

Health Law I: The Physician/Patient Relationship
SYLLABUS
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Required Texts:

•LIABILITY AND QUALITY ISSUES IN HEALTH CARE (Sixth Edition), by Furrow, Greaney, Johnson, Jost and Schwartz (referred to as “Text”). All pages refer to the Text.¹

I. Defining, Evaluating and Distributing Health Care: An Introduction: *** Pick up handout with list of reading questions that you should be prepared to answer for class. This is attached to the back of the syllabus. *** (If you are reading this on the web, click this link for the reading questions).

A. Defining Sickness: pp. 1- 15.

1. Katskee v. Blue Cross, p. 3

2. Problem: “The Couple’s Illness,” p. 10. ***Be prepared to discuss this problem.***

B. Quality In Health Care: pp. 15 - 37.

1. Barry v. Cardiology Consultants, p. 28

II. The Problem of Medical Error:

A. Medical Iatrogenesis: Definitions and extent: pp. 41-57.

1. Problem: “Why operate?,” p. 57. ***Be prepared to discuss this problem.***

B. Remediating Quality Problems: pp. 58-71. First read the problem on pp. 66-67 before you read this assignment as it will help inform your reading.

1. Problem: “Disclosing Errors,” pp. 66-67. ***Please prepare carefully and be ready to discuss this problem in detail.***

¹ All abstracted cases and all texts and notes within the prescribed pages are included in the assignment unless specifically excluded.

III. Quality Control Regulation: Licensing of Health Care Professionals

72-97; 97-115

A. Discipline

In Re Williams, p. 74

Hoover v. The Agency For Health Care Administration, p. 77

Notes and Questions

Note: State Medical Boards and Telemedicine

B. Hospital Peer Review

Van Tassel, K., Hospital Peer Review Standards and Due Process: Moving from Tort Theory to Contract Principles, pp1180-1241 (go to katharinevantassel.com, click the ***Selected Publications*** link at bottom of page, click name of article, click "down load." Save article for reading about Clinical Practice Guidelines)

IV. Complementary and Alternative Medicine (CAM)

State Board of Registration for the Healing Arts v. McDonagh, p. 89

Notes and Questions

V. Unlicensed Providers

State Board of Nursing And State Board of Healing Arts v. Ruebke, p.99

Notes and Questions

VI. Scope of Practice Regulation

Sermchief.v.Gonzales, p. 108

Notes and Questions

Problem: Physicians, Physician Assistant, and Nurses

VII. The Contract Between the Patient and the Physician

A. Express and Implied Contract

Dingle v. Belin (handout)

Notes and Questions

VIII. The Standard of Care

A. Establishing the Standard of Care

Hall v. Hilbun, p. 284

Notes and Questions

1. Expert Testimony

B. Practice Guidelines as Codified Standards Of Care

Van Tassel, K., Hospital Peer Review Standards and Due Process: Moving from Tort Theory to Contract Principles, pp.1241-end.

Hinlick v. Dreyfus, p. 299

C. Altering the Burden of Proof, pp. 308-311

1. *Res Ipsa Loquitur*

Ybarra v. Spangard (handout)
Notes and Questions

2. Shifting the Burden of Persuasion

D. Other Methods of Proving Negligence pp. 308-311

Problem: Evidentiary Hurdles, p. 311

IX. Judicial Risk—Benefit Balancing

Helling v. Carey, p. 314
Notes and Questions

X. Other Theories

A. Negligent Infliction of Mental Distress

Oswald v. LeGrand (handout)
Strasel v Seven Hills, p. 321
Notes and Questions

B. Duties to Contest Reimbursement Limits

Wickline v. State, p. 328
Notes and Questions
Problem: The Hospital Revolving Door, p. 337

C. Fraudulent Concealment and Spoliation of Evidence Actions (handout)

XI. Defenses to a Malpractice Suit

A. The Respectable Minority Rule, Two Schools of Thought Rule and the Honest Error Rule

Chumbler v. McClure, p. 338
Henderson v. Heyer_Schulte Corp., p. 338
Notes and Questions
Problem: To Monitor or Not?, p. 341

B. Clinical Innovation

1. Procedure Innovations

Brook v. St. John's Hickey Memorial Hospital, p. 343
Notes and Questions

2. Drug Therapy Innovations

Richardson v Miller, p. 347
Notes and Questions

C. Affirmative Defenses

1. Good Samaritan Acts

McKenna v. Cedars of Lebanon Hospital (handout)
Notes and Questions

2. Statute of Limitations

Hardi v Mezzanotte, p. 362

D. Contributory Fault of the Patient

Ostrowski v. Azzara, p. 369
Notes and Questions
Problem: The Eyes Have It (handout)
Problem: The Difficult Patient, p. 378

XII. Causation Problems: Delayed, Uncertain or Shared Responsibility

A. Cause-In-Fact and Proximate Cause

Robins v. Carey, p. 378

B. The Discovery Rule

Mastro v. Brodie (handout)
Notes and Questions

C. Multiple Defendants

1. Joint Tortfeasor Doctrine
2. Multiple Defendants and Burden Shifting

D. Alternative Causal Tests

XIII. Damage Innovations

A. The "Loss of a Chance" Doctrine

Herskovits v. Group Health Cooperative of Puget Sound, p. 383
Notes and Questions
Problem: The Patient's Choice?, p. 392

B. Increased Risks and Fear of the Future

Petriello v. Kalman (handout)
Notes and Questions

C. Punitive Damages

Problem: The Toxic Dentist (handout)