

# **PUBLIC HEALTH LAW AND ETHICS**

**Course number 0934 (3 credit hours)**

**Summer Term A, 2008, May 13<sup>th</sup>-June 18th**

**Tuesdays and Wednesdays 5:15-9:15pm, Room G201**

**Instructor: Randall C. Jenkins, Esq.**

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**Office hours: After class or by appointment**

## **Required Texts:**

**Taking Sides: Clashing Views in Health and Society, 8th edition, Eileen Daniel, ISBN 978-0-07-339723-8.**

**Taking Sides: Clashing Views in Drugs and Society, 8th edition, Raymond Goldberg, ISBN: 978-0-07-351511-3.**

**Course packet of legal and ethical cases (distributed at first class)**

## **COURSE OBJECTIVES:**

The health of citizens is a fundamental tenet of American government. Federal, state and local government actions that aim to protect the public's health may infringe upon the rights given to individuals by the U.S. Constitution. This course will examine through practical examples and case studies the legal and ethical boundaries governing legislators, lawyers, judges, public health authorities and juries contemplating a variety of government actions aimed at protecting public health. The course will examine the legal foundations of the American public health system as well as the legal and ethical issues that arise from balancing individual liberties with the government's interest in protecting all citizens' well being.

After completing this course, students should have the ability to understand the structure and operations of the public health system, understand the continually evolving role of government, community and citizens in public health law and understand how the judicial process attempts to resolve conflicts between individual liberties and the government's interest in public health for all citizens. The course will utilize actual federal and state court decisions from a variety of public health tort litigation settings to give students exposure to many important public health legal and ethical issues including health promotion and communication, infectious disease control, immunization testing and screening, drugs and society and the regulation of businesses and professions.

This course will begin with an overview of how the American government system works by discussing the concept of separation of powers in the context of constitutional amendments designed to improve the tort litigation system. After a gaining a general

understanding of how the legal system functions, students will then read, discuss and debate court decisions and ethical issues involving the important topics of public health theory and practice. Students will leave the course understanding how the legal system addresses public health legal and ethical issues and be equipped with the knowledge and skills necessary to impact the field of public health.

### **COURSE REQUIREMENTS:**

The course is three (3) credit hours and meets twice a week on Tuesdays and Wednesdays from 5:15pm-9:15pm. Class discussions and debate will require thought and consideration of the assigned readings before class. Students will participate actively in the course and will gain assessment, analysis and advocacy skills. Due to the high value I place on participation and discussion, 15% of your final grade depends upon your class attendance and participation. Additionally, there will be a mid-term exam on May 28<sup>th</sup> during class which counts for 25% of your final grade. The final exam will be during class on June 18<sup>th</sup> and counts for 40% of your final grade. There will also be two in-class assignments that will each be worth 10% of your final grade.

<b>In Class Assignments (2 @ 10% each)</b>	<b>= 20%</b>
<b>Class participation</b>	<b>= 15%</b>
<b>Midterm exam</b>	<b>= 25%</b>
<b>Final exam</b>	<b>= 40%</b>

An optional extra credit paper examining a topic in public health law and ethics of the students' choice and approved by the professor will also be made available to interested students. The 8-10 page paper should include scholarly citations and will count for 25% of the final grade. Students who select the extra credit paper may either choose the paper to replace their midterm exam grade or use the 25% paper credit to make the final exam worth 15%. Students must take both the midterm and final exam.

### **ASSIGNED READINGS:**

#### **WEEK 1: May 13<sup>th</sup> -14<sup>th</sup>: INTRODUCTION and INFECTIOUS DISEASE CONTROL**

##### **May 13<sup>th</sup>: Introduction to Public Health Law and Ethics**

Introduction to the American Legal System: Constitutional amendments and separation of powers  
Introduction of how to FIRAC a case

##### **May 14<sup>th</sup>: Legal and Ethical Aspects of Infectious Disease Control:**

Law: Jacobson v. Massachusetts: Police Powers and Public Health  
Jew Ho v. Williamson: Limits on Police Powers: Prejudice

Ethics: Handout Bioethics: Issue 21- Should Public Health  
Override Powers over Individual Liberty in  
Combating Bioterrorism  
Health Text: Issue 16- Will Global Warming Negatively  
Impact Human Health  
Health Text: Issue 17- Is it Safe to Consume Genetically  
Engineered Foods

**WEEK TWO: May 20-21<sup>st</sup> : HEALTH PROMOTION AND COMMUNICATION**

**May 20<sup>th</sup>: Legal and Ethics Aspects of Health Promotion and  
Communication**

Law: Greene v. Edwards- Protecting individual rights and  
due process

Benning v. Vermont- Government regulation of  
harmful behavior

Deshaney v. Winnebago- Limitations on government  
responsibilities

Ethics: Handout Bioethics: Issue 16- Should Federally  
Funded Healthcare Be Tied To Following  
Doctor's Orders

Health Text: Issue 1: Should Purchasing Health  
Insurance Be Mandatory

Health Text: Issue 2: Should Life Sustaining  
Medical Care be Rationed Based on Age

**May 21<sup>st</sup>: Legal and Ethical Aspects of Health Promotion and  
Communication**

Law: Bigelow v. Virginia- Protected commercial speech:  
public interest v. commercial speech

Rubin v. Coors Brewing Company- Evolution of  
commercial speech: close scrutiny

Ethics: Health Text: Issue 3: Is medical debt a major  
contributor to personal bankruptcy

Health Text: Issue 12: Is it necessary for pregnant  
women to abstain from all alcohol

Health Text: Issue 18: Does obesity cause a decline  
in life expectancy

**WEEK THREE: May 27-28<sup>th</sup>: NUTRITION AND FOOD POLICY**

**May 27<sup>th</sup>: Legal and Ethical Aspects of Nutrition and Food Policy**

Law: International Dairy Foods v. Amestoy: Compelled  
commercial speech

Ethics: Handout Nutrition: Issue 13: Does widespread  
hunger exist in America

Handout Nutrition: Issue 14: Should mothers' infected with AIDS virus breastfeed  
Handout Nutrition: Issue 15: Is organically grown food better than community grown food  
Handout Nutrition: Issue 9: Do campaigns induce communities to change diets and improve health

**May 28<sup>th</sup>: MIDTERM EXAM IN CLASS (5:15-8:15)**

**WEEK FOUR: June 3-4<sup>th</sup>: REGULATION OF BUSINESSES AND PROFESSIONS**

**June 3<sup>rd</sup>: Legal and Ethical Aspects of Regulating Businesses and Professions**

Law: Dent v. West Virginia: Public health agencies' regulatory powers of professions, licenses, and permits

South Dakota v. Dole: Federal government's power to influence state and private behavior via the power to tax and spend

Ethics: Health Text: Issue 4: Is the Pharmaceutical industry responsible for the high cost of drugs

Health Text: Issue 5: Drug testing and the workplace

Health Text: Issue 6: Should doctors help terminally ill patients commit suicide

**June 4<sup>th</sup>: Legal and Ethical Aspects of Regulating Businesses and Professions**

Law: New York v. New Saint Mark's Baths: Power to abate public nuisances

Ethics: Health Text: Issue 7: Should the government regulate the sale, advertisement, and distribution of junk food

Health Text: Issue 13: Should pre-life providers be allowed to deny prescriptions because of conscience

Handout Bioethics: Issue 19: Should there be a free market in body parts

Drug Text: Issue 5: Should pregnant drug users be prosecuted

## **WEEK FIVE: June 10-11<sup>th</sup>: DRUGS AND SOCIETY**

### **June 10<sup>th</sup>: The Legal and Ethical Aspects of Drugs and Society**

Law: Boreali v. Axelrod: Legislature v. health department:  
right to make policy re: public places

Whalen v. Roe: Drugs, surveillance and health  
information privacy

Ethics: Drug Text: Issue 1: Should laws against drug use  
remain restrictive

Drug Text: Issue 3: Are Drinking age laws effective

Drug Text: Issue 8: Are the adverse effects of  
smoking exaggerated

Drug Text: Issue 9: Should laws prohibiting  
marijuana use be relaxed

### **June 11<sup>th</sup>: The Legal and Ethical Aspects of Drugs and Society**

Law: Ferguson v. City of Charleston: Drug Testing,  
Screening, and the Special Needs Doctrine

Ethics: Drug Text: Issue 14: Does secondhand smoke  
endanger the health of nonsmokers?

Drug Text: Issue 16: Should marijuana be approved  
for medical use

Drug Text: Issue 17: Should schools drug test  
children

Drug Text: Issue 18: Does drug abuse treatment work

Drug Text: Issue 19: Is abstinence an effective  
strategy for drug education

## **WEEK SIX: June 17-18: IMMUNIZATION, TESTING AND SCREENING**

### **June 17<sup>th</sup>: The Legal and Ethical Aspects of Immunization, Testing and Screening**

Law: Brown v. Stone- Vaccination objections and religious  
exceptions

Ethics: Health Text: Issue 8: Should race play a role in the  
treatment and study of disease

Health Text: Issue 9: Should embryonic stem cell  
research be permitted

Health Text: Issue 10: Should addiction and drugs be  
labeled a brain disease

Health Text Issue 14: Should parents be allowed to  
opt out of vaccinating their children

### **June 18<sup>th</sup>: FINAL EXAM (5:15-8:15pm)**