

PUBLIC HEALTH LAW

LAW 599-03207/03216/04207
Spring 2008
University of Southern California

Professor Alexander M. Capron

Syllabus

This course explores the inherent tensions between the responsibility of governments (principally state and federal, but also stretching from the municipal to the international, intergovernmental levels) to promote and protect the health of the public while also ensuring the legal (and ethical) rights and interests of individuals. Public health law thus provides a “high stakes” setting for examining how collective and individual rights are balanced, both in theory and in practical legal terms. It is possible to conceive of many health-related activities—ordinary medical care or medical research, for example—occurring independent of the law. But success in public health is as dependent on the legal system as it is on science. What, then, are the characteristics of a successful public health regime and what are its proper objectives?

The aims of this course are to: (1) define public health through an examination of public health theory and practice; (2) clarify the structure and functions of the public health system; (3) shed light on the roles of governmental and private entities, as well as individuals, in assuring the conditions for people to be healthy and in aiding people in becoming and remaining healthy; and (4) assess legal and ethical conflicts between collective interests in public health and individual interests in liberty or other protected rights and between maximizing the total welfare of the community and distributing benefits (health) equitably. These conflicts will be examined through critical facets of public health theory and practice such as health promotion and communication; immunization, testing, screening, quarantine, and isolation for communicable diseases; public response to emergencies; regulation of businesses and professions; and tort litigation for the public’s health. The primary focus of the course is on public health law in the United States, although international issues will occasionally enter discussions and exercises.

COURSE REQUIREMENTS & USEFUL INFORMATION

Time and Place. The course carries three (3) credit hours and meets twice a week on Tuesdays and Thursdays (except on April 10 & 29) from **10:05 to 11:20 am** in **Room 130**. To make up for the two cancelled sessions, class will start at **9:20 am** on **Jan. 31, Feb. 14 and March 6** in **Room 7**.

Required Texts. The two required texts for this course are LAWRENCE O. GOSTIN, PUBLIC HEALTH LAW AND ETHICS: A READER (2002) [hereinafter READER]; and LAWRENCE O. GOSTIN, PUBLIC HEALTH LAW: POWER, DUTY, RESTRAINT (2000) [hereinafter TREATISE]. The University of

California Press and the Milbank Memorial Fund jointly publish both books, which are available in the USC Bookstore. A copy of the READER may also be consulted at the “Reserve” desk in the Law Library or on-line through HOMER. Additional readings may also be distributed in advance of each class.

Reader Website. To provide students with updated information, Professor Gostin has created a companion website to complement the READER. This website, which can be found at <http://www.publichealthlaw.net/reader/index.html>, is integrated into the website of the *Centers for Law and the Public’s Health* at Georgetown University Law Center. It provides some additional resources for research and scholarship including selected court cases, statutes, regulations, reports, articles, and links to other online resources. You may be instructed to refer to the *Reader Website* for optional or required reading assignments.

Preparation and participation. Please read and analyze all of the assigned materials before class to facilitate discussions. Class discussions showing rigorous thought and an informed understanding of the subject matter are integral to the learning process. Students will also participate (typically in teams) in several class exercises to enhance their skills in assessment, analysis, and advocacy. Your participation in class discussions and exercises (which presuppose preparation for, and attendance at, the classes) will be considered in assigning your final grade.

Grading. Grades for the course will be based on individual and group participation in class (20%, assessed on a qualitative rather than quantitative basis) and examination (80%).

Office hours. I will usually be available on Wednesdays between 9:30 and 11:30 am in my office, Room 450. Alternatively, you can make an appointment to see me, either through my assistant, Margaret Miller in Room 444 or (213) 740-2548, or if you prefer by emailing me, acapron@law.usc.edu. And you are always welcome to drop by at other times and, if I am not busy, I will be happy to speak with you then.

TOPICS AND ASSIGNED READINGS

The course will begin with an examination of the foundations of public health law, ethics, and human rights: what is the domain and what are the major issues and tensions? We will then turn to the relationship between public health and the Constitution. The subsequent part of the course will discuss various methods of legal and economic reasoning in public health. This includes an understanding of risk assessment and cost-effectiveness analysis. Next, the readings will focus on public health theory and practice. Here, we will read about the major areas of public health activity and explore the complex trade-offs between individual interests and public goods. Finally, we will turn to the future of public health, applying the course’s foundations to modern areas of concern, such as emerging infectious diseases, bioterrorism, obesity, and public health genetics. For example, you will read and discuss the Model State Emergency Health Powers Act drafted in response to the events of September 11th, 2001 and the subsequent anthrax scares.

In addition to the following assignments, further readings may be assigned (or suggested) by means of handouts or the *Reader Website* mentioned above. You should read all materials in preparation for each week of the course. Consult “Blackboard” regularly for updates and handouts.

CLASS	DATE	TOPICS AND ASSIGNED READINGS
1	1/15	<i>Introduction to the Course: What is Public Health and How Does it Relate to the Law?</i> (including review of course requirements, required texts, and student introductions) TREATISE, Chapter 1, pp. 1-22
2	1/17	<i>Public Health Law and Ethics: Mapping and Defining the Issues</i> READER, Chapters 1 - 3, pp. 1-93
3	1/22	<i>Reasoning in Public Health: Philosophy, Risk, Cost and Human Rights</i> READER, Chapters 4-5, pp. 94-158 TREATISE, Chapter 4, pp. 84-109 Handout: Public Health Leadership Society, <i>Principles of the Ethical Practice of Public Health</i> (2002)
4	1/24	
5	1/29	<i>Public Health Law and Constitution: Part 1 – The Role of Government</i> READER, Chapter 6, pp. 160-201 TREATISE, Chapter 2, pp. 24-59
6	1/31*	
7	2/5	<i>Public Health Law and Constitution: Part 2 – The Protection of Individual Rights</i> READER, Chapter 7, pp. 202-226 TREATISE, Chapter 3, pp. 60-83
8	2/7	
9	2/12	<i>Public Health Regulation of Property and Professions</i> READER, Chapter 8, pp. 228-263 TREATISE, Chapter 9, pp. 236-267
10	2/14*	
11	2/21	<i>Tort Litigation for the Public’s Health</i> READER, Chapter 9, pp. 264-291 TREATISE, Chapter 10, pp. 268-305
12	2/26	
13	2/28	
14	3/4	<i>Public Health Surveillance and Research: Confidentiality, the Right to Know, and the Boundaries of Research and Public Health Practice</i> READER, Chapter 10, pp. 294-333 TREATISE, Chapter 5, pp. 111-142
15	3/6*	

16	3/11	<i>Communicating to Change Health and Behavior: Freedom of Expression</i>
17	3/13	READER, Chapter 11, pp. TREATISE, Chapter 6, pp. 144-172
18	3/25	<i>Biological Interventions to Control Infectious Disease: Immunization, Screening, and Treatment</i>
19	3/27	READER, Chapter 12, pp. 377-413 TREATISE, Chapter 7, pp. 174-201
20	4/1	<i>Personal Restrictions in the Interests of Protecting the Public's Health: Isolation, Quarantine, and other Powers</i>
21	4/3	READER, Chapter 13, pp. 415-443
22	4/8	TREATISE, Chapter 8, pp. 202-234
	4/10	<i>No Class</i>
23	4/15	<i>Public Health Law in Real Time: Public Health Emergencies</i>
24	4/17	READER, Chapter 14, pp. 447-472; TREATISE, Chapter 11, pp. 307-328; Center Website: THE MODEL EMERGENCY HEALTH POWERS ACT
25	4/22	<i>Public Health Law in a Globalizing World</i>
26	4/24	Readings on the International Health Regulations (2005) and Pandemic Influenza Planning (2008)
	4/29	<i>No Class</i>

* Class held from 9:20 to 11:20 am in Room 7.