

**PUBLIC HEALTH LAW
COURSE SYLLABUS - SPRING 2001**

City University of New York Law School
Hunter College, School of Health Sciences, Urban Public
Health Program

Instructor: Prof. Paula Berg
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Class Schedule: Monday, 6-8 P.M.

COURSE OBJECTIVES

This course explores the relationship between law and the protection and promotion of the public health. The course concentrates on the legal and ethical issues that arise when government restricts and compels individual and corporate behavior for the purpose of reducing public health risks.

The course focuses on the nature and scope of governmental authority to impose public health regulations and the limits of that authority under the Constitution. Specifically, it explores how public health regulation is limited by First Amendment rights of religion, speech, and association; Fourth Amendment rights to privacy; and Fourteenth Amendment rights to due process, liberty, autonomy, and equal protection. The use of civil and criminal law sanctions to promote public health objectives and protect individuals and society from public health threats are also explored. We also investigate how the law has been employed to address specific public health problems, such as violence and gun-related injuries; tobacco; environmental dangers; workplace health hazards; and infectious disease, particularly HIV/AIDS and tuberculosis. Finally, we examine the relationship between the U.S. health care system and public health, including the impact of HMOs and managed care.

COURSE REQUIREMENTS

The course meets **Alive@** on Monday night from 6-8 p.m. at Hunter College's Brookdale Campus, which is located in Manhattan at 425 East 25th Street. Class attendance is required. In addition, the course includes an online

component that is used as a forum for discussion and as an opportunity for law and public health students to act as **Aexperts@** in their respective disciplines by answering questions and addressing problems raised by their classmates and the professor.

Grades for the course are based on class participation (20%); participation in online discussions (20%); and a final examination (60%).

READING ASSIGNMENTS

The textbook for the course is Larry Gostin, Public Health Law, (Univ. of Cal. Press 2000). The text will be supplemented by court cases and other reading materials that will be distributed in class.

COURSE TOPICS AND READINGS

1/22 Introduction to Course (law students only)

1/29 Introduction to Public Health Law (all students)

Introduction to the Legal System by Prof. Berg
(for public health students)

Reading: Gostin, Chapt. 1

AIntroduction to Law,**@** from Pozgar,
Constitution, Amendments 1-14

Introduction to Public Health by Prof. Freudenberg
(for law students)

Reading: Gostin, Chapt. 1

Gostin, Public Health Law

2/5 The Origin and Scope of Governmental Authority to Protect the Public Health

Reading: Gostin, Chapt. 2 & 3

Jacobsen v. Massachusetts, 197 U.S. (1904); Jew Ho v. Williamson, 103 F. 10 (N.D. Cal. 1900); State v. Hartog, 440 N.W.2d 852 (Iowa 1989)

2/12 Limits on Governmental Authority to Protect Public Health: Religion, Association & Speech (law students only)

Reading: Gostin, Chapt. 6

City of New York v. New St. Mark's Baths, 487 N.Y.S.2d 979 (Sup. Ct., N.Y. Cty. 1986); Sherr v. Northport-East School District, 672 F.Supp. 81 (E.D.N.Y. 1987); 44 Liquormart, Inc. v. Rhode Island, 517 U.S. 484 (1996); Pearson v. Shalala, 164 F.3d 650 (D.C. Cir. 1999)

2/13 Limits on Governmental Authority to Protect Public Health: Religion, Association & Speech (public health students only)

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City of New York v. New St. Mark's Baths, 487 N.Y.S.2d 979 (Sup. Ct., N.Y. Cty. 1986); Sherr v. Northport-East School District, 672 F.Supp. 81 (E.D.N.Y. 1987); 44 Liquormart, Inc. v. Rhode Island, 517 U.S. 484 (1996); Pearson v. Shalala, 164 F.3d 650 (D.C. Cir. 1999)

2/19 No Class - Holiday

2/20 Achieving Public Health Objectives Through Tort Litig

Reading: Gostin, Chapt 10

Gostin, Public Health Law & Ethics: A Reader (unpublished manuscript), Chapt 9

Accutec v. Hamilton, 62 F.Supp.2d 802 (E.D.N.Y. 1999); Doe v. Johnson, 817 F.Supp. 1382 (W.D. Mich. 1993); Parmet,

ATobacco, HIV, and the Courtroom: The Role of Affirmative Litigation in the Formation of Public Health Policy,@ 36 Hous. L. Rev. 1663 (1999); Cohen, **A**Are Lawyers Running America?@ Time Magazine, July 17, 2000

2/26 Limits on Governmental Authority to Protect Public Health: Privacy

Reading: Gostin, Chapt. 5

Gostin, Public Health Law & Ethics: A Reader (unpublished manuscript), Chapt 10

Burr, **A**The AIDS Exception: Privacy vs. Public Health,@ The Atlantic Monthly (1997).

3/5 Limits on Governmental Authority to Protect Public Health: Bodily Integrity

Reading: Gostin, Chapt 7

Gostin, Public Health Law & Ethics: A Reader (unpublished manuscript), Chapt 12

Ferguson v. City of Charleston, 186 F.3d 469 (4th Cir. 1999), cert. granted 120 S.Ct. 1239 (2000); Halem, **A**At What Cost? An Argument Against Mandatory AZT Treatment of HIV-Positive Pregnant Women, 32 Harv.C.R.-C.L. L. Rev. 491 (1997)

3/12 Limits on Governmental Authority to Protect Public Health: Liberty and Autonomy

Reading: Gostin, Chapt 8

Gostin, Public Health Law & Ethics: A Reader (unpublished manuscript), Chapt 13

New York City Dept. of Health
Tuberculosis Control Program, **A**TB and
the Law,@ 1994; Gasner, Maw, Feldman,
G.E., Frieden, **A**The Use of Legal Action
in New York City to Ensure Treatment of
Tuberculosis,@ 340 New Eng. J. Med. 359-
366 (1999); Annas, **A**Control of
Tuberculosis: The Law & the Public's
Health,@ 328 N. Eng. J. of Med. 585
(1993)

3/19 Achieving Public Health Objectives Through Tort Litig

Reading: Gostin, Chapt 10

Gostin, Public Health Law & Ethics: A
Reader (unpublished manuscript), Chapt 9

Accutec v. Hamilton, 62 F.Supp.2d 802
(E.D.N.Y. 1999); Doe v. Johnson, 817
F.Supp. 1382 (W.D. Mich. 1993); Parmet,
ATobacco, HIV, and the Courtroom: The
Role of Affirmative Litigation in the
Formation of Public Health Policy,@ 36
Hous. L. Rev. 1663 (1999); Cohen, **A**Are
Lawyers Running America?@ Time Magazine,
July 17, 2000

**3/26 Achieving Public Health Objectives Through Direct
Regulation**

Reading: Gostin, Chapt 4, 9

Gostin, Public Health Law & Ethics: A Reader (un

Fischhoff, **A**Managing Risk Perceptions,@
2 Iss. in Sci. & Tech. 83 (1985)

Packet for in-class exercise on
excessive use of anti-biotic medication

4/2 Achieving Public Health Objectives Through the Criminal Law

Reading: Gostin, p. 224-234

Gostin, Public Health Law & Ethics: A Reader (unpub manuscript), Chapt. 13

Whitner v. State, 492 S.E.2d 777 (S.C. 1997); Center for Reproductive Law & Policy, Punishing Women for Their Behavior During Pregnancy: An Approach that Undermines Women's Health and Children's Interests, @ 1996.

4/9 Workplace Health Hazards (law students only)

Reading: Occupational Health & Safety Act, 29

American Union Dept. AFL-CIO v. American Petroleum Institute, 448 U.S. 607 (1980); American Textile Mfgs. v. Donovan, 452 U.S. 490 (1981); American Dental Assn. v. Martin, 984 F.2d 823 (7th Cir. 1993)

4/16 Environmental Health Hazards and Environmental Justice (Guest speakers)

Reading: TBA

4/23 Tobacco & Alcohol

Reading: City of North Miami v. Kurtz, 653 So.2d 1025 (Fla. 1995); Powell v. State of Texas, 392 U.S. 514 (1968); Jacobson, Warner, Litigation and Public Health Policy Making: The Case of Tobacco Control, @ 24 J. Health Politics, Policy & Law 769 (1999); Moser & Jernigan, New Directions in Alcohol Policy, 10 Ann. Rev. of Public Health (1989)

4/30

**Guns & Violence
(Last class for law students)**

Reading: Mercy, Rosenberg, Powell, Broome, Roper, APublic Health Policy for Preventing Violence,@ 12 Health Affairs 7-29 (1993); Cook, Cole, AStrategic Thinking About Guns Markets and Violence,@ 275 JAMA 1765-1767 (1996); Quilici v. Village of Morton Grove, 695 F.2d 261 (7th Cir. 1982); Gallo v. Acuna, 929 P.2d 596 (Cal 1997)

5/7

Workplace Health Hazards (public health students only)

Reading: Occupational Health & Safety Act, 29
American Union Dept. AFL-CIO v. American Petroleum Institute, 448 U.S. 607 (1980); American Textile Mfgs. v. Donovan, 452 U.S. 490 (1981); American Dental Assn. v. Martin, 984 F.2d 823 (7th Cir. 1993)

5/14

Public Health Law Reform and the Impact of Managed Care (public health students only); Exam Review

Reading: Gostin, Chapt. 11; Rene Bowser, Lawrence Gostin, AManaged Care and the Health of a Nation,@ 72 S. Cal. L. Rev. 1209 (1999)

5/21

Final exam (public health students only)

Date of exam review and final exam for law students
will be announced. Both will be held at
the law school.