HEALTH LAW
FALL 2013
TUESDAY, 2:00-3:50
THURSDAY, 12:00-1:50
SYLVIA A. LAW
(Revised August 1, 2013)

The text is SARA ROSENBAUM, DAVID FRANKFORT, SYLVIA A. LAW AND RAND ROSENBLATT, LAW AND THE AMERICAN HEALTH CARE SYSTEM, 2D ED. (2012) and the 2012-2013 Update.

You should do the reading and to come prepared for lively discussion. Please pick a seat and stick with it.

Your grade will be based on a final exam take home, open book exam. Alternatively, you can write a paper for substantial writing credit. If you plan to write a paper, you should talk to me about your topic and give me a preliminary outline by Thursday, October 24, 2013.

My office is Room 429, my phone is 998-6265, and my e-mail is sylvialaw@aol.com. If you want to talk, I have office hours on Monday from 4-6 and Thursday from 2-4. Or you can make an appointment. When I am in my office and available to talk, I leave the door open.
GENERAL OUTLINE

Part One. INTRODUCTION AND ACCESS TO HEALTH CARE. Weeks 1-3.

  Chap. 1. Introduction and Barriers to Access
  Chap. 2. Common Law Baselines and State Efforts to Assure Access
  Chap. 3. Federal Efforts to Assure Access
  Chap. 4. Civil Rights Law and Access to Medical Care
  Chap. 5. Public Provision of Medical Care.

Part Two. HEALTH CARE FINANCING. Weeks 4-8.

  Chap. 6. Health Care Costs and the Rise and Evolution of Health Insurance
  Chap. 7. Defining Insurer Obligations and Remedies Under State Law
  Chap. 8. The Employee Retirement Income Security Act
  Chap. 9. Private Health Insurance and Coverage Discrimination
  Chap. 10. Medicare
  Chap. 11. Medicaid
  Chap. 12. Paying for Health Care
  Supplement. The Affordable Care Act

Part Three. QUALITY OF CARE. Weeks 9-12.

  Chap. 13. Introduction. The Concept of Quality
  Chap. 14. Medical Malpractice and Standards of Care
  Chap. 15. Informed Consent to Treatment
  Chap. 18. Hospitals as Monitors of Quality
  Chap. 19. Licensing Agencies as Monitors of Quality of Care
  Chap. 17. Malpractice Crisis
  Chap. 20. Payers as Monitors of Quality
  Chap. 21. Managed Care and Medical Liability

REGULATION OF HEALTH CARE TRANSACTIONS. Weeks 13-14.

  Chap. 24. Fraud and Abuse
  Chap. 25. Antitrust
DETAILED ASSIGNMENTS

1. INTRODUCTION AND ACCESS TO HEALTH CARE. Weeks 1-3.

Thursday, August 29. v-x. 2-41.
Introduction
Barriers to Access
Common Law Baselines
  Hurley v. Eddingfield
  Campbell v. Mincey

Tuesday, September 3. 41-66.
State Efforts to Assure Access
  Thompson v. Sun City
Federal Efforts to Assure Access: EMTALA
  Power v. Arlington Hospital

Thursday, September 5. 66-87.
  Summers v. Baptist Medical Center Arkadelphia
  Lewellen v. Schneck Medical Center.
What Does it Mean to “Come to” an Emergency Department?
The Duty to Stabilize and to Furnish a Medically Appropriate Transfer?
  In the Matter of Baby K.

Tuesday, September 10. 87-107, bottom112-113.
  Cherukuri v. Shalala
Federal Enforcement of EMTALA Obligations

Thursday, September 12. 114-139
Civil Rights Law and Access to Health Care
  Race. Language Access
    Alexander v. Sandoval
  Gender

Tuesday, September 17. 140-173.
Disability
    Bragdon v. Abbott
Non-citizens
Public Provision of Medical Care.
  Safety Net Hospitals
  Community Health Centers
HEALTH CARE FINANCING.  Weeks 4-8.

Health Care Costs and the Search for Solutions
The Evolution of Health Insurance and Health Insurance Law

Tuesday, September 24.  218-249.
Defining Insurer Obligations and Remedies Under State Law
Wohlers v. Bartgis
Introduction to the Affordable Care Act

The Employee Retirement Income Security Act: Full and Fair Review
Mondry v. American Family Mutual Insurance Co.
Kenseth v. Dean Health Plan Inc.
CIGNA v. Amara

Tuesday, October 1.  306-314, 321-330.
Coverage under ERISA Health Benefit Plans: Plan Design and the ERISA Settlor Function
McGann v. H & H Music Co.
Judicial Review of Fiduciary Decisions
Firestone Tire & Rubber v. Bruch
Cutting v. Jerome Foods, Inc.

Thursday, October 3. 371-409.
ERISA and Preemption of State Law
Metropolitan Life Insurance v. Massachusetts
New York State Conference of Blue Cross & Blue Shield Plans v. Travelers Insurance Company
Retail Industry Leaders Association v. Fielder
Golden Gate Restaurant v. City and County of San Francisco

Tuesday, October 8.  410-417, 426-449.
ERISA’s Complete Preemption of state law remedies
Pilot Life Insurance Co. v. Dedeaux
Private Health Insurance and Coverage Discrimination
Doe v. Mutual of Omaha

Thursday, October 10. 450-465, 496-509.
Medicare
Medicaid

Medicaid: The Legal Basis of Statutory Entitlement
Curtis v. Taylor
Wilder, Suter, Blessing
Douglas v. Independent Living Center o Southern California

Medicaid’s Interaction with the ADA
Olmstead v. L.C.
Paying for Health Care

Tuesday, October 22. 2013 Supplement, 2-20, 29-103.
Affordable Care Act.

QUALITY OF CARE. Weeks 9-12.

Thursday, October 24. 648-683, 686-690.
Malpractice and Quality of Care
Hall v. Hilburn
Jones v. Chidester
Washington v. Washington Hospital Center

Tuesday, October 29. 711-729, 730-755.
Class and Malpractice
Murray v. UNMC Physicians
Informed Consent
Canterbury v. Spence
Conflicts of Interest
Moore v. The Regents of the University of California.

Thursday, October 31. 789-828.
Hospitals and Health Care Quality
Jackson v. Power
Darling v. Charleston Community Memorial Hospital
Muse v. Chartered Health Care
Tunkl v. Regents of the University of California

Tuesday, November 5. 849-883.
Licensure, Accreditation and Certificate of Need
Gonzalez-Droz v. Gonzalez-Colon

Thursday, November 7. 770-789, 894-916.
Medical Malpractice and the Politics of Reform
Payers & Health Care Quality
Doyle v. Secretary of Health & Human Services

Tuesday, November 12. 919-950, 956-960.
Insurer Negligence in Connection With Coverage Determinations
Wickline v. State of California
McEvoy v. Group Health Cooperative of Eau Claire
Boyd v. Albert Einstein Medical Center
Jones v. Chicago HMO Ltd. Of Illinois

Thursday, November 14. 968-1007.
Managed Care and Medical Liability: ERISA revisited
Corcoran v. United Healthcare, Inc.
Aetna Health, Inc. v. Davila

REGULATION OF HEALTH CARE TRANSACTIONS. Weeks 13-14.

Tuesday, November 19. 1108-1154.
False Claims
United States v. Krizek
United States ex. Rel. Mikes v. Straus

The Anti-Kickback Statute and Stark
United States v. Greber

Tuesday, November 26. 1285-1312, 828-848. (Additional materials to be provided.)
Traditional Impediments to the application of Antitrust
Horizontal agreements.
Arizona v. Maricopa Medical Society
Peer Review
Patrick v. Burget
Bryan v. James E. Holmes Regional Medical Center

Tuesday, December 3. 1200-1241.
Market Power and Mergers
United States v. Long Island Jewish Medical Center

Thursday, December 5. 1241-1257.
Vertical Arrangements and Barriers to entry
Ball Memorial Hospital v. Mutual Hospital Insurance
Kartell v. Blue Shield of Massachusetts, Inc.