

PHDA 3998 LEGAL ISSUES IN PUBLIC HEALTH 3 credits
Wed. 5:30P.M.-8:30 P.M.

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Law permeates all areas of public health. This course is designed to provide a basic introduction to legal issues in public health, with a special emphasis on law as a tool in public health regulation and on the balance between public and private interests in governmental action concerning the health of the community. Topics will include overviews of the American legal system and the legal process and Constitutional and administrative considerations in public health. Legal issues will also be examined in areas such as immunization, testing, and screening; public health information and privacy;; mandatory treatment; communication and the regulation of behavior; health care access; environmental health; health, law and gender; professional liability; law and epidemiology; and international public health. At the conclusion of the course students should have gained a realistic understanding of the legal decision making process; a familiarity with some of the basic principles of American law pertinent to public health practice; an ability to recognize relevant and critical issues in public health practice and to understand how these issues may be resolved; and an ability to know when to seek out legal counsel and how to communicate with attorneys and evaluate legal advice.

TEXTS: The required text is PUBLIC HEALTH LAW: POWER, DUTY AND RESTRAINT, by Larry Gostin. It is also recommended that students purchase PUBLIC HEALTH LAW AND ETHICS: A READER, by Larry Gostin, the companion volume to the required text. Assignments will include cases and related materials from the internet, most of which may be found at the READER web site at www.publichealthlaw.net. The READER contains edited versions of many of the assigned cases, which may be easier to read, as well other useful and thought-provoking material. Another highly recommended text, particularly for physicians and students interested in becoming physicians or health administrators is STRANGERS IN THE NIGHT, by Peter Jacobson. A CIVIL ACTION, by Jonathan Haar, provides an excellent introduction to civil procedure in the American legal system. For a good introduction to the role of international law in the control of infectious disease see INTERNATIONAL LAW AND INFECTIOUS DISEASE by David Fidler.

Students will be expected to have access to a copy of the United States Constitution. The Government Printing Office sells a copy of the Constitution, which may be purchased on line from Amazon.com. Links to the Constitution on line may be found on the website Bensguide.gpo.gov and through findlaw.com. Students should also have access to an inexpensive law dictionary. Additionally, students will be expected to follow relevant current developments in the law and public health as reported in the print and broadcast media.

BASIS FOR EVALUATION: This class is Pass-Fail. Evaluation will be based upon Class participation (25%); Midterm Exercise (25%) Final Exercise (25%) Case Presentation (25%)

ASSIGNMENTS

(Please note that the assignments and the syllabus may be modified at the discretion of the instructor)

* indicates cases and statutes which may be used for student presentations

Readings from Gostin's PUBLIC HEALTH LAW READER are in parentheses

Web site references are to the Reader web site www.publichealthlaw.net, unless otherwise indicated. Links for finding Federal and State law, including Supreme Court cases, may be found through www.findlaw.com. Supreme Court cases may also be located through the Medill School of Journalism website www.medill.northwestern.edu and the Cornell Legal Information Institute www.law.cornell.edu/. An extensive list of web sites for researching law is attached to this syllabus. The UTHSPH library at Houston also provides access to the Academic Universe Lexis-Nexis on line data base, which is an excellent source

for finding legal material. Additionally recommended are The CDC Public Health Law web site www.phppo.cdc.gov and the web site for the LSU Center for Public health (Edward Richards) www.biotech.law.lsu.edu.)

I. INTRODUCTION

- September 1: Overview. Organization and Structure of the American Legal System. Legal Terminology.
Gostin Chapter 1
(Reader Preface.Chapter 1)
Instructor Handout: Legal Resources. Organization And Structure of the American Legal System
- September 8: The Legislative and Judicial Process. The Constitution Analyzing a Judicial Decision
Instructor Handout: Outlines of Civil and Criminal Process. Steps in a Law Suit. Briefing a Case
Review www.Thomas.gov for material on the Federal legislative Process and www.capitol.state.tx for material on the Texas Legislative Process
Review generally The Texas Health and Safety Code and Vernon's Civil Statutes (Public Health)
Read the entire US Constitution, including all amendments
Review Roe v. Wade 410.U.S. 113 (1973)
Complete applicable exercises on assignment sheet provided by The instructor

II. THE POWER TO REGULATE THE PUBLIC'S HEALTH

- September 15: Constitutional Design: Federalism
Gostin Chapter 2
(Reader: 161-162, 174-201)
SOUTH DAKOTA v. DOLE (Reader 178)
UNITED STATES v. LOPEZ (Reader 182)
NEW YORK v. UNITED STATES (Reader 193)
SPRIETSMA v. MERCURY MARINE (web site)
- September 22: Constitutional Design: Individual Rights
Gostin Chapter 3
(Reader 203-226)
JACOBSON v. MASSACHUSETTS
JEW HO v. WILLIAMSON (Reader 217)
CITY OF CLEBURNE v. CLEBURNE LIVING CENTER
(Reader 220)
GREENE v. EDWARDS (Reader 224)
- September 29: Constitutional Design: The Power to Regulate Property.
Gostin Pages 237-239, 256-267
(Reader 253-263, 244-247, 251-254)
LOCHNER v. NEW YORK (reader 254)
LUCAS v. SOUTH CAROLINA COASTAL COUNCIL
(Reader 258)
NEW YORK v. ST. MARK'S BATHS (Reader p.252)
SEE v. SEATTLE (website Chapter 8)
- October 6: Administrative Law
Gostin pp: 237-252
(Reader 231-243)
5 US CODE § 551 (etc) Administrative procedure Act
Texas Government Code § 2001 etc

Review new Texas State Department of Health Services
Website

WHITMAN V. AMERICAN TRUCKING (web site
Chapter 8)

Take Home Mid Term Exercise due October 11

October 13: Midterm Review

III. SELECT ISSUES

October 20: The Right to Health Care. Access to Health Care

Gostin pp: 32-34

Reader 116-125, 163-174

DESHANEY v. WINNEBAGO COUNTY

OF SOCIAL SERVICES 489 U.S.189 (1989)(Reader 168)

*PHARMACEUTICAL RESEARCH & MANUFACTURERS
OF AMERICA v. CANNON 2002-3 S.Ct. Docket 01-
0188)

*CIGNA HEALTH CARE OF TEXAS, INC. v.

CALAD June 21 2004 S. Ct Docket 03-0083

October 27: Privacy and the Right to Know: Surveillance and Research ,
Gostin Chapter 5

(Reader 295-307, 320-328)

TARASOFF v. REGENTS (Reader web site chapter 10)

WHALEN v. ROE (reader 307)

HIPAA Regulations Web site Chapter 10 also www.hhs.gov/ocr/hipaa

*45 CFR Part 46 (The Common Rule) (A good web site for
the text of the common rule and other information on the
the protection of human subjects in research is the site for
the Office of Human Research Protection [dhhs.gov.ohrp](http://dhhs.gov/ohrp))

*International Guidelines for Ethical Review of Epidemiological
Studies (check cdc website-Office of Science Policy and
Technology Transfer

November 3: Health Communication and Behavior

Gostin Chapter 6

Reader 335-357

RUST v. SULLIVAN (Instructor Handout)

INTERNATIONAL DAIRY FOODS ASSOCIATION v.

AMESTOY (Reader 371)

*LORRILARD TOBACCO CO v. REILLY
121 S.Ct.2404(2001) (Reader 364)

*NYC C.L.A.S.H.v. CITY OF NEW YORK

November 10: Screening: Control of Infectious Disease

Gostin Chapters 7 and 8

(Reader 394-399,407-413,377-394,415-431)

FERGUSON v. CITY OF CHARLESTON

121 S.Ct.1281(2001) (Reader 404)

CITY OF NEW YORK v. ANTOINETTE (Reader 428)

UNITED STATES v. STURGIS (Reader 391)

*Emergency Small Pox Personnel Protection Act (web chap 12)

November 17: Liability. Tort Litigation as a Tool in Public

Health Practice

Gostin Chapter 10

(Reader 269-305,311-320)

(Recommended: A CIVIL ACTION by Jonathan Haar)

DAUBERT v. MERRELL DOW PHARMACEUTICALS

*CINCINNATI v. BERETTA

*PELMAN v. McDONALD'S CORPORATION

November 24: No Class

Make Up Activities: Law Library Tour;

Public Health Litigation in the Movies: A Civil

Action. Erin Brokovitch

December 1: International Law and Public Health

Gostin Chapter 4

Universal Declaration of Human Rights

ICESR

GATT Article XIV and XX (see legal documents

At world trade web site www.wto.org

*International Health Regulations (web site chapter 12)

*Joint Report of WHO and WTO on WTO Agreements and

Public Health www.who.int/tradework/en

Final Exercise due December 6

December 8 Review of Final Exercise