

**ADVANCED HEALTH LAW SEMINAR:  
Global and National Perspectives**

LawG-210-08;LAWJ-210-08

Spring Term, 2008

**Mondays 3:30-5:30**

Hotung Building, Room 6006

Georgetown University Law Center

**Professors Lawrence O. Gostin and John Monahan**

**SYLLABUS**

Health law is a vast and dynamic discipline. There are four distinct, but overlapping, areas of health law-related courses at Georgetown University Law Center. First, there are courses which primarily examine issues of **law and medicine**. These courses comprehensively cover the legal questions arising from the doctor-patient relationship. These “therapeutic relationship” issues include informed consent and confidentiality, as well as a range of problems traditionally examined in the field of bioethics. Second, there are courses concerning **public health law**. Such courses examine the public health system in the United States, as well as abroad, and focus on the role of governments at the national and local levels in regulating in the interests of the public’s health. These courses focus on the health of populations and do not emphasize the provision of personal medical services. Third, there are courses offered which predominately concern the legal issues arising from the implementation and operation of the **health care system**. Such courses examine the way America finances, delivers, and organizes health care services. Finally, there are courses focusing on **global health law**. Global health law courses look at the complex web of international relationships that influence health on a global scale. Many of you have taken courses in these areas.

This course, Advanced Health Law: Global and National Perspectives, is the culmination of study in these areas, reserved for the best and brightest students pursuing health law as a field at Georgetown University Law Center. Topics to be covered in this course include public health law, health care policy and financing, biomedical issues, and global health law. Each of these broad subjects brings to the field of health law a number of fascinating and at times controversial legal and ethical problems, which we will selectively explore.

Since this is an advanced class, the focus is not on instruction of doctrine but on lively and rigorous conversation with the leading theorists and practitioners in the field. Consequently, most of the classes will be led by distinguished outside speakers and then the students themselves.

This is a class that will emphasize research and writing. Consequently, we will devote considerable time to the research and writing process. We will particularly concentrate on the idea of stating, developing, and defending a thesis as part of a scholarly project.

#### **I. Course Requirements**

- A. **Time and Place.** This three (3) credit course will meet once a week on **Mondays, from 3:30 to 5:30 p.m.** in the Hotung Building, Room 6006.
- B. **Class discussions** showing rigorous thought and an informed understanding of the subject matter will be an integral part of the learning process. *Please read all of the assigned materials before class to facilitate discussions.* All students will be expected to actively participate in class discussions.
- C. **Readings.** The Syllabus contains a list of readings for each meeting. The required text is **LAW, SCIENCE AND MEDICINE** (3d ed., 2005). The book is available from the Georgetown University Law Center Book Store. Readings from the textbook will be supplemented with selected articles and reports, as indicated on the syllabus. These supplemental readings are available through the class courseware site (password: advancedhealthlaw). Students are responsible for reading all assignments and familiarizing themselves with the appropriate materials before each class.
- D. **Papers and Presentations.** Students will prepare a scholarly paper for the course on a relevant subject in health law, and they will be assigned to make a presentation in class on the subject of their scholarly paper. Presentations should be thoughtful and well prepared. An imaginative method of presentation is strongly encouraged to aid in the pedagogic process.  
  
Dates for submission of a thesis proposal, outline of the paper topic, and the first draft of the paper are set forth below. Please review these various dates and requirements concerning the paper writing process. Students will be expected to **meet all deadlines**. The objective is to produce papers of sufficient quality that they can be published in a law, medical, or health policy journal. Many students taking this course have published their papers in a scholarly journal. We are happy to provide additional assistance for students who wish to have their papers published, even after the class has ended.
- E. **Peer Learning.** Students will be assigned to work with one another during the course of the writing process. Student peers should assist each other with the research and thought processes of their paper topics and be prepared to offer commentary of their assigned student's presentation. Our experience is that peer relationships are an important part of the learning process. Each student will be expected to provide written proof of the nature and quality of the assistance provided and received through the peer learning process.
- F. **Grading.** The grade for the course will be based on your fulfillment of the course requirements. A portion (25%) will be based on your class participation, the in-class presentation of your paper, and your role as a student peer; the remaining portion (75%) will be based on your final paper. Class participation will be assessed on a qualitative rather than quantitative basis.

- G. **Lectures and Discussions.** Most class sessions will be based on lectures, or a student presentation in the later classes, followed by class discussion of the issues raised by the lecture, presentation, and readings. **Note** - students who wish to hand out materials for the class to facilitate discussion of their proposed topics must do so the week prior to delivering their presentation.
- H. **Attendance.** Attendance for all classes is strongly encouraged. Students *must* attend classes in which they are presenting their topics or are serving as student peers.

## II. Administrative Details

- A. **Instructor Availability.** We want to be fully available to help students whenever they need assistance with the content and readings in the class, as well as with the research and writing process.

**Professor Gostin** will hold *office hours on Tuesdays, 1:30-3 pm*. He is also available to students by appointment.

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**Professor Monahan** will hold *office hours Thursdays from 2:30-4 pm*. He is also available to students by appointment

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Katrina Pagonis (Fellow) and Benjamin Berkman (Deputy Director) are part of the O'Neill Institute for National and Global Health Law at Georgetown University Law Center, and they will be assisting Professors Gostin and Monahan in teaching this course. Katrina Pagonis' office is in Hotung 5016; she can be reached at 202-662-9462 or via e-mail at [kap23@law.georgetown.edu](mailto:kap23@law.georgetown.edu). She will hold *office hours on Mondays from 5:30-6:30* and by appointment. Benjamin Berkman's office is in Hotung 5018; he can be reached at 202-662-9777 or via e-mail at [beb26@law.georgetown.edu](mailto:beb26@law.georgetown.edu). He is also available to meet with students by appointment.

- B. **Final Thoughts.** We have long been fascinated by the subject matter of this course. We hope you will share our enthusiasm for the intellectually challenging ideas presented in the readings and the class work. We look forward to getting to know you and to many thoughtful discussions. If we can ever be of assistance, please come by and see either of us at any mutually convenient time.

## **WEEKLY READING ASSIGNMENTS**

*Law, Science and Medicine* (3d ed. 2005) [“LSM”]

Supplemental Readings (distributed and posted on courseware) [“SR”]

Paper Related Assignments [“WR”]

<b>Jan. 14</b> Class 1	<b><i>Course Overview – The Field of Health Law: Objectives, Writing Requirement, and Paper Presentations</i></b> <b>Class Exercise: International Nurse Recruitment</b>	
	Intro:	Students will be given an overview of upcoming lectures, the paper writing process, the method of grading, and other course requirements. The research and writing expectations for students will be described to prepare students for the eventual task of drafting and presenting a publishable-quality article. Students may be asked to share their interests in the subject matter and to begin thinking about potential paper topics.
	<u>Readings:</u>	<u>SR:</u> Gostin & Jacobson, <i>Law and the Health System: An Integrated Approach</i> , in <i>LAW AND THE HEALTH SYSTEM</i> 1-11 (2006)
<b>Jan. 28</b> Class 2	<b>Issues in Public Financing of Health Care in the U.S.</b> Guest Lecturer: Timothy Westmoreland (Georgetown University Law Center)	

	<u>Readings:</u>	<p><u>LSM:</u> 707-710, skim 742-750</p> <p><u>SR:</u> Mann &amp; Westmoreland, <i>Attending to Medicaid</i>, 32 J.L. Med. Ethics 416 (2004).</p> <p><u>SR:</u> Weil, <i>There's Something About Medicaid</i>, 13 HEALTH AFF. 13 (2003)</p> <p><u>SR:</u> Westmoreland, Health Policy and the Federal Budget [either complete the tutorial at <a href="http://www.kaiseredu.org/tutorials/federalbudget/HPandFederalBudget.html">http://www.kaiseredu.org/tutorials/federalbudget/HPandFederalBudget.html</a> or read the tutorial slides at <a href="http://www.kaiseredu.org/tutorials/federalbudget/HPandFederalBudget.ppt">http://www.kaiseredu.org/tutorials/federalbudget/HPandFederalBudget.ppt</a>]</p> <p><u>Optional Additional Background, SR:</u> Westmoreland, <i>Standard Errors: How Budget Rules Distort Lawmaking</i>, 95 Geo. L.J. 1555, 1555-1580 (2007) [students who would like additional background regarding the budget process should read the Introduction and Sections I and II of Prof. Westmoreland's article (pages 1556-1580)]</p> <p><u>Optional SR:</u> American College of Physicians, <i>Achieving a High-Performance Health Care System with Universal Access: What the United States Can Learn from Other Countries</i>, 144 ANNALS OF INTERNAL MED. 55 (2008)</p>
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<p><b>Feb. 4</b> Class 3</p>	<p><b>Medicaid and SCHIP: Issues in US Public Health Insurance</b> Professor Monahan and Guest Lecturer Cindy Mann (Executive Director, Center for Children and Families, Georgetown University Health Policy Institute)</p>	
	<u>WR:</u>	Preliminary discussion of potential paper topics
	<u>Readings:</u>	<p><u>LSM:</u> 750-754</p> <p><u>SR:</u> Kaiser Commission on Medicaid and the Uninsured, <i>Medicaid Section 1115 Waivers: Current Issues</i> (Jan. 2005) (<a href="http://www.kff.org/medicaid/upload/Medicaid-Section-1115-Waivers-Current-Issues-pdf.pdf">http://www.kff.org/medicaid/upload/Medicaid-Section-1115-Waivers-Current-Issues-pdf.pdf</a>)</p> <p><u>SR:</u> Bolton, <i>The Case of the Disappearing Statute: A Legal and Policy Critique of the Use of Section 1115 Waivers to Restructure the Medicaid Program</i>, 37 Colum J.L. &amp; Soc. Probs 91 (2003) [read Parts I, III, and VI; skim Parts II and IV-V]</p> <p><u>SR:</u> Pear, <i>U.S. Curtailing Bids to Expand Medicaid Rolls</i>, N.Y. TIMES, Jan. 4, 2008, at A1 (<a href="http://www.nytimes.com/2008/01/04/washington/04health.html">http://www.nytimes.com/2008/01/04/washington/04health.html</a>)</p> <p><u>Optional SR:</u> Artiga &amp; Mann, <i>Kaiser Commission on Medicaid and the Uninsured, New Dimensions for Medicaid Section 1115 Waivers: Policy Implications of Recent Waiver Activity</i> (March 2005)</p> <p><u>Optional SR:</u> Institute of Medicine, <i>Coverage Matters: Insurance and Health Care</i>, 1-16 (Executive Summary) (2001) (<a href="http://www.nap.edu/nap-cgi/execsumm.cgi?record_id=10188">http://www.nap.edu/nap-cgi/execsumm.cgi?record_id=10188</a>)</p>

Feb. 11 Class 4	<b>Personalized Medicine</b> Guest Lecturers: Dr. Kevin FitzGerald (Georgetown Medical Center) & Dr. Julie Deloia (Georgetown School of Nursing and Health Studies)	
	<u>WR:</u>	<p><b>PAPER TOPIC PROPOSALS DUE:</b> Students must submit their initial paper topics for the consideration and approval of the Professor. The topic must be relevant to the subject matter of the course, touching on health law and ethics. Once approved, students are strongly encouraged <i>not</i> to consider changing the nature of the topic, although changes in the thesis are expected.</p> <p><b>ASSIGNMENT OF STUDENT PEERS:</b> Each student is assigned a “student peer” on the basis of the student’s chosen topic. Assignments attempt to combine students with similar topics. Student peers help each other with researching and writing throughout the remainder of the course. They are encouraged to assist with any questions their assigned peer may have, exchange research suggestions, outlines, and first drafts, and assist with presentations.</p>
	<u>Readings:</u>	<p><u>LSM:</u> 14-15, 29-33, (optional: 33-39)</p> <p><u>SR:</u> Phillips, <i>The Intersection of Biotechnology and Pharmacogenomics: Health Policy Implications</i>, 25 HEALTH AFF. 1271 (2006)</p> <p><u>SR:</u> Sankar &amp; Kahn, <i>BiDiL: Race Medicine Or Race Marketing?</i> W5 HEALTH AFF. 455 (2005).</p> <p><u>SR:</u> Smith et al., <i>Genomics Knowledge and Equity: A Global Public Goods Perspective on the Patent System</i>, 82 BULL WORLD HEALTH ORG 385 (2004).</p> <p><u>Optional SR:</u> Church, <i>Genomes for ALL</i>, SCI. AM. 47 (Jan. 2006)</p> <p><u>Optional SR:</u> Sarata, <i>Genetic Testing: Scientific Background for Policymakers</i> (CRS Report for Congress, Jan 26, 2007).</p>

Feb. 21 [Thurs] Class 5	<b>Obesity, Health and the Law</b> Guest Lecturers: Sandra Calvert (Professor of Psychology, Georgetown University) and Angela Campbell (Professor of Law, Georgetown University Law Center; Director, Institute for Public Representation)	
	<u>WR:</u>	<p><b>SHORT THESIS PROPOSAL DUE:</b> A well-crafted thesis is integral to the development of a high quality research paper. Students must present a written document of several paragraphs stating the thesis which the student expects to systematically develop through research and argument. The thesis is the theory or main idea of the paper—the principal point the paper advances. The thesis is not the same as the topic (“this paper will cover X”), but the central theme (i.e., what the paper seeks to demonstrate, the method of argumentation, and why it is important).</p>

	<u>Readings:</u>	<p><u>LSM:</u> 496-525 (skim), 593-598 (skim), and 601-618 (read)</p> <p><u>SR:</u> Hossain et al., <i>Obesity and Diabetes in the Developing World – A Growing Challenge</i>, 356 NEW ENG. J. MED. 213 (2007).</p> <p><u>Optional SR:</u> Yach et al., <i>The Global Burden of Chronic Diseases: Overcoming Impediments to Prevention and Control</i>, 291 JAMA 2616 (2004).</p>
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<b>Feb. 25</b>	<b>Research and Writing Techniques</b>	
Class 6	<u>WR &amp; Readings:</u>	<p>Familiarize yourself with the library’s relevant research guides, particularly the health law and global health law research guides.</p> <p>Topical listing of research guides:  <a href="http://www.ll.georgetown.edu/research/browse_topics.cfm">http://www.ll.georgetown.edu/research/browse_topics.cfm</a></p> <p>Health law research guide:  <a href="http://www.ll.georgetown.edu/guides/health.cfm">http://www.ll.georgetown.edu/guides/health.cfm</a></p> <p>Global health law research guide:  <a href="http://www.ll.georgetown.edu/intl/guides/globalhealthlaw.cfm">http://www.ll.georgetown.edu/intl/guides/globalhealthlaw.cfm</a></p> <p>Reflect on your own proposed research plan, and come prepared with any questions for the research librarians regarding your plan and any questions for Profs. Gostin and Monahan on your writing plan.</p>

<b>Mar. 10</b>	<b>III Health and Poverty</b>	
Class 7	Mark Greenberg	

	<u>WR:</u>	<p><b><u>FULL THESIS STATEMENT AND INITIAL OUTLINE DUE:</u></b>  Students must submit a more developed thesis statement, supported by an outline of their paper topic. A thesis statement is essential to original research. The full thesis statement should be 2-3 pages long setting out the paper’s theory, method of development, and forms of argumentation in support of the thesis. Typically, this would include a detailed statement of what the paper expects to prove, why it is important, how the thesis will be developed, and the main forms of argumentation. The thesis statement should be supported by an outline of the paper. This outline should be based on the student’s independent research and should present the title and subject matter of the eventual first draft of the paper. The outline should also feature headings and subheadings with sentence-length descriptions of the findings and subject matter within each heading. Well-organized outlines might also contain footnotes. These outlines allow the Professor and student peer to analyze the current status of the student’s research, provide commentary and suggestions, and assist the student in organizing, research, and writing the first draft.</p> <p><b><u>DISCUSSION OF PAPERS AND METHODOLOGIES:</u></b> This class serves to allow students the chance to discuss issues relating to the final paper. Research methods, thesis and subject refinement, substantive problems, as well as any other queries may be brought up in an effort to aid students in producing a final scholarly paper of publishable quality. Each student should come prepared to talk substantively about his or her paper and the problems and challenges posed.</p>
	<u>Readings:</u>	<u>LSM:</u> 465-475

<b>Mar. 17</b> Class 8	<p><b>Issues in Global Health Assistance</b>  Guest Lecturer: Ruth Levine, Vice President for Programs and Operations, and Senior Fellow, Center for Global Development</p>	
	<u>Readings:</u>	<p><u>SR:</u> David E. Bloom, <i>Governing Global Health</i>, 44 FIN. &amp; DEV. 31 (2007) (<a href="http://www.imf.org/external/pubs/ft/fandd/2007/12/pdf/bloom.pdf">http://www.imf.org/external/pubs/ft/fandd/2007/12/pdf/bloom.pdf</a>)  <u>SR:</u> Cerrell, Gayle &amp; Morison, and Godal, <i>Is the Global Health System Broken? Three Points of View on How the Global Health System can be Improved</i>, 44 FIN. &amp; DEV. 36 (2007) (<a href="http://www.imf.org/external/pubs/ft/fandd/2007/12/pdf/point.pdf">http://www.imf.org/external/pubs/ft/fandd/2007/12/pdf/point.pdf</a>)  <u>SR:</u> Garrett, <i>The Challenge of Global Health</i>, 86 Foreign Aff. 14 (2007) (<a href="http://www.foreignaffairs.org/20070101faessay86103/laurie-garrett/the-challenge-of-global-health.html">http://www.foreignaffairs.org/20070101faessay86103/laurie-garrett/the-challenge-of-global-health.html</a>)</p>

Mar. 24 Class 9	<b>Endemic and Emergent Diseases of International Concern and the Framework Convention on Global Health</b> Dean Gostin	
	Readings:	<u>LSM</u> : skim 578-584 <u>SR</u> : Gostin, <i>Meeting Basic Survival Needs of the World's Least Healthy People: Toward a Framework Convention on Global Health</i> , 96 Geo. L.J. (forthcoming 2008)

Mar. 31 Class 10	<b>Topic and lecturer to be announced</b>	
	WR:	<b><u>SELECTION OF PRESENTATION DATE AND TIME:</u></b> On a random basis, students will select the date and time of their presentations. The presentations allow the students to present their topics and research findings to the class, take questions, and receive constructive feedback from the professors, student peer, and class members.  <b><u>DETAILED OUTLINE DUE:</u></b> Although a previous version of the outline was already constructed to supplement the thesis statement, now is the time to revisit the outline and strengthen it so that the structure and coherence of the paper is guaranteed. A detailed outline finalizes the initial groupings that were made and re-evaluates whether they will be the best organizational approach for the paper that is in progress.
	Readings:	TBA

Apr. 7 Class 11	<b><u>CLASS PRESENTATIONS</u></b>
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Apr. 14 Class 12	<b><u>CLASS PRESENTATIONS</u></b>	
	WR:	<b><u>FIRST DRAFT OF PAPER DUE!:</u></b> Students must submit their first draft of the paper to the Office of the Registrar, Professor, Fellows, and student peer. These papers should <i>not</i> be partial drafts or mere extended versions of the outline. Rather, these drafts should feature complete analysis of all headings and subheadings and more extensive footnoting. These papers allow the Professor and student peer to fully review the student's topic and provide meaningful commentary and suggestions.

Apr. 21 Class 13	<b><u>CLASS PRESENTATIONS</u></b>
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Apr. 28	<b><u>FINAL PAPERS DUE!</u></b> Submit papers to the Office of the Registrar. <b><u>No paper extensions will be granted except in emergency situations</u></b>
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