

UNIVERSITY OF KENTUCKY
COLLEGE OF PUBLIC HEALTH
Dept. of Health Services Management

Course Syllabus
CPH 653: Public Health Law
Spring 2011
3 credit hours

Time: Saturdays, 1/22, 2/19, 3/26, 4/23
9:00 am-4:00 pm

Classroom: CPH 115

Contact information

Instructors: Julia F. Costich, JD, PhD
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Office Hours: By appointment

Course Description

This course will combine subject matter normally presented in CPH 653 and HA 603. Major attention is given to fundamental legal principles and legal reasoning, recurring legal issues confronted by public health agencies and healthcare providers, the use of law to advance a public health agenda, risk management and compliance. Emphasis is placed on giving students tools to use when they encounter law-related problems in their professional careers.

Course Prerequisites

Graduate standing in the College of Public Health or consent of instructor. No previous legal experience or training is necessary.

Public Health Competencies Addressed in this Course

| <u>Competency</u> | <u>Learning objectives</u> |
|--|---|
| Describe the legal and ethical bases for public health and health services | <ul style="list-style-type: none">• Understand the structure and function of the U.S. legal system• Understand the general concepts underlying tort and contract law• Become familiar with the authority and responsibility of government to protect and promote community health, and the limitations imposed by the legal |

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| | <p>system</p> <ul style="list-style-type: none"> • Identify the constitutional and statutory foundations of core public health functions • Acquire skills in identifying and analyzing legal issues • Broaden critical reading and communication skills • Develop an awareness of the role of law in advocacy for community health • Work more effectively with legal counsel |
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Master of Health Administration Core Competencies Addressed in this Course

| <u>Competencies</u> | <u>Learning objectives</u> |
|---|--|
| Demonstrate understanding of the basic concepts of health law and compliance requirements as they affect decision making in healthcare organizations. (14, P) | Understand the economic, ethical, and legal imperative for the leaders of healthcare organizations to monitor, evaluate, and continuously improve all aspects of organizational performance. |
| Demonstrate the ability to analyze organizational issues and to discern those that require the advice and assistance of legal counsel. (15, P) | Acquire basic familiarity and facility with legal terminology to be in a position to consult well with legal counsel. |
| Apply the key concepts, principles, and legal aspects of strategic human resources management in healthcare organizations, and labor relations. (12, S) | |

Textbooks

We will use Goodman et al., *Law in Public Health Practice*, 2nd ed. (Oxford Univ. Press 2007), with Gostin et al., *Public Health Law* 2nd ed. (Univ. of Calif. Press 2008) and Showalter, J.S., *The Law of Healthcare Administration*, 5th ed. (Chicago, IL: Health Administration Press as background reading. The texts will be supplemented by material from the CDC Public Health Law News (www2a.cdc.gov/phlp/cphln.asp) and original source materials in a course reader on the course website through Blackboard. Each student is responsible for becoming adequately proficient in Blackboard to access all course materials. Other handouts may be used as supplements.

Grading Scale

- 100-90% =A
- 89-80% =B
- 79-70% =C

0-69% =E
Incomplete =I

Graded Materials:

Class participation: 5%
Chapter presentation: 25%
Case presentation: 30%
Final exam: 40%

Instructor Expectations

Students are expected to attend class sessions, to read and study assignments prior to the class period in which they are discussed, and to participate in class discussions of the material. Students should also become knowledgeable with current issues and themes associated with healthcare and public health law.

Academic Honesty

Academic honesty is highly valued at UK. You must always submit work that represents your original words or ideas. If any words or ideas used in a class assignment submission do not represent your original words or ideas, you must cite all relevant sources and make clear the extent to which such sources were used. Words or ideas that require citation include, but are not limited to, all hard copy or electronic publications, whether copyrighted or not, and all verbal or visual communication when the content of such communication clearly originates from an identifiable sources. Please see UK's policies concerning the consequences for plagiarism.

Accommodations

If you have a documented disability that requires academic accommodations, please see me as soon as possible during scheduled office hours. In order to receive accommodations in this course, submit to me a Letter of Accommodation from the Disability Resource Center <http://www.uky.edu/StudentAffairs/DisabilityResourceCenter/>. If you have not already done so, please register with the Disability Resource Center for coordination of campus disability services available to students with disabilities.

Inclement Weather

The University of Kentucky has a detailed policy for decisions to close in inclement weather. The snow policy is described in detail at http://www.uky.edu/PR/News/severe_weather.htm

Course Schedule and Topics

Cases and other materials for presentation

Each student will select a case (either from the list below or with approval of the instructor) and prepare an in-class oral presentation of about 15 minutes and a written summary of 6-8 pages. The oral presentations will be made on the dates when the materials appear in the syllabus. The written case reports will be due at the beginning of the last class meeting on April 23. A partial list of cases follows.

1. *Pelman v. McDonald's (obesity)*
2. *FDA v. Brown & Williamson (tobacco)*
3. *Kelo v. City of New London (takings clause)*
4. *U.S. v. Morrison (private right of action under VAWA)*
5. *Gonzalez v. Carhart (abortion)*
6. *Westside Mothers (legal status of Medicaid service access)*
7. *Castle Rock v. Gonzalez (enforcement of emergency protective order)*
8. *Gonzalez v. Raich (medical marijuana)*
9. *Grimes v. Kennedy-Krieger Institute (research ethics)*

PH 653-001

Legal Basis of Public Health

Course Outline and Reading Schedule

Read Goodman through chapter 6 and the handout entitled “Reading a Legal Opinion” before the first class meeting.

1. January 22.

Visiting speaker: Bob Gray, Taylor-Gray Communications.

Course overview, introduction to the U.S. legal system, including the institutions of government at the federal, state, and local levels; sources of law; and concepts of legal rights; nature and extent of government authority to protect the public's health, constitutional and other legal limitations. Introduction to constitutional principles of due process and equal protection.

Health regulation: legal rules governing the administration of health agencies; rulemaking process; administrative review of rulemaking; judicial deference to administrative agency determinations.

Contracts and negotiation: introduction to law of contracts, overview of contract law principles and their application to healthcare activity. Negotiation review.

Health data collection. Reporting requirements, confidentiality and privacy, subpoenas of health records and scientific data, etc.

Health communication and behavior. Health promotion campaigns, their legal limitations and restrictions; regulation of advertising in relation to First Amendment rights; risk of defamation in product disparagement or counter-advertising.

2. Feb. 19

Readings: Goodman chapters 9-12 and 21-22; cases on Blackboard site.
Student presentations

Administrative law and regulations.

Visiting speaker: Charles Kendell, MPA, Chief of Staff, Kentucky Department for Public Health

Litigation: Law of negligence and medical malpractice. Use of litigation in public health. Tobacco issues and public health law; introduction to the basic elements of a tort claim, corporate negligence, and strict liability. Individual, class action and government lawsuits against makers of harmful products.

Liability issues in healthcare settings.

Visiting speakers: Margaret Pisacano, RN, JD, Paula Holbrook, RN, JD, UK Healthcare Risk Management

Injury, disability and the law. Review of public health approach to injury and its implications for law and policy; general overview of Americans with Disabilities Act with specific illustrations of its relationship to public health law; overview of emerging legal issues in disability rights with emphasis on telecommunications access.

3. March 26

Student presentations

Frontline public health: Challenges and dilemmas relating to confinement of individuals for prevention or treatment of disease; public health and law enforcement; legal issues posed by multidrug resistant tuberculosis; distinction between procedural and substantive rights. Public health and drug abuse. Role of the judiciary in public health.

Visiting speakers: Ted Martin and Jason Ams, Greenebaum Doll Macdonald.

Law of nuisance and its impact on modern public health practice; tension between legal authority of public health professionals to identify and abate nuisances while not infringing on the rights of individuals. History and purpose of land use planning to protect public health and safety; legal methods used to regulate land use at the local, state and federal level. Federal and state environmental regulation to protect public health, focusing on environmental justice issues.

4. April 23

Readings: Showalter chapters TBD; cases on Blackboard site

Student presentations

Visiting lecture: Nicole Huberfeld, JD, Gallion and Baker Professor, UK College of Law
Legal issues in reproductive health

Legal issues in healthcare financing

Statutory rights for vulnerable populations with focus on end-of-life issues, low-income populations, and immigrants.

Health reform (materials under development) and mental health law

Final exam distributed

April 30: Final exam due by 5:00 pm.