatment preferences and demand aggressive care.

**VI. Course Outline/Weekly Schedule**

Week	Lesson	Due Dates, all assignments due at 11:55 pm (Central Time)
1 6/29-7/5	In Lesson One, we focus on the balance of power between the three branches of government. Respond to the	7/05/15

	<p>discussion forum question regarding when judicial activism is appropriate in <i>the context of laws governing health care delivery and financing</i>. The question does not require you to be either pro-reform or anti-reform. The question asks you to reflect on what balance of power between the three branches you think is most appropriate for the laws that govern health care organizations.</p>	
<p><b>2</b> <b>7/6-7/12</b></p>	<p>In Lesson Two, we focus on the governance of health care corporations and the changing legal structure of the health care industry. Specifically, we examine the concept of fiduciary duty and the management of conflicts of interest. A hypothetical will be posted on the discussion forum. Answer the questions at the end of the hypothetical. Apply the Hazelden Betty Ford Conflict of Interest Policy when analyzing the potential conflict of interest within the hypothetical.</p>	<p>7/12/15</p>
<p><b>3</b> <b>7/13-7/19</b></p>	<p>In Lesson Three, we focus on the complex regulatory environment of health care organizations and the importance of compliance programs, particularly those focused on large scale federal statutory schemes related to fraud and abuse and privacy. Specifically we will focus on privacy and the appropriate legal response to a possible data security breach. This week you will work in a small group as a data breach response team. Prepare a 1000-1500 word memorandum responding to the questions posed in the assignment.</p>	<p>7/19/15</p>
<p><b>4</b> <b>7/20-7/26</b></p>	<p>In Lesson Four, we focus on quality of care and the applicability of tort law to health care organizations. Specifically we will focus on patient safety and the emerging practice of disclosure and apology to patients and their families in the event of serious clinical adverse events. As a serious adverse event management team, prepare a 1000-1500 word memorandum responding to the questions posed in the assignment.</p>	<p>7/26/15</p>
<p><b>5</b> <b>7/27-8/2</b></p>	<p>In Lesson Five, we focus on the laws addressing tax exemption, the cost of health care and community benefit. Federal and state laws reflect the variable public policies pursued over the past 25+ years including regulation, consumer-driven health care and the role of non profit organizations. This week we focus on tax exemption, the community benefits amendments under Section 501(r) of the Internal Revenue Code and the IRS regulations on financial</p>	<p>8/02/15</p>

	assistance. Answer the question posted on the discussion board.	
<b>6</b> <b>8/3-8/9</b>	In Lesson Six, we focus on the laws addressing the accessibility of health insurance and health care. This week we will discuss the Supreme Court decisions in <i>National Federation of Independent Business v. Sibelius</i> , decided June 28, 2012, <i>Burwell v. Hobby Lobby Stores and Conestoga Wood Specialties Corp. v. Burwell</i> (collectively known as <i>Hobby Lobby</i> ), decided on June 30, 2014, as well as the <i>King v. Burwell</i> decision, decided on June 25, 2015. Our deep dive will focus on the impact of these decisions on health care access. Write a 1500-2000 word commentary on one or more legal arguments in one of these cases, as assigned by the instructor.	8/09/15
<b>7</b> <b>8/10-8/14</b>	In Lesson Seven, we explore the law governing end of life decision making and focus on advance directive practices. The law supporting advance directives is noncontroversial in theory; it is the <i>practice</i> of preparing advance directives and using them in a clinical context that continues to generate questions and challenges. If you do not already have an advance directive, use one of the sources on the Lesson Seven homepage to obtain an advance directive form and complete your advance directive. If you already have an advance directive, review your directive in light of the readings and lecture materials. Post a 250-350 reflection on the discussion board. You may reflect on any aspect of your personal or professional experience with advance directives, what principles and guidelines you want to be used to make treatment decisions for yourself when you are no longer capable of making your own decisions and how you would select a surrogate decision maker.	8/14/15

**VII. Evaluation and Grading**

Your final grade for the course will be determined by how well you complete course requirements. All students must be evaluated on the basis of the same assignments. You will not be allowed to do “bonus” work to replace missed assignments or improve your grade. Also, you are not allowed to revise or redo assignments to improve your grade.

**Your course grade will be determined as follows:**

On Line Discussions (Lessons 1, 2 and 5) (10 points each)	30
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Small Group Assignments (Lessons 3 and 4) (15 points each)	30
Written Commentary (Week 6)	30
Advance Directive Reflection (Week 7)	10
Total	100

### Grading Scale:

		B+	87-89%	C+	77-79%		
A	93-100%	B	83-86%	C	73-76%	D	60-69%
A-	90-92%	B-	80-82%	C-	70-72%	F	<60%

### For additional information, please refer to:

<http://policy.umn.edu/Policies/Education/Education/GRADINGTRANSCRIPTS.html>.

### Course Evaluation

The SPH will collect student course evaluations electronically using a software system called CoursEval: [www.sph.umn.edu/courseval](http://www.sph.umn.edu/courseval). The system will send email notifications to students when they can access and complete their course evaluations. Students who complete their course evaluations promptly will be able to access their final grades just as soon as the faculty member renders the grade in SPHGrades:

[www.sph.umn.edu/grades](http://www.sph.umn.edu/grades). All students will have access to their final grades through OneStop two weeks after the last day of the semester regardless of whether they completed their course evaluation or not. Student feedback on course content and faculty teaching skills are an important means for improving our work. Please take the time to complete a course evaluation for each of the courses for which you are registered.

### Incomplete Contracts

A grade of incomplete "I" shall be assigned at the discretion of the instructor when, due to extraordinary circumstances (e.g., documented illness or hospitalization, death in family, etc.), the student was prevented from completing the work of the course on time. The assignment of an "I" requires that a contract be initiated and completed by the student before the last official day of class, and signed by both the student and instructor. If an incomplete is deemed appropriate by the instructor, the student in consultation with the instructor, will specify the time and manner in which the student will complete course requirements. Extension for completion of the work will not exceed one year (or earlier if designated by the student's college). For more information and to

initiate an incomplete contract, students should go to SPHGrades at:  
[www.sph.umn.edu/grades](http://www.sph.umn.edu/grades).

**University of Minnesota Uniform Grading and Transcript Policy** - A link to the policy can be found at [onestop.umn.edu](http://onestop.umn.edu).

## VIII. **Other Course Information and Policies**

### **Grade Option Change** (if applicable)

For full-semester courses, students may change their grade option, if applicable, through the second week of the semester. Grade option change deadlines for other terms (i.e. summer and half-semester courses) can be found at [onestop.umn.edu](http://onestop.umn.edu).

### **Course Withdrawal**

Students should refer to the Refund and Drop/Add Deadlines for the particular term at [onestop.umn.edu](http://onestop.umn.edu) for information and deadlines for withdrawing from a course. As a courtesy, students should notify their instructor and, if applicable, advisor of their intent to withdraw.

Students wishing to withdraw from a course after the noted final deadline for a particular term must contact the School of Public Health Office of Admissions and Student Resources at [sph-ssc@umn.edu](mailto:sph-ssc@umn.edu) for further information.

### **Student Conduct Code**

The University seeks an environment that promotes academic achievement and integrity, that is protective of free inquiry, and that serves the educational mission of the University. Similarly, the University seeks a community that is free from violence, threats, and intimidation; that is respectful of the rights, opportunities, and welfare of students, faculty, staff, and guests of the University; and that does not threaten the physical or mental health or safety of members of the University community.

As a student at the University you are expected adhere to Board of Regents Policy:

*Student Conduct Code*. To review the Student Conduct Code, please see:

[http://regents.umn.edu/sites/default/files/policies/Student\\_Conduct\\_Code.pdf](http://regents.umn.edu/sites/default/files/policies/Student_Conduct_Code.pdf).

Note that the conduct code specifically addresses disruptive classroom conduct, which means "engaging in behavior that substantially or repeatedly interrupts either the instructor's ability to teach or student learning. The classroom extends to any setting where a student is engaged in work toward academic credit or satisfaction of program-based requirements or related activities."

### **Use of Personal Electronic Devices in the Classroom**

Using personal electronic devices in the classroom setting can hinder instruction and learning, not only for the student using the device but also for other students in the class. To this end, the University establishes the right of each faculty member to determine if and how personal electronic devices are allowed to be used in the classroom. For complete information, please reference:

<http://policy.umn.edu/Policies/Education/Education/STUDENTRESP.html>.

### **Scholastic Dishonesty**

You are expected to do your own academic work and cite sources as necessary. Failing to do so is scholastic dishonesty. Scholastic dishonesty means plagiarizing; cheating on assignments or examinations; engaging in unauthorized collaboration on academic work; taking, acquiring, or using test materials without faculty permission; submitting false or incomplete records of academic achievement; acting alone or in cooperation with another to falsify records or to obtain dishonestly grades, honors, awards, or professional endorsement; altering, forging, or misusing a University academic record; or fabricating or falsifying data, research procedures, or data analysis. (Student Conduct Code: [http://regents.umn.edu/sites/default/files/policies/Student\\_Conduct\\_Code.pdf](http://regents.umn.edu/sites/default/files/policies/Student_Conduct_Code.pdf)) If it is determined that a student has cheated, he or she may be given an "F" or an "N" for the course, and may face additional sanctions from the University. For additional information, please see:

<http://policy.umn.edu/Policies/Education/Education/INSTRUCTORRESP.html>.

The Office for Student Conduct and Academic Integrity has compiled a useful list of Frequently Asked Questions pertaining to scholastic dishonesty:

<http://www1.umn.edu/oscai/integrity/student/index.html>. If you have additional questions, please clarify with your instructor for the course. Your instructor can respond to your specific questions regarding what would constitute scholastic dishonesty in the context of a particular class-e.g., whether collaboration on assignments is permitted, requirements and methods for citing sources, if electronic aids are permitted or prohibited during an exam.

### **Makeup Work for Legitimate Absences**

Students will not be penalized for absence during the semester due to unavoidable or legitimate circumstances. Such circumstances include verified illness, participation in intercollegiate athletic events, subpoenas, jury duty, military service, bereavement, and religious observances. Such circumstances do not include voting in local, state, or national elections. For complete information, please see:

<http://policy.umn.edu/Policies/Education/Education/MAKEUPWORK.html>.

### **Appropriate Student Use of Class Notes and Course Materials**

Taking notes is a means of recording information but more importantly of personally absorbing and integrating the educational experience. However, broadly disseminating class notes beyond the classroom community or accepting compensation for taking and distributing classroom notes undermines instructor interests in their intellectual work product while not substantially furthering instructor and student interests in effective learning. Such actions violate shared norms and standards of the academic community. For additional information, please see:

<http://policy.umn.edu/Policies/Education/Education/STUDENTRESP.html>.

### **Sexual Harassment**

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors,

and/or other verbal or physical conduct of a sexual nature. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment in any University activity or program. Such behavior is not acceptable in the University setting. For additional information, please consult Board of Regents Policy: <http://regents.umn.edu/sites/default/files/policies/SexHarassment.pdf>

### **Equity, Diversity, Equal Opportunity, and Affirmative Action**

The University will provide equal access to and opportunity in its programs and facilities, without regard to race, color, creed, religion, national origin, gender, age, marital status, disability, public assistance status, veteran status, sexual orientation, gender identity, or gender expression. For more information, please consult Board of Regents Policy: [http://regents.umn.edu/sites/default/files/policies/Equity\\_Diversity\\_EO\\_AA.pdf](http://regents.umn.edu/sites/default/files/policies/Equity_Diversity_EO_AA.pdf).

### **Disability Accommodations**

The University of Minnesota is committed to providing equitable access to learning opportunities for all students. Disability Services (DS) is the campus office that collaborates with students who have disabilities to provide and/or arrange reasonable accommodations.

If you have, or think you may have, a disability (e.g., mental health, attentional, learning, chronic health, sensory, or physical), please contact DS at 612-626-1333 to arrange a confidential discussion regarding equitable access and reasonable accommodations. If you are registered with DS and have a current letter requesting reasonable accommodations, please contact your instructor as early in the semester as possible to discuss how the accommodations will be applied in the course.

For more information, please see the DS website, <https://diversity.umn.edu/disability/>.

### **Mental Health and Stress Management**

As a student you may experience a range of issues that can cause barriers to learning, such as strained relationships, increased anxiety, alcohol/drug problems, feeling down, difficulty concentrating and/or lack of motivation. These mental health concerns or stressful events may lead to diminished academic performance and may reduce your ability to participate in daily activities. University of Minnesota services are available to assist you. You can learn more about the broad range of confidential mental health services available on campus via the Student Mental Health Website:

<http://www.mentalhealth.umn.edu>.

### **The Office of Student Affairs at the University of Minnesota**

The Office for Student Affairs provides services, programs, and facilities that advance student success, inspire students to make life-long positive contributions to society, promote an inclusive environment, and enrich the University of Minnesota community.

Units within the Office for Student Affairs include, the Aurora Center for Advocacy & Education, Boynton Health Service, Central Career Initiatives (CCE, CDes, CFANS),

Leadership Education and Development–Undergraduate Programs (LEAD-UP), the Office for Fraternity and Sorority Life, the Office for Student Conduct and Academic Integrity, the Office for Student Engagement, the Parent Program, Recreational Sports, Student and Community Relations, the Student Conflict Resolution Center, the Student Parent HELP Center, Student Unions & Activities, University Counseling & Consulting Services, and University Student Legal Service.

For more information, please see the Office of Student Affairs at <http://www.osa.umn.edu/index.html>.

**Academic Freedom and Responsibility: for courses that do not involve students in research**

Academic freedom is a cornerstone of the University. Within the scope and content of the course as defined by the instructor, it includes the freedom to discuss relevant matters in the classroom. Along with this freedom comes responsibility. Students are encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth. Students are free to take reasoned exception to the views offered in any course of study and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study for which they are enrolled.\*

Reports of concerns about academic freedom are taken seriously, and there are individuals and offices available for help. Contact the instructor, the Department Chair, your adviser, the associate dean of the college, or the Vice Provost for Faculty and Academic Affairs in the Office of the Provost.

\* Language adapted from the American Association of University Professors "Joint Statement on Rights and Freedoms of Students".

Template update 9/2014