

**UNIVERSITY OF NEW MEXICO HEALTH SCIENCES CENTER  
SCHOOL OF MEDICINE – DEPARTMENT OF FAMILY AND COMMUNITY MEDICINE  
INSTITUTE FOR PUBLIC HEALTH**

COURSE SYLLABUS

**Course Information:**

**Masters in Public Health Course**

**PH 560 - Public Health Law**

Fall, 2006

Location: Family Practice Center, Room 165

Time: Wednesday, 5:30 PM – 8 PM

**Instructor:**

Clifford M. Rees, JD

Adjunct Faculty/Senior Researcher

UNM School of Medicine, Department of Emergency Medicine

Center for Disaster Medicine

Adjunct Faculty, Masters in Public Health Program

UNM School of Medicine, Department of Family and Community Medicine

Institute for Public Health

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**Course Description:**

This course will introduce students to a broad spectrum of legal issues related to public health. Legal issues covered will include state and federal legal bases for the exercise of public health powers, isolation/quarantine, immunizations, public health emergency preparedness, administrative and legislative processes, public health financing and contracting, health information privacy, professional licensure and disciplinary actions, public health ethics and the role of legal counsel in a public health agency. Emphasis will be placed on New Mexico statutory law and administrative rules as applicable.

**Course Requirements and Evaluation:**

**Grading:**

Class Participation	20% of the final grade
Mid-Term Exam	30% of the final grade
Final Exam/Presentation	50% of the final grade

The final exam will consist of the preparation of draft public health-related legislation in New Mexico bill-style format that will be presented by the student to the class as part of a simulated New

Mexico Legislature Committee hearing. The presenting student will act as the legislative sponsor of the bill and will be subjected to questions and comments from the class and instructor who will serve as a “committee of the whole.”

Students will be expected to become familiar with the New Mexico Legislature’s website at [www.legis.state.nm.us](http://www.legis.state.nm.us) . For the Final Exam/Presentation, students will need to review and become familiar with the Legislative Drafting Manual (2004 Update) found on the website by clicking on “Legislative Publications” then “Drafting Manual, Legislative (October 03)”. Past bills introduced since 1996 and bills introduced during the 2006 Regular Legislative Session can be followed through “Bill Finder”, also accessed on the Legislature’s home page.

### **Class Sessions:**

This course will be a lecture-based course by the instructor and guest lecturers with class discussion, cases studies and other media presentations. Participation in the discussions based on a response to the readings and lecture materials is an important part of the course.

### **Course Readings:**

Lawrence O. Gostin, Public Health Law: Duty, Power and Restraint , Berkeley and Los Angeles: University of California Press, 2000.

<<http://www.publichealthlaw.net/Reader>>

Richard A. Goodman, et al., Law in Public Health Practice , Oxford, New York: Oxford University Press, 2003.

Other supplemental readings as assigned.

### **Course Outline and Schedule:**

**August 23, 2006** - Class #1 – **Introductions, Distribution of Syllabus, Course Overview**

**August 30, 2006** – Class #2 – **Introduction to Public Health in the United States**

U.S. Constitution, Article I, Section 8; Tenth Amendment.

Goodman, et al., Chapter 1

Gostin, Chapters 1-3

James A. Tobey, Public Health Law, 3<sup>rd</sup> Edition (1947), Chapter 1.

John Duffy, The Sanitarians (1992)

Charles Rosenberg, The Cholera Years (1962)

Jim Murphy, An American Plague: The True and Terrifying Story of the Yellow Fever Epidemic of 1793, 135-139 (2003).

Institute of Medicine, *The Future of the Public's Health in the 21<sup>st</sup> Century*, 20-32, 46-66 (2003).

**September 6, 2006** – Class #3 – **Constitutional Principles Applicable to the State Exercise of its Public Health “Police Powers”**

Gostin, Chapter 8

Gibbons v. Ogden, 22 U.S. 1 (1824).

The Slaughter-House Cases, 83 U.S. 36 (1873).

Yick Wo v. Hopkins, 118 U.S. 356 (1886).

Jew Ho v. Williamson, 103 F. 10 (CCND Calif 1900).

Compagnie Francaise de Navigation a Vapeur v. Louisiana State Board of Health, 186 U.S. 380 (1902).

Jacobson v. Massachusetts, 197 U.S. 11 (1905).

Lochner v. New York, 198 U.S. 45 (1905).

Brown, et al. v. Board of Education of Topeka, et al., 347 U.S. 483 (1954).

O'Connor v. Donaldson, 442 U.S. 563 (1975).

Addington v. Texas, 441 U.S. 418 (1979).

**September 13, 2006** – Class #4 – **Administrative Law**

Gostin, Chapter 4

Goodman, et al., Chapter 2

NM Uniform Licensing Act, Sections 61-1-1, et seq., NMSA 1978.

NM Medical Professional Licensing Rules – Chapter 61, NMSA 1978.

New Mexico Administrative Code (NMAC)

NM Personnel Act, Sections 10-9-1, et seq., NMSA 1978 and State Personnel Board Rules

**September 20, 2006** – Class #5 – **Personal Control Measures: Quarantine/Isolation, Compulsory Treatment and Vaccination (Threatening Communicable Diseases: Tuberculosis, SARS, Influenza; HIV/AIDS)**

Gostin, Chapter 7

Goodman, et al., Chapters 13, 15, and 16.

NM Public Health Act, Sections 24-1-1, et seq., NMSA 1978.

NM Immunization Act, Section 24-5-1, et seq., NMSA 1978.

NM Public Health Emergency Response Act, Section 12-10A-1, et seq., NMSA 1978.

City of Newark v. J.S., 279 N.J. Super. 178, 652 A. 2d 265 (1993).

Directly Observed Therapy

CDC Fact Sheet on SARS

<[www.pandemicflu.gov](http://www.pandemicflu.gov)>

Louisiana v. Gamberella, 633 So. 2d 595 (1993).

**September 27, 2006** – Class #6 – **Public Health Emergency Preparedness**

NM Emergency Powers Code, Chapter 12, Articles 10, 10A, 11 and 12, NMSA 1978.

Draft Model State Emergency Health Powers Act (December 21, 2001)

George J. Annas, *Bioterrorism, Public Health, and Human Rights*, 21 Health Affairs 94 (Nov./Dec. 2002)

Goodman, et al., Chapter 10

Habeas Corpus

**October 4, 2006** – Class #7 – **Public Health Information**

Gostin, Chapter 5

Goodman, et al., Chapter 8

Constitutional Right to Privacy

Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d.

HIPAA Privacy Rules, 45 CFR Parts 160 and 164 (2003).

<<http://www.hhs.gov/ocr/hipaa/>>

NM Inspection of Public Records Act, Sections 14-2-1, et seq., NMSA 1978.

Health and Hospital Records, Sections 14-6-1, et seq., NMSA 1978

Physician/Patient Privilege

**October 11, 2006** – Class #8 – Mid-Term Exam

**October 18, 2006** – Class #9 – **The Legislative Process**

[www.legis.state.nm.us](http://www.legis.state.nm.us)

New Mexico Constitution, Article IV

**October 25, 2006** - Class #10 – **Public Health Financing**

General Appropriations Act (HB 2)

NM Medicaid Program – NM Human Services Department, Medical Assistance Division

**November 1, 2006** – Class #11 – **Contracting for Public Health Services**

NM Procurement Code, Sections 13-1-28, et seq., NMSA 1978.

NM Agency Rules <[www.nmcpr.state.nm.us/nmac](http://www.nmcpr.state.nm.us/nmac)>

**November 8, 2006** – Class #12 – **Tort Law**

Gostin, Chapter 10

NM Tort Claims Act, Sections 41-4-1, et seq., NMSA 1978.

NM Medical Malpractice Act, Sections 41-5-1, et seq., NMSA 1978.

Transmission of Disease/Duty to Warn

**November 15, 2006** – Class #13 – **Public Health Issues (Non-Infectious Diseases: Tobacco, Obesity, Gun Control)**

FDA v. Brown and Williamson Tobacco Company , 520 U.S. 120 (2000).

Pelman v. McDonald's, 237 F. Supp. 2d 512 (S.D.N.Y. 2003); 396 F. 3d 508 (2<sup>nd</sup> Cir. 2005)

Printz v. U.S., 521 U.S. 898 (1997).

Smith v. Bryco Arms, 131 N.M. 87, 33 P. 2d 683 (2001).

**November 22, 2006** – Thanksgiving Holiday – No class

**November 29, 2006** – Class #14 – **Public Health Ethics**

Goodman, et al., Chapter 3

Public Health Code of Ethics - American Public Health Association  
<http://www.apha.org/codeofethics/ethics.htm>

NM Department of Health, Emergency Preparedness Ethical Guidance Matrix (2006)

**December 6, 2006** – Class #15 – **The Attorney's Role in a Public Health Agency**

NM Code of Professional Responsibility

Goodman, et al., Chapter 6

**December 13, 2006** – Class #16 – **Final Exam – Student Presentations**

Revised 06/10/06