

MCS Selective Health Law for Physicians

Description of the Course

The topics to be covered in this course include: medical malpractice, institutional liability, confidentiality, the Emergency Medical Treatment and Active Labor Act (EMTALA), healthcare professionals' rights and responsibilities (including professional licensure, discipline, institutional peer review, and duty to treat), and patients' rights (including informed consent).

Instructor



Caitlyn A. Tabor, JD
Department of Family, Population, and Family
Medicine
caitlyntabor@hms.harvard.edu

Educational Objectives:

At the conclusion of this selective you will have the ability to:

- 1 Have a basic understanding of the substantive law in the areas set out in the course overview, including relevant doctrines, policies, and practice areas.
- 2 Demonstrate the ability to communicate and apply the substantive law effectively both orally and in writing.
- 3 Demonstrate the ability to use problem solving skills to apply the substantive law to new and current issues and problems.

Sessions:

Each session, students should be prepared to discuss the assigned readings and engage with the in-class exercises contained in the Supplement compiled by the professor.

Assigned Texts:

1. Mark A. Hall, et al., Health Care Law and Ethics, (9th ed. 2018)
(If purchasing this text is an issue, please contact the professor who can make other arrangements.)
2. Supplement compiled by Professor

Week 1:

- Topics:
 - Introduction to the Course
 - Introduction to the Affordable Care Act
 - Introduction to Medicare & Medicaid
 - Physician Discipline
 - Licensing of Physicians
 - Regulation of Professionals & Facilities
- Readings (tentatively):
 - Text: Ch. 1 pp. 19-35; Ch. 10 pp. 1256-1276
- In-Class Exercises:
 - Supplement: Statute and Case Facts, pp. 7-25

Week 2:

- Topics:
 - Duty to Treat
 - EMTALA
 - ADA
 - Structure of the Treatment Relationship
 - Forming & Terminating a Treatment Relationship
- Readings (tentatively):
 - Text: Ch. 10, pp. 1345-1354, 1361-1373
 - Text: Ch. 2, pp. 53-65, 67-90
 - Text: Ch. 2, pp. 93-119
- In-Class Exercises:
 - Supp. pp. 34-35 (Jones v Smith)
 - Supp. pp. 36-37 (Matter of John Taylor)
 - Supp. pp. 38-39 (James v McDonald)

Week 3:

- Topics:
 - Confidentiality
 - Informed Consent
 - Objective Causation
 - Medical Malpractice
- Readings (tentatively):
 - Text: Ch. 3, pp. 121-167
 - Text: Ch. 3, pp. 174-175
 - Text: Ch. 4, pp. 253-272, 282-291, 296-314, 333-339, 341-343
- In-Class Exercises:
 - Supp. pp. 49-64 (Volk v DeMeerleer)
 - Text: Problem at p. 185
 - Supp. pp. 67-72 (Informed Consent)
 - Supp. pp. 77-92 (Objective Causation)

Week 4:

- Topics:
 - Standard of Care & Physician Liability

- Medical Uncertainty & Diagnostic Testing
- Statute of Limitations
- Institutional Liability
- Readings (tentatively):
 - Text: Ch. 4, pp. 253-272, 282-291
 - Text: Ch. 4, pp. 297-314, 333-339, 341-343
 - Text: Ch. 4, pp. 321-332, 386-394, 427-449
- In-Class Exercises:
 - Text: Problem at p. 332
 - Supp. pp. 115-117
 - Supp. pp. 119-120 (Apply NY's Statute of Limitations @ Supp. p. 117 to Practice Problem)
 - Supp. p. 125 (Institutional Liability Chart)

Responsibilities for Successful completion:

Throughout the semester, students will complete practice problems that develop their skills in health law, analyzing related issues, and advocating for a position. Students will also consider ethical issues, exercise independent judgment, and work in groups.

This course will require active student participation. Students will be expected to actively participate in class discussions, to apply the principles learned in class to various fact patterns, and to brainstorm policy concerns and solutions as a group. Each student will also be required to work in small groups to determine relevant legal standards and to apply the materials learned in class. Students will be required to present the findings of their practice problems throughout the semester that test the students' mastery of the information presented in class.

To complete the selective, a student must:

1. Attend the four sessions.
2. Come to class having prepared all readings and been familiarized with the in-class exercises.
3. Actively participate in each class session.
4. Present group findings at least once throughout the duration of the course.
5. Contribute to a respectful learning environment.