

**DEPARTMENT OF PREVENTIVE MEDICINE
AND COMMUNITY HEALTH
Medical College of Virginia
VIRGINIA COMMONWEALTH UNIVERSITY**

PMCH 618: PUBLIC HEALTH LAW
Summer Semester, 2001

COURSE TIME/ROOM: Tuesday 5:00 - 7:40 P.M. / 314 Grant House

CREDITS: 3 credit hours

INSTRUCTOR: R. Leonard Vance, J.D., Ph.D.; Associate Professor
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COURSE OBJECTIVES:

- 1). Acquaint the student with the major legal issues which confront public health workers.
- 2). Acquaint public health workers with the legal duties and responsibilities associated with the typical functions they perform.
- 3). Acquaint the student with the rights and obligations imposed by the Bill of Rights on both private citizens and public health workers.
- 4). Acquaint students with the manner in which laws, regulations and public policy in the public health arena are developed and adopted.
- 5). Enable students to perform legal research on significant public health legal issues.
- 6). Develop in students public speaking & technical writing proficiency.

MPH PROGRAM MISSION STATEMENT

The Mission of the Medical College of Virginia/Virginia Commonwealth University MPH Program is to promote, preserve and restore health. This Mission is accomplished by training students to be effective practitioners of the skills, knowledge and attitudes needed to effectively conduct public health needs assessment of populations; program planning and evaluation and other research to address identified needs, and work with communities to generally enhance the protection and promotion of health.

The MPH Program emphasizes community services for under served populations by working closely with local counties, municipalities, and state agencies, as well as with service organizations, to identify community needs, educational and service opportunities for program students and graduates. The Program directly advances the University Mission and the School of Medicine Mission.

COURSE DESCRIPTION:

This course explains and clarifies the role of law in public health practice, administration, and enforcement. The legal tools available for public health law enforcement and administration are developed. Limitations imposed by the Bill of Rights for the protection of individuals are explained. Some of the legal and administrative techniques used by public health officers in carrying out their duties are described. The role of the public health officer in the writing and adoption of legislation and regulation in the public health area is described. The ability to do independent legal research on public health law issues is developed.

TEXT: PUBLIC HEALTH LAW; Power, Duty, Restraint;
Lawrence O. Gostin; U. Cal. Press; 2000; ISBN 0-520-22648-8

COURSE OUTLINE

05\22\01	Overview of Public Health Law; Course Roadmap;	Chap. 1
05\29	Public Health in the Constitutional Design;	Chapter 2
06\05	Public Health Law, Administrative Law; & Economic Regulation	Chap. 9 C. Fox, JD, Ph.D.
06\12	Constitutional Limits on the Exercise of Public Health Powers; Safeguarding Individual Rights & Responsibilities;	Chap. 3
06\19	Public health Regulation; Trade-offs; Public Good & Private Rights	Chap. 4
06\26	Public Health information;	Chapter 5
07\03	Health, Communication, & Behavior; Freedom of Expression	Chap 6
07\10	Mid-Term Examination	
07\17	Immunization, Testing, & Screening;	Chap. 7
07\24	Restrictions of the Person: Autonomy, Liberty, & Bodily Integrity <u>TERM PAPERS DUE</u>	Chap. 8
07\31	Tort Law & the Public's Health Indirect Regulation Student Presentations	Chap. 10
08\07	Part III - The Future of Public Health Student Presentations	Chap. 11
08\14	Final Exam	

COURSE OUTLINE - *Expanded*

- 05/22/01** **Chapters 1:** Overview of Public Health Law; Course road map; A theory and definition of public health law; Distinctions between public health law and health care law; Five essential characteristics of public health law; Role & responsibilities of governments in the United States; Interplay between coercion and individual rights in public health law.
- 05/29** **Chapters 2:** Public Health in the Constitutional Design; the U.S. Legal System; U.S. Constitution; Federal statutes; State constitutions and statutes; Federalism and the Tenth Amendment; Separation of Powers doctrine; Commerce Clause & doctrine of preemption; the Police Power & the doctrine of *parens patriae*; Sovereign immunity-federal and state. Powers of local government and Dillon's Rule.
- 06/05/01** **Chapter 9:** Public Health Law, Economic Regulation, & Administrative Law: Federal Administrative Procedures Act, 5 USC 553, *et seq.*: Promulgation of Regulations: Adjudication of Case Decisions: the Federal Register and Code of Regulations; NPRM Process; Participation in Regulatory Proceedings; Litigation of Validity of Regulations; Litigation of Administrative Case Decisions; Standards of Review; Virginia Administrative Process Act; the Virginia Register; Promulgation of Virginia Regulations;
- 06\12** **Chapter 3:** Constitutional Limits on the Exercise of Public Health Powers; Safeguarding Individual Rights & Responsibilities; Due Process and Equal Protection of the law; Standards of judicial review-rational basis v. strict scrutiny; Protections against undue interference with personal liberty and conduct
- 06\19** **Chapter 4:** Public health Regulation; Trade-offs; Public Good & Private Rights Justification for public health regulation (risk to others, self, & protection of incompetents); Understanding of risk; relative risk; Economic issues; Personal burdens of public health regulations; Fairness and equity issues Concept of the Least Restrictive Alternative.
- 06\26** **Chapter 5** Public Health information; Gathering and analysis of information as core public health function; Public health surveillance (history, specific diseases); Reportable disease regulations; Partner notification; Limits to confidentiality of personal health information; Regulation of human subject research (IRBs, etc.); Ethical issues; Recent developments in federal adoption of medical privacy rules.
- 07\03** **Chapter 6:** Health, Communication, & Behavior;. The First Amendment - Freedom of speech & the press; Health and safety disclosure requirements; Restrictions on commercial speech; advertising of tobacco and pharmaceuticals; governmentally subsidized speech and the "unconstitutional conditions" doctrine.
- 07\10** Mid-Term Examination
- 07\17** **Chapter 7:** Immunization, Testing, & Screening; Control of communicable disease; compulsory immunization & examination; Americans with Disabilities

Act issues; The 4th Amendment and Freedom from Unreasonable Search & Seizure; Warrant Requirements; Standards for & Exceptions to Warrant Requirements; Workplace genetic testing issues; Involuntary testing for drugs of abuse; Virginia Practices & Procedures; *See; Camara; Marshall v. Barlow's; Mosher Steel V. Teague.*

07\24 **Chapter 8:** Restrictions of the Person: Autonomy, Liberty, & Bodily Integrity
Law of quarantine; compulsory hospitalization and detention; Refusal of treatment; Assisted suicide; Criminal law and knowing exposure to infectious disease; the Law of AIDS; Control of Mental Illness; Civil Commitment of the mentally ill and sex offenders; the rights of the mentally ill; Emergency Commitments.

TERM PAPERS DUE

07\31 **Chapter 10** Tort Law & the Public's Health; Indirect Regulation.
The common law; Negligence (duty, breach of duty, causation, damages); Product Liability, Strict Liability; Nuisance; Law and Equity Courts; The tobacco, asbestos, Bendectin, firearms, and breast implant litigation. *Frye, Daubert, Kumho.*

Student Presentations

08\07 **Chapter 11:** Part III - The Future of Public Health
Student Presentations

8/14/01 Final Exam

GRADING:

First Exam	25%
Final Exam	35%
Term Paper	25%
Class Presentation	10%
Class participation & attendance	5 %

The term paper is to be:

! on a public health legal issue agreed upon by the student and professor.

! handed in by _____

! 8 to 10 pages in length, exclusive of appendices & References
Appendices not to exceed five pages

OTHER READINGS & References:

Science on Trial, The Clash of Medical Evidence & the Law in the Breast Implant Case; Marcia Angell, M.D.; W. W. Norton & Co.; New York; 1996

Breaking the Vicious Cycle; Toward Effective Risk Regulation; Stephen Breyer; Harvard University Press; 1993

Some legal web sites:

Lexis at VCU: <http://www.library.vcu.edu/resources.html>

Web site of the Health law Section, Virginia State Bar: <http://www.vsb.org/sections/hl/>

American Bar Ass'n LawLink: <http://www.abanet.org/lawlink/home.html>

Virginia: Code: <http://leg1.state.va.us/000/src.htm>
Administrative Code <http://leg1.state.va.us/000/srr.htm>
Courts: <http://www.courts.state.va.us/>

Other:

FindLaw <http://www.findlaw.com/cascode/>
Federalist Soc. <http://www.fed-soc.org/>