

**Western State College of Law
Syllabus**

Course: Health Law (268), Fall 2022
Mondays 10:30am – 12:30pm
Room FA-307

Professor: Paul Arshagouni
Email: parshagouni@wsulaw.edu
Office Hours: Library Building, Second Floor, Suite 200

- By appointment – please email me to set a time

Required Books and Materials:

- Health Law – Cases, Materials, and Problems, Clark, et al., Abridged 9th Edition (West Academic Publishing).
- Additional materials posted to the class TWEN page. You are required to sign up for the class TWEN page. It should be up and running at least a few days before the first class session.

Course Description:

This course provides a broad survey of the fundamental legal issues surrounding the delivery of health care in the U.S. Topics include: private and public health insurance systems; state and federal regulation of medical professionals and institutions; common law and statutory duties to treat; anti-discrimination law in health care settings; the structure of health care delivery; health care fraud and abuse regulations; and bioethical issues. By the end of this course, students should be able to identify and analyze major legal issues in health care contexts, and understand the relationship between cost, quality, and access to health care. This course provides an introduction to the complex and wide-ranging field of health law.

Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student's chosen outcomes within this category will be varied based on the student's particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule

and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

Attendance, Grades, and Upper Level Writing Requirement:

Class attendance is important, and it is mandatory. Students who miss more than two class sessions are subject to administrative dismissal from the course per the WSCL Attendance Policy.

This class satisfies the Western State College of Law upper level writing requirement (ULWR), and follows guidelines established by the American Bar Association. Each student will earn a numeric grade for the course. The final course grade consists of a draft (20%), P&P (participation & professionalism) (20%), and a 15-18 page research paper (60%).

You will work on the paper throughout the semester. In a WSCL ULWR course, you must earn a 2.0 or higher to obtain ULWR credit.

Participation & Professionalism (P&P):

Success in law school involves an active learning environment. This class is most productive if you have thought about the material and are willing to discuss it. For volunteer participation, quality is valued over quantity, and all views are welcome. 20% of your final course grade will be based on the quality and quantity of your contributions to class discussions, attendance, punctuality, conduct during class time, a presentation to the class, and overall professionalism.

You may not record this class without my prior approval. Students in violation of these policies may be referred to the Associate Dean for Academic Affairs.

Outside Preparation: When preparing for class, you should expect to spend 2-3 hours for every hour of class time. Read the cases critically. You are free to disagree with the conclusion the

court came to, but understand the reasoning even if you do not agree with it. Bring to class any questions you may have regarding the cases and the rules they represent.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The **Disabilities** Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite 119. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

Reading Assignments

This is a survey course that looks at the general law affecting health care delivery in the United States. We will be exploring the structure of the current health care delivery system, the legal mechanisms for regulating access and quality of care, and hopefully gain a deeper understanding of the underlying policy concerns and tensions amongst access, quality, and cost containment as they inform health care regulatory and delivery systems. The following is the current topic / reading plan for the semester. This plan may be modified as we progress through the semester. Any changes will be announced in class and/or posted to TWEN.

- 8/29/2022 **Introduction to Health Law**
- Furrow pages 1-31
- Provider-Patient Relationship**
- Furrow pages 95-107
 - Hippocratic Oath [On TWEN]
- 9/5/2022 **Labor Day – CLASS DOES NOT MEET**
- 9/12/2022 **Professional Licensure**
- Furrow pages 27-65

- 9/19/2022 **Access to Care – Unequal Treatment: Common Law and Statutes**
- Furrow pages 219-258, 287-311
- 9/26/2022 **Informed Consent**
- Furrow pages 107-126
- Confidentiality**
- Furrow pages 126-137, skim 137-163
 - CMS HIPPA Basics [on TWEN]
- 10/3/2022 **Health Care Reform: Private insurance; Managed Care; Cost/Quality; Reform Tools**
- Furrow pages 313-359
 - Kaiser Family Foundation – How Private Insurance Works: A Primer [2008 update] Pages 1-13 (available on TWEN)
- 10/10/2022 Conferences (no class this week)
- 10/17/2022 **Regulation of Insurance: The ACA and Other Statutes**
- Furrow pages 403-463
- 10/24/2022 **Public Health Care Financing: Medicare/Medicaid**
- Furrow pages 465-536 (This is a lot of reading. You may skim through much of it; just be sure that you read sufficiently to understand and be familiar with the material. However, read the cases so that we can have good discussions.)
- Draft Due** no later than **Thursday Oct. 27 at 5:00PM** via email to <parshagouni@wsulaw.edu>
- 10/31/2022 **Fraud/Abuse – False Claims Act, Anti-Kickback Statute, Stark laws**
- Furrow pages 633-729 (This is a lot of reading. You may skim through much of it; just be sure that you read sufficiently to understand and be familiar with the material. However, read the cases so that we can have good discussions.)
- 11/7/2022 **Medical Staff Structure**
- Furrow pages 537-568
- 11/14/2022 Conferences (no class this week)
- 11/21/2022 **Right to Refuse Care / Advanced Directives**
- Furrow pages 897-977
 - Complete a draft Advanced Directive [forms can be found online; two samples are on TWEN]
- 11/28/2022 **Bioethics: Physician Aid in Dying; Reproductive Technologies**
- Medically Assisted Dying

- Furrow pages 979-1014
- Assisted Reproduction (available on TWEN)
 - In the matter of Baby M
 - In re Marriage of Buzzanca
 - Davis v. Davis
 - Litowitz v. Litowitz

12/5/2022 **Public Health**

- Furrow pages 1015-1073

Paper Due no later than **Thursday, Dec. 8 at 2:00PM** via email to <parshagouni@wsulaw.edu>