### Course Information

- **Course:** 90832
- **Offering:** Mini 3 (6 units)
- **Location:** Room 1002 Hamburg Hall
- **Time:** Mondays 6-8:50pm
- **Dates:** January 23 – March 6, 2017
- **Instructor:** Tina Batra Hershey, JD, MPH
  - Phone: 412-383-2229
  - Email: hershey@andrew.cmu.edu
- **Teaching Assistant:** Rachel Hummel
  - Phone: 570-898-5807
  - Email: rjh88@pitt.edu
- **Office hours – by appointment**

### Description

This course introduces students to the laws that impact the provision of health care services. With the increasing intersection between health care and the law, executives and others involved in the administration and delivery of health care services are likely to encounter a wide range of legal and regulatory issues.

The course is designed to provide students with the practical knowledge needed to identify legal issues inherent in health care and to understand the legal ramifications of administrative and management decisions. Specific course topics include: sources of law, the US court system and legal procedures, professional and institutional liability, governmental regulatory methods, antitrust law, fraud laws, corporate compliance programs, issues concerning informed consent, credentialing of medical professionals, termination of care, and health care reform.

### Learning/Course Objectives

Upon completion of this course the student should be able to:

1. Explain the US legal system and sources of law in the United States.
2. Recognize and apply laws, regulations, and policies that govern the administration and delivery of health care services.
3. Identify potential legal ramifications of health care management and administrative decisions.
4. Identify issues that warrant seeking the assistance of legal counsel.
### Course Materials

Required text:
The Law of Healthcare Administration, 7th Ed., J. Stuart Showalter  
© 2014 Health Administration Press  
Foundation of the American College of Healthcare Executives

Additional readings will be posted on Blackboard.

### Evaluation Method

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<td>1) <strong>Professionalism</strong> (10%):</td>
<td>The professionalism grade is based on a student’s behavior in the classroom, including the appropriate use of technology. Students are expected to arrive on time for class and attend every lecture. Absences may be excused at the instructor’s discretion with advance notice. Students who are absent without providing advance notice will have 1 point deducted from their final grade. In addition to attending class and using technology appropriately, students should actively participate in class discussions, debates, and group exercises in a respectful and constructive manner.</td>
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<td>2) <strong>Weekly Quizzes</strong> (25%):</td>
<td>5 online weekly reading quizzes will be given throughout the course as indicated on the syllabus below. These quizzes will consist of 20 multiple choice and true/false questions related to the assigned reading. Each quiz must be taken on Blackboard by the date indicated on the course syllabus. The quizzes, which will be available the Thursday before, will be timed (25 minutes) and must be completed in one sitting. <em>While the quizzes are open book, you may not work with others.</em></td>
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<td>3) <strong>Case Brief and Presentation</strong>: (25%):</td>
<td>Each student will brief a legal case and present the case to the class. Students will sign up for cases during the first class; case briefs and presentations will be due throughout the course. Appendix A provides more information regarding this assignment.</td>
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<td>4) <strong>Final Exam</strong> (40%):</td>
<td>The final exam will be comprehensive and consist of short/long answer essays and analysis of hypotheticals. The exam will be take home, open book and open note. <em>While the exam is open book/open note, you may not work with others.</em></td>
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### Grading Scale

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<th>Grade</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>A+</td>
<td>99.0-100%</td>
</tr>
<tr>
<td>A</td>
<td>94.0-98.9%</td>
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<tr>
<td>A-</td>
<td>91.0-93.9%</td>
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<tr>
<td>B+</td>
<td>88.0-90.9%</td>
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<tr>
<td>B</td>
<td>84.0-87.9%</td>
</tr>
<tr>
<td>B-</td>
<td>81.0-83.9%</td>
</tr>
<tr>
<td>C+</td>
<td>78.0-80.9%</td>
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<tr>
<td>C</td>
<td>74.0-77.9%</td>
</tr>
<tr>
<td>C-</td>
<td>71.0-73.9%</td>
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The grade of A+ is reserved for truly exceptional performance.
| Plagiarism and cheating notice | Plagiarism and other forms of academic misrepresentation are taken extremely seriously. Misrepresentation of another’s work as one’s own is widely recognized as among the most serious violations. The violation is clearly flagrant when it occurs as plagiarism on a required paper or assignment or as cheating on an examination, regardless of whether it is a take-home or in-class examination. The punishment for such offenses can involve expulsion from the program. There are many other ways in which a violation can occur.  

*Academic Dishonesty:* Students are expected to maintain the highest ethical standards inside and outside the classroom. Cheating on exams and term papers (i.e. plagiarism and unauthorized collaboration) is obviously discouraged and will be treated appropriately. The usual penalty for violations is a failing grade for the particular assignment in question; however, in some instances, such actions may result in a failing grade for the course. |
| Course Policies & Expectations | Course readings for each week are outlined below and may be supplemented and/or changed as deemed appropriate. Each student is expected to read the materials and be prepared to discuss them in class. In addition, each student is expected to attend every lecture, arriving on time for class. Absences may be excused at the instructor’s discretion with advance notice. Students who are absent without providing advance notice will have 1 point deducted from their final grade.  

At times we will be discussing sensitive and controversial issues – please be respectful of the opinions of others and engage in civil discussion and debate. Every student is expected to show respect for the individual beliefs, experiences, behaviors, worldviews, and backgrounds of others.  

Computers are to be used for **class purposes only**. Please turn off cellphones prior to class. If you cannot turn your phone off, please set it to vibrate rather than ring. No recordings of lectures are permitted without prior permission from the instructor.  

Assignments are expected to be turned in on time. Acceptance of late assignments is at the instructor’s discretion.  

*Course Schedule on next page* |
<table>
<thead>
<tr>
<th>DATE</th>
<th>TOPIC</th>
<th>READINGS</th>
<th>ASSIGNMENT</th>
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| January 23, 2017| Course Overview and Introduction to the US Legal System Health Reform | • Showalter, chapters 1 & 3  
• Article: Kerr, OS. How to Read a Legal Opinion  
• King v. Burwell | • Review syllabus carefully |
| January 30, 2017| Contracts and Intentional Torts Negligence | • Showalter, chapters 4 & 5  
• Mead v. Legacy Health System  
• Hedgepeth v. Whitman Walker Clinic  
• Dickhoff v. Green | • QUIZ #1 due by 1/30/17 at 5pm |
| February 6, 2017| The Organization, Management, and Liability of Health Care Organizations | • Showalter, chapters 6 & 7  
• Yocabet complaint (skim and bring to class)  
• Burless v. W. Va. University Hospitals, Inc  
• Scampone v. Highland Park Care Center LLC  
• Aetna Health Inc. v. Davila | • QUIZ #2 due by 2/6/17 at 5pm |
| February 13, 2017| Scope of Practice, Medical Staff Privileges, and Peer Review Emergency Care and Patient Dumping | • Showalter, chapters 8 & 10  
• Baptist Health v. Murphy  
• Sokol v. Akron General Medical Center  
• Yocabet v. UPMC Presbyterian and University of Pittsburgh Physicians  
• Byrne v. Cleveland Clinic  
• Bryson v. Milford Reg’l Med. Ctr., Inc | • QUIZ #3 due by 2/13/17 at 5pm |
| February 20, 2017| Fraud Laws, Corporate Compliance Health Information Management and Data Analytics | • Showalter, chapters 15 & 9  
• US v. Campbell  
• US v. Patel  
• Byrne v. Avery Center for Obstetrics and Gynecology  
• ONC Guide to Privacy and Security of Electronic Health Information (chapters 1-4, 7 only)  
• Article: The Legal and Ethical Concerns that Arise from Using Complex Predictive Analytics in Health Care | • QUIZ #4 due by 2/20/17 at 5pm |
| February 27, 2017| Consent for Treatment and End of Life Issues Issues of Reproduction and Birth | • Showalter, chapters 11 & 14  
• Nathan Hershey Op-Ed  
• Doctors Hospital of Augusta v. Alicea  
• Vacco v. Quill  
• A.L.S. v. E.A.G  
• Article: Supreme Court Strikes Down Texas Abortion Restrictions | • QUIZ #5 due by 2/27/17 at 5pm |
| March 6, 2017   | Emergency Preparedness                     | • American College of Healthcare Executives: Healthcare Executives Role in Emergency Preparedness | • Final Exam due via email and in class |
APPENDIX A: CASE BRIEFS

The purpose of the case brief assignment is to develop student comprehension and appreciation of case law, as well as the skill of identifying legal issues and succinctly summarizing legal reasoning. In addition, the case brief assignment will enable students to effectively lead class discussion regarding legal principles discussed in the case as well as any policy/management ramifications.

The “IRAC” method should be used for the case brief. The IRAC method is a framework for analyzing a legal case, with the following structure: Issue, Rule, Analysis, and Conclusion. Before using the IRAC framework, it is important to first briefly summarize the facts and procedural history of the case. When you are finished, consider the legal, policy, and/or management implications of the decision.

Brief Introduction to the IRAC Method

**Issue:** The first step in IRAC is to state the issue presented by the case. Sometimes a case will provide the issue for you. If not, then ask: What is the legal question that, when answered, determines the result of the case? The issue should be stated in the form of a question in a specific, rather than general form: “Is there an agency relationship if there was no compensation paid?” would be an acceptable issue. “Will the plaintiff win?” would not be acceptable. The names of the parties in the case may be used, as well as specific facts. Although most cases present one issue, if there is more than one issue to address, then you should write a separate IRAC analysis for each issue.

*For the purposes of this course, we are less concerned with the procedural issues that may arise in cases. We are more interested in the substantive legal questions that come into play in health care settings. Therefore, you may omit issues that are procedural only in nature from your case brief.*

**Rule:** The rule describes which law or test applies to the issue. The rule should be stated as a general principal, and not a conclusion to the particular case being briefed. Example: “An agency relationship is created when there is an agreement that the agent will act for the benefit of the principal at the principal’s direction or control regardless of whether compensation is paid” would be an acceptable rule. “The plaintiff was the defendant’s agent” would not be an acceptable rule. Do **not** use parties’ names or specific facts from the case.

**Analysis:** The analysis is the most important, and often the longest, part of an answer. It involves applying the rule to the facts of the problem or question. You should use the facts to explain how the rule leads to the conclusion. Do **not** merely state a conclusion without also stating reasons for it. A conclusion without reasons or explanation means that you have not used the rule and the facts to analyze the issue.

The rule can be used as a guide in your discussion. Example: suppose the issue is whether Smith is an independent contractor. Using the facts of the case, explain whether or not they fit into the definition of what is an independent contractor. If the rule is a test with multiple factors, then you must analyze each factor by pointing out how the facts do (or do not) fulfill each factor.

**Conclusion:** The conclusion is your answer to the issue. State the result of your analysis. Examples: “Smith is liable for negligence; therefore, the lower court’s decision is overturned” or “Therefore, no valid contract was formed between Smith and Hospital and the lower court’s decision is upheld.” If there are multiple issues, there must be multiple conclusions as well.
A great source of information regarding legal reasoning, how to brief a case using IRAC, and examples using IRAC can be found at [http://www.lawnerds.com/guide/irac.html](http://www.lawnerds.com/guide/irac.html). Reviewing this information in detail prior to briefing any case will enable you to draft a logical and useful brief and may have the added benefit of saving you time.

**Formatting the Case Brief**

Each brief should first identify the case name and citation. For example, *Roe v. Wade*, 410 U.S.113 (1973). Next, briefly summarize the facts of the case and the procedural history. Then, follow the IRAC model outlined above, using headings for each section. Finally, add your law/policy/management ramifications.

The case brief should have the following headings:

1. **Facts and Procedural History:** A statement of the procedural facts, followed by a brief summary of the relevant evidentiary facts of the case that gave rise to the litigation.

2. **Issue:** A statement clearly identifying the issue or question presented. Remember that you can omit issues that are procedural only in nature.

3. **Rule (of Law):** Succinct statement of the rule of law that expressly or impliedly governs the case. Include all the elements of the rule.

4. **Analysis:** Application of (all elements of) the rule of law to the facts of the case;

5. **Conclusion:** Succinct statement of the conclusion, decision, or holding. Who prevailed in the litigation and what occurred procedurally as a result? Did the holding modify or extend the existing rule?

6. **Policy:** Is the case wisely decided? Does the decision uphold or extend a sound health policy or public policy? Why or why not? What are the legal, policy, and/or management ramifications?

The case brief should be succinct and no more than 4 pages in length (double-spaced, 12 point font, 1” margins). Please email your case brief to hershey@andrew.cmu.edu prior to class and bring a printed copy to class to hand in.

*If you have questions regarding the case brief or using the IRAC method, please be sure to contact me before your case brief is due.*