University of Maryland
School of Law

Law & Health Care
Program

2010-2011

Course Catalog
COURSE DESCRIPTIONS 2010-2011

Many courses are offered every year, a few are offered only every other year, but some (usually of a specialized nature) are offered only every two or three years, depending upon the interest of students and the interest and availability of faculty. The classes that will be offered in 2010-2011 are listed on the L&CHP Course List for 2010-2011 at the following link:

The number of credit hours given for the satisfactory completion of a course is indicated in parentheses after the name of the course. Some courses may require a prerequisite course and that is noted at the end of a course description. Some classes may be designated in a specific year as open only to first years. This information will be noted in the course selection documents distributed by the Registrar’s office. Those documents will also note the classes in which a student will be allowed to write papers that satisfy the School of Law’s Advanced Writing (“Cert”) Requirement.

The courses in this catalog apply toward completion of the Health Law Certificate. However, no more than six credits of a health-related clinic will be accepted toward the Certificate. In addition, up to three credits of Administrative Law (which is not listed here) can be applied toward the Certificate. For more details about the Health Law Certificate, please look at the online Concentration in Health Law link.

Advance Bioethics and the Law Seminar/Course (3 or 2)
This course focuses on the legal regulation of medical decision-making. Topics will likely include the doctrine of informed consent, decision-making for incompetent patients, withholding and withdrawing life-sustaining care, physician-assisted suicide and euthanasia, assisted reproduction, avoidance of reproduction, and the sale/donation of body parts and services. In examining these various issues, students will consider the content and consistency of current law, the policy goals motivating legal regulation, the impact of technological innovation, and directions for legal reform. Students in the two-credit course will take a final exam, while students in the three-credit seminar will write a substantial research paper.

Advanced Legal Research: Health Law (1)
This course will focus on advanced legal research methodologies and strategies within the context of health law. Both federal and state law sources are explored. Sources include statutes and legislative history, administrative materials, treatises, loose-leaf services, and practice materials. Materials for health policy and basic medical research are also presented. Electronic services (i.e., Lexis, Westlaw, the Internet, and commercial databases) will be compared with traditional print research. Students will choose a health law topic and prepare a substantial paper on the sources and strategies used to research the topic. Topics may be related to projects for other courses. Students need not plan to practice health law to benefit from this course. The skills and materials taught are useful for all areas of law.
**Bioethics Seminar/Course (3 or 2)**
This seminar will focus on three topics in bioethics, devoting 5 weeks to each. They will include: 1) ethical issues relating to genetics (for example, prenatal genetic testing and diagnosis, genetic discrimination in insurance and others), 2) ethical issues relating to clinical medical research (for example when is it appropriate for physicians to participate in or recommend participation in clinical trials of new therapies to their patients, do patients ever have a duty to participate in medical research, should different ethical guidelines govern medical research involving children or research conducted in developing countries, etc.), and - most likely - 3) ethical issues surrounding assisted suicide. The class will focus on the ethical issues rather than the legal issues or legal regulations governing each.

**Biotechnology and the Law Seminar: Ethical Issues (3)**
This seminar considers the legal and ethical issues surrounding biotechnology research and development. The ownership and exploitation of biological resources will be among the core considerations with discussions on genetic data (genomics, bioinformatics, genetic data privacy) and genetic manipulation (gene-based research tools, pharmaceutical and agricultural products, and medical therapies). A technical proficiency in the biological sciences is neither required nor favored.

**Civil Rights of Persons with Disabilities Clinic (4/4, 5, or 7)**
This Clinic will detail the civil rights of persons with mental and physical disabilities and examine the explosive changes in the law and policy affecting the rights of children and adults with disabilities.

Student attorneys will have the opportunity to represent clients with disabilities in a variety of settings and work with organizations involved in broad impact litigation. The subject matter will likely include special education under the Individuals with Disabilities Education Act; access to public entities and public accommodations under the Americans with Disabilities Act and the Rehabilitation Act; post-secondary education and employment matters; as well as issues of consent and self-determination, statutory entitlements, and related public policy issues as individuals with disabilities seek inclusion and greater participation in society. In litigation and/or administrative advocacy matters, students enrolled in the Clinic handle cases at all stages of legal proceedings, including initial client interviews, witness interviews, drafting pleadings, counseling, negotiation, discovery, motion practice, and trial.

Student attorneys will also analyze and seek to implement broader policy and law reforms to accomplish these aims. The Clinic will also stress the roles of lawyers, advocacy organizations such as the Maryland Disability Law Center, the National Association of the Deaf Law Center, nonprofit organizations representing individuals with disabilities, courts, legislatures, and executive-branch agencies in promoting the rights of individuals with disabilities.

**Civil Rights of Persons With Disabilities Seminar (3)**
This seminar will focus on the issues faced by families in which a child has a disabling condition, including mental and physical disabilities. The law affecting children with disabilities includes a variety of public and private systems including juvenile justice, special education, social services, family law and mental health and developmental disability service systems. The children’s caregivers experience legal and social issues as well. Our focus will be on the special requirements of families providing care for a child with a disability and how the law responds, or fails to respond, to those special requirements. In the course of the seminar, we will investigate the various types of disabilities affecting children, the impacts of those different kinds of disabling conditions on the caretaking families, and the responses the law provides and fails to provide for the caretakers and children. For example, prohibitions on housing discrimination involving people with disabilities extend to include all members of a tenant’s household, regardless of whether a disabled child is a party to the lease. Prohibitions on employment discrimination, on the other hand, provide more limited protections when an employed caretaker needs accommodations to meet the needs of a disabled child. Access to education for a child with special needs is protected in the law, but the law, while imposing requirements on the caretaking parent, does not require assistance to that parent. In family law, child support is usually calculated according to formulas, but those formulas do not routinely take into account the diminished earning capacity of a parent who is caring for a child with a disability. In the area of public benefits, federal law allows states to make certain accommodations for a caretaker with a child with a disability. Not every state, however, takes into account how requirements of public benefit programs, such as food stamps or cash assistance under TANF, may have a different impact on families with a disabled child.

Critical Issues in Health Care (3)
This course is open to students from the Schools of Law, Medicine, Social Work, Nursing, Pharmacy, Dentistry and the graduate schools at UMB and UMBC. The course is designed to: (1) provide students with an opportunity to reflect on the legal, ethical and policy issues surrounding a number of health care delivery problems; (2) expose participants to the basic skills necessary to analyze problems from a legal, ethical and policy perspective; and (3) offer participants from different disciplines an opportunity to interact and share information and perspectives about their professions with one another. A variety of teaching techniques, including case studies, simulations, and panel discussions will be used to explore such topics as medical malpractice, rights of patients to refuse treatment, informed consent and substituted consent in medical decision making, confidentiality v. duty to disclose medical information, regulation of experimental drugs, and health care reform. The course will be taught by faculty from a variety of disciplines. During the course, students will have an opportunity to work in multidisciplinary teams to analyze a particular health care problem and develop a position paper on a health care policy issue. Prerequisite: Health Care Law and Policy OR significant work experience in the health care sector as certified by the instructor. Students who have not taken the prerequisite should see Associate Dean Diane Hoffmann before registering for the course; she determines enrollment.

Drug Policy and Public Health Strategies Clinic (4/4)
The course examines a range of public health and civil rights strategies to assist persons with histories of drug and alcohol dependence and the programs that serve them. The clinic is a two-semester course for four credits each semester. Students will represent individual clients who face discrimination based on their drug histories and work on legislative/policy projects designed to expand access to drug treatment and services essential to rehabilitation. Students will also research legal issues that uniquely affect persons with histories of drug problems and conduct education programs to facilitate self-advocacy. Individual and organizational clients are primarily from Baltimore, and the policy work has a city and state-wide focus. Students will have an opportunity to collaborate with professionals from other University of Maryland schools, treatment providers, lawyers and community-based organizations. Examples of the legal work students have performed in the past include: drafting city and state legislation, civil rights complaints, legal opinions and advocacy materials; presenting testimony and conducting advocacy to address discriminatory zoning barriers to the establishment of treatment services and unlawful child welfare interventions for pregnant women with drug use histories; representing individual clients in employment discrimination matters; conducting administrative and legislative advocacy to address the denial of drug treatment to individuals at the Baltimore City Detention Center; and advising organizational clients on Medicaid reimbursement for adolescent treatment services and the implementation of the Health Insurance Portability and Accountability Act (HIPAA) health privacy regulations.

The weekly classroom seminar will expose students to the full range of legal strategies that practitioners use to address legal problems, including client counseling, the development of litigation, legislative and administrative advocacy, and community organizing. We also examine our nation’s approach to drug problems and the consequences of policies that focus on criminal justice interventions rather than public health solutions.

**Elder Law (2)**

Focusing primarily on Maryland law, this survey course will provide a broad perspective of the impact of the law on the elderly. Topics will include: federal entitlement programs, the aging network, abuse of the elderly, asset management, medical decision making, guardianship, housing options, accessing homeowners’ equity and tax issues in housing options, community-based support services, medical assistance and ethical issues.

**Environmental Law Seminar/Health Law Seminar: Tobacco Control & the Law (3)**

This seminar focuses on the history of efforts to protect public health and the environment from harm caused by tobacco use and current approaches to tobacco control. The seminar begins with a review of the history of tobacco use and the development of epidemiological evidence revealing the enormous health risks caused by smoking. It examines how the tobacco industry fought to conceal evidence of harm and to resist efforts to regulate the sale and promotion of its deadly products. Among the issues that will be explored are: federal and state efforts to regulate tobacco advertising, tobacco products liability litigation, federal preemption of state regulation,
control of environmental tobacco smoke, regulatory policy toward “reduced risk” tobacco products, international trade disputes involving tobacco products, the World Health Organization’s Framework Convention on Tobacco Control, and tobacco control as a social justice issue.

**Health and Human Rights Seminar (3)**

This offering will examine international human rights through the lens of Henkin’s concept that these rights are “inherent in human dignity”; that they protect humanity holistically and therefore are intended to ensure that States are responsible individually and collectively for maintaining systems that fulfill people’s most basic, life-sustaining needs for water, food, and shelter. It is only after these basic needs have been met that other human rights can be realized. The course will examine the Western concept of a pyramid of human rights that places political rights at the pinnacle and social and economic rights at the base and question whether that conception fits the circumstances of peoples living in the developing world. More specifically, this issue will be looked at in terms of whether and how the health of peoples all over the world is closely linked to the realization of human rights. Professor Olshansky will use case studies from the International Human Rights Clinic’s work in Namibia, South Africa, and Zimbabwe to illustrate the issues discussed in the course.

**Health and International Human Rights Seminar (3)**

This course focuses on the dynamic relationship between health and international human rights law. The course begins with an overview of the historical and legal origins of the field of health and human rights, including the atrocities of Nazi human experimentation, the Nuremberg Code, and the evolution of health and human rights law in the United Nations system. The course moves on to critically examine the meaning and significance of the right to health in international law as well as the contemporary relationship between health and human rights, including the impact of health policies and programs on human rights and the health impacts resulting from human rights violations. We will consider the strengths and limitations of the human rights framework by introducing a number of case studies and issues, focusing on vulnerable populations (women, children, persons with HIV/AIDS) and specific population health threats and issues (the right to healthcare, access to life-sustaining pharmaceuticals, female genital mutilation and reproductive and sexual rights, human trafficking, the ethical conduct of biomedical research in developing countries).

**Health and Science Policy Workshop: The Regulation of Genomic Research (5)**

The past few decades have been dominated by a targeted genetic research paradigm; the ethical, legal and social implications (ELSI) associated with this “first phase” genetic research were focused primarily on concerns about informed consent, stigma (i.e., being judged or labeled as a result of genetic test results), privacy (both individual and group), and genetic discrimination. The past couple of years, however, have been marked by a transition into a new phase of research that focuses on the genome as a whole. The increasing availability of affordable next generation sequencing makes it easier for laboratories to engage in genomic research. The ELSI concerns previously associated with targeted genetic research are amplified by the magnitude and types of
information generated by large-scale genomic sequencing. Concerns that had been rare now are becoming more prevalent and more complex, and institutional review boards (IRBs) are being called upon to review the ethics of research involving the use of these emergent, cutting edge technologies in research with human subjects prior to the development of ethical consensus and regulatory guidance about the use of these technologies. For example, genomic research with human subjects raises complicated questions about the management of incidental or secondary findings. Incidental findings are research results concerning an individual research participant that have potential health or reproductive importance and are discovered in the course of conducting research but are beyond the aims of the study. There are controversial questions about how, to whom, and under what circumstances to return incidental results. Genomic research also raises questions about the nature and magnitude of individual and group risks associated with genetic and genomic information.

The goal of this workshop is to examine these and other ethical, legal, and social issues and to develop a regulatory framework for genomic research. The workshop will include weekly seminar sessions, meetings at the National Institutes of Health (NIH) in Bethesda, and field work with IRBs in Maryland. Under the supervision of Professor Karen Rothenberg and Ben Berkman, a faculty member with the Department of Bioethics at NIH, students will work with bioethicists and policy-makers from the National Human Genome Research Institute (NHGRI) to identify the regulatory questions that are emerging in this evolving field. Students will produce individual papers that analyze a specific ethical, regulatory and/or policy issue, with the goal of presenting a concrete proposal that provides guidance as to how NIH may proceed on that issue. Topics will be sub-divided to include at least three broad areas of research ethics: management of individual research results, privacy, and the informed consent process. Students will also work in collaboration to produce a workshop consensus document that synthesizes their individual research to be presented to NHGRI and policy-makers at NIH. Additionally, the class will observe and critique IRB deliberations and as part of their field work, participate in a qualitative study of IRB member attitudes relating to the return of incidental genetic research findings.


In both this course and in the companion Health Care Delivery and Child Welfare Legal Issues: The Challenge of the AIDS Epidemic—Legal Theory and Practice, the clinical experience will involve advocating for persons and families impacted by HIV. Students will have the opportunity to work collaboratively with medical providers and social workers in addressing challenging new issues raised in part by advances in treatment for HIV illness. For example:

- What is a medical provider's responsibility in educating patients about medical treatment for HIV, including the consequences of non-adherence to medication and potential side effects of medication?
- When does a parent's failure or refusal to adhere to a particular medical treatment for her child amount to medical neglect warranting a report to protective services and possible removal of the child from her home?
• What other interventions may be available to facilitate working with the family and to ensure the child's medical needs are met?
• Can an adolescent consent to (or refuse) treatment without the involvement of his/ her parent or guardian?

In addition to the opportunity to participate in policy advocacy or impact litigation, students will have a caseload which may include: employment discrimination or Family Medical Leave Act claims, CINA (child welfare) cases, custody or guardianship of children, etc. Developing interviewing, counseling, negotiation and advocacy skills will be a major focus. Identifying and addressing professional responsibility issues in interdisciplinary practice will also be a major focus.

This offering, 5 credits in the fall and 4 credits in the spring, will provide students with relevant background to assist them in taking a problem solving approach to the issues identified in practice. Substantive emphasis may vary depending on case development. Among the questions to be addressed will be the following:
• What is a medical provider's responsibility in educating patients about medical treatment for HIV, including the consequences of non-adherence to medication and potential side effects of medication?
• When does a parent’s failure or refusal to adhere to a particular medical treatment for her child amount to medical neglect warranting a report to protective services and possible removal of the child from her home?
• What other interventions may be available to facilitate working with the family and to ensure the child's medical needs are met?
• Can an adolescent consent to (or refuse) treatment without the involvement of his/ her parent or guardian?

Health Care Law & Policy (3)
This introductory health law course surveys current federal and state regulatory schemes governing the provision of healthcare. The class focuses on three major themes: quality of care, access to care, and cost containment. You will learn about professional licensure, malpractice, the provider-patient relationship, informed consent, the regulation of healthcare facilities, the organization of healthcare entities (such as integrated delivery systems), the regulation of health insurers and managed care providers, managed care liability, Medicare/Medicaid, federal self-referral and “anti-kickback” prohibitions, and other topics.

Health Law Seminar/Course: Hospital Law (3 OR 2)
This offering, which may be scheduled at the discretion of the Associate Dean for either two or three credits and as either a lecture course or seminar, will focus on a large range of health law topics from the perspective of a hospital. Through readings, the review and study of federal and state statutes and regulations, and class discussion
(including case studies), this class will address the following topics related to the regulation and practice of hospital law:

- Licensure and accreditation;
- Structure;
- Service lines and their regulation;
- Operations policies and procedures;
- Reimbursement;
- Medical and other staff issues;
- Physician/hospital relationships and government regulation of such (including fraud and abuse laws);
- Patient care issues;
- Medical records and the state and Federal laws affecting them; and
- Issues affecting academic medical centers

Course materials will include statutory, regulatory and other material posted on Blackboard. Readings developed by the course instructors will include articles from industry publications, case studies, excerpts from Medicare and other health law texts, including the Health Law Practice Guide. P: Health Care Law and Policy.

**Health Law Seminar: Comparative Health Law and Policy (3)**
This seminar will examine how other countries provide, pay for, and regulate health care. The seminar will use examples from other countries with vastly different legal and health care systems to compare and contrast U.S. health care policies and practices. Understanding how different countries regulate costs, quality and access to health care -- and the strengths and weaknesses of those different approaches -- will provide students with a window into how to improve the weaknesses in our own system. The seminar will examine, in a comparative context, such issues as medical malpractice, health insurance and coverage, and organ transplantation. In addition to examining laws and regulations governing these issues, students will consider how different cultural perspectives affect policy and legal decisions on these topics. Students will prepare and present research comparing and contrasting two countries’ responses to a particular issue.

**Health Law Seminar: Food and Drug Law (3)**
This seminar considers the Food and Drug Administration as a case study of an administrative agency that must combine law and science to regulate activities affecting public health and safety. The class is designed both for students who expect to become involved in food and drug matters and for those who are interested in the interplay of law and science. Topics to be discussed may include: history of the food and drug administration; food law, misbranding, and economic issues; nutritional policy and health claims; regulation of carcinogens, food additives, and color additives; drug regulation; drug approval process; breakthrough drugs and ethics of drug testing; medical device regulation; and regulation of biotechnology.

**Health Law Seminar: Fraud and Abuse (3)**
Students in this seminar will study the state and federal laws and regulations defining and addressing fraud and abuse in health care, with a focus on the federal law. Topics to be explored include (i) the roles and responsibilities of professional licensure bodies, state and federal regulatory authorities, and state and federal law enforcement; (ii) federal regulations governing improper referrals and false claims; (iii) potential conflicts between health care integration and current laws on health care fraud; and (iv) ethical issues facing attorneys counseling health care clients with respect to fraud and abuse laws. The course will include guest speakers from state and federal regulatory and law enforcement agencies, practicing attorneys, and health care industry executives.

**Health Law Seminar: Genetics and the Law (3)**

This seminar will explore the intersection between law and genetics and some of the ethical, legal, and social implications arising from genetic technologies. Following a brief introduction to genetics, topics to be explored may include genetic research, ownership of genetic material, reproductive genetics, clinical genetics, behavioral genetics, DNA forensics, and genetic privacy and confidentiality.

**Health Law Seminar: Legal Issues in Managed Care (3)**

This seminar will give students an overview of legal and regulatory issues involved in representation of managed care organizations (MCOs) and relevant background including, but not limited to: definitions of “managed care” and the history of the managed care industry; types of MCOs (HMO/PPO/PHO, etc.); state and federal regulatory concerns including antitrust, fraud and abuse; provider risk assumption; Medicare/Medicaid; MCO liability for utilization management; contracting issues; transactional issues; trends in physician integration; legal representation of MCOs; and the evolving field of corporate/organizational ethics in managed care. P: Health Care Law: The Regulation of Legal and Financial Relationships or Health Care Law and Policy. The prerequisite may be waived with permission of the instructor.

**Health Law Seminar: Medicare and Medicaid Fundamentals-provider Regulation and Reimbursement Seminar (3)**

This seminar will examine the Medicare and Medicaid systems and the regulation of health care providers participating in those programs. The course will provide an overview of Medicare, Medicaid, and the administrative law framework for governmental decisions. Additionally, each major provider type will be examined (e.g., hospitals, long term care facilities, home health care providers, hospices, and physicians) including the regulations specific to each. In all cases, both the reimbursement structure and legal requirements for participation in the program will be discussed. Finally, the seminar will cover recent developments and trends in the law and policies that affect public payers. Student presentations, possibly in group format, may be required in addition to a seminar paper. Topics to be covered include:

- Fundamentals of Medicare and Medicaid Regulation of Health Care Providers (Part A and Part B)
- Principles of Coverage, Coding, and Payment
- Medicare Contractors and State Medicaid Agencies
- Prospective Payment Systems
- Regulations Specific to Certain Types of Providers (e.g., Hospice benefit, physician and physician fee schedule, etc.)
- Appeals of Individual Claims/Cost Reports and Local/National Coverage Policies
- Program Integrity (fraud and abuse)
- Emerging Prescription Drug Benefit
- Coverage of New Technologies
- Impact of Governmental Programs on Private Payers
- Governmental Cost Containment Efforts

**Health Law Externships (4) to (9)**
The School of Law offers a limited number of externships in governmental and not-for-profit organizations dealing with legal issues. Externships offer students an opportunity to learn, in a supervised setting, about significant aspects of law and its practice. They are open to students who have completed their first year of law school and are graded on a credit/no credit basis. The number of credits available varies from four to nine, depending upon the nature of the work and the number of hours devoted to it. Externships differ from Asper Fellowship placements (normally three credits) both in the intensity of the learning experience offered and in the close connection required between the field placement and the student's academic program at the School of Law. Students interested in health law externships should contact Virginia Rowthorn (410-706-5369) or vrowthorn@law.umaryland.edu.

**In order to obtain credit for a health law externship or health law practicum, the student must take the accompanying Health Law Workshop during or after their externship.**

**Health Law Practicum (2 or 3)**
A Health Law Practicum is an externship that is taken from 2 or 3 credits (externships are 4 or more credits). Students interested in health law may earn academic credit by working for health care institutions or government agencies that deal with health care issues. Students spend 10 or more hours per week during the semester working under the supervision of lawyers specializing in health law. Placements have included the Maryland Board of Physician Quality Assurance, the Biotechnology Industry Organization, the U.S. Department of Health and Human Services Office of the General Counsel, National Health Law Program, University of Maryland Medical System, National Institutes of Health, MedStar Health, Maryland Office of the Attorney General, Johns Hopkins Health System, and state and federal legislative offices. Students interested in a Health Law Practicum should see Virginia Rowthorn in Room 249 or email her at vrowthorn@law.umaryland.edu.

**In order to obtain credit for a health law externship or health law practicum, the student must take the accompanying Health Law Workshop during or after their externship.**

**Health Law Workshop (2)**
The course will provide an opportunity for students to share their practicum/externship experiences and to explore the ethical, legal and practical challenges raised by health lawyering in a variety of settings including hospitals, insurance and managed care organizations, government (AG’s Office, legislative office), and law firms. Class readings and discussion will focus on questions about the client in various settings, the role of politics and how it affects the lawyer's role, and the changing nature of the health care industry and how that affects the lawyer’s work in various settings. Health law attorneys will participate in the workshop and share their perspectives on the pressures and dilemmas they face in carrying out their practice. This workshop is required for (and available only to) students who have previously taken or are currently enrolled in a health law practicum or externship.

**Health Law: Special Topic: Legal and Policy Issues in End-of-life Care (2)**

This multidisciplinary seminar will examine the last three decades' legal developments in the law governing decision making about the use of life-sustaining medical treatments. It will encompass the leading cases from Quinlan through Schiavo, examples of statutory approaches, and selected commentary. Class discussion will focus on challenges that continue to confront patients, families, health care providers and policy makers in improving end of life care. Readings will include legal cases and statutes as well as empirical research evaluating the current legal and policy framework for decision making and medical treatment at the end of life.

**Health, Safety and Environmental Regulation Seminar (3)**

This course considers the status of five "protector" agencies the Consumer Product Safety Commission, the Environmental Protection Agency, the Food and Drug Administration, the National Highway Traffic Safety Administration, and the Occupational Safety and Health Administration. Together, the five are responsible for preventing the sale of hazardous consumer products, minimizing pollution in the air, surface waters, and soil, ensuring the purity of the nation's food and potable water supplies, assuring the safety and efficacy of over-the-counter and prescription drugs, promoting the safety of nine million workplaces, and preventing traffic accidents caused by driver behavior and motor vehicle design defects. The five agencies are struggling against the odds to fulfill these missions and most knowledgeable observers agree that they are badly in need of legal, budgetary, and administrative reforms that would allow them to function effectively. This course will examine the root causes of those severe problems, as well as their implications for public health, worker safety, and the environment, giving students the basic tools they need not only to understand the dysfunctions in the regulatory system but to identify potential reforms. The course should be useful to any student considering work in the public sector, especially students considering careers in health and environmental law, and will also give students interested in these issues, but committed to a career in business or other types of public service, the background they need to continue to analyze these issues independently. The course is not a substitute for administrative law, but does count to fulfill the concentration requirements for the health and environmental law programs. A paper written for this seminar may be used to satisfy the Advanced Writing
Requirement. This seminar may be used to satisfy requirements for either or both the Environmental Law and Health Law certificates.

**Insurance Seminar (3)**
This course examines the nature of insurance and the insurance contract. The topics covered include: the principle of indemnity and the insurable interest requirement, subrogation, the nature of and justifications for insurance regulation, the role of agents and brokers, rights at variance with insurance contract provisions and extra-contractual liability. The course will cover various controversies in life/health insurance such as pre-existing condition limitations, portability and ERISA preemption, as well as various controversies in property/casualty insurance such as number of occurrences, trigger of coverage and allocation in progressive/continuous loss situations.

**Law and Policy of Emergency Public Health Response Seminar/Course (3/2)**
This course will survey federal, state, and local laws directed toward giving extraordinary powers to each level of government to respond to catastrophic public health events whether caused by natural disasters or terror attacks. Among the issues that will be discussed are governmental powers relating to quarantine and isolation, compelled medical treatment, triaging patient care, emergency seizures of medical supplies and facilities, compelled service of medical personnel, intergovernmental emergency compacts, civil liberties concerns and court access, emergency licensing of medical personnel, altered standards of care in emergencies, deployment of military personnel to provide domestic response services, and related federalism issues.

**Journal of Health Care Law & Policy (1-4)**
*The Journal of Health Care Law & Policy (JHCLP)* provides an interdisciplinary forum for the discussion of leading issues in the health law and health policy fields. The *JHCLP* is written by legal scholars, health law attorneys, policy makers, academics in medicine and related fields and law students, and will complement the philosophy of the Law & Health Care Program by addressing topics of national interest on emerging medical, health policy, and law-related issues. Members of the editorial board may earn one or more semester-hour credits.

**Medical Malpractice: Claims, Defenses, and Litigation (2)**
This course will cover both the substantive and procedural aspects of medical malpractice litigation, which will be presented through statutory and case law as well as practical skills oriented exercises. The course will address fundamental issues surrounding medical negligence: the relationship of physician and patient, standard of care, causation, allocation of liability among providers, institutional liability, respondeat superior, apparent agency, peer review, and informed consent. The course will be presented through traditional case and statutory material as well as client oriented problems and exercise which will be utilized to introduce legal practice reality into abstract issues of medical, legal and ethical principles. Course coverage will include problems in discovery and evidentiary issues in medical malpractice litigation, as well as problems that arise in medical malpractice trials.
**Mental Disability and Criminal Law Seminar (3)**
This offering examines issues that arise in criminal cases involving persons with mental disability. Topic areas include: mental non-responsibility, criminal competencies, dispositional issues, and expert witness consultation. Course materials include not only cases and legal commentary, but also selections from the literature in psychiatry, psychology, and forensic mental health. Some class sessions will center on readings in the course materials. Others will feature live case presentations and will be held at the UMB medical school, at Clifton T. Perkins Hospital Center, or at another Baltimore area facility, for the evaluation and treatment of persons with mental illness or developmental disability. Course requirements include (1) preparing a research paper on some pre-approved topic in mental disability and criminal law and (2) either participating in a case evaluation (assisting in an interview of the defendant, assembling secondary source information, and writing a brief on some issue in the case) or serving as an attorney in a mock trial of the sanity phase of a criminal case. Attention will also be paid to related issues in civil commitment. Students may take both this offering and Mental Disability Law Seminar and/or Course.

**Mental Disability Law Seminar (3) and/or Course (2)**
This offering focuses on civil mental disability law and examines the explosive growth of this field of law and its many ramifications for national and state public policy. Following an introduction and historical perspective, the topics to be discussed may include law and mental retardation; the developmental disability system; law and the mental health system; legal issues involving learning disabilities; involuntary civil commitment; substantive tests and procedural safeguards; voluntary admissions; discharge, transfers, and least restrictive alternatives; the professional deference doctrine and institutional conditions; limitations on forced treatment and painful behavior modification; tort law; competence, self-determination, and substituted decision-making; lawyers' roles in mental disability systems; and the future of mental disability law. Students may take both this offering and Mental Disability and Criminal Law Seminar.

**Neuroscience and the Law Seminar (3)**
Many fundamental legal concepts are built upon mental constructs, such as the reasonable person and the rational actor. Law also relies on concepts of mind to analyze competency and mental states, and to make predictions about future behavior. Do the approaches to and assumptions about mind and behavior in these different areas of law cohere into a "model of mind"? How can contemporary neuroscience contribute to the law's understanding of models of mind? This course will explore recent advances in neuroscience (most notably, neuroimaging) to explore how the law relies on implicit models of mind and how neuroscience can be used to refine these models. Students will gain an understanding of how fMRI, PET, and other brain images are created and interpreted. Research on "mind reading," "lie detection," moral conflict, gender and brain difference, and psychopathy will be reviewed. The course will conclude by asking whether neuroscience can or should be used to help devise a general model of mind to inform the design of legal institutions.

**Public Health and the Law Seminar/Course (3 OR 2)**
This seminar/course will explore a variety of legal and ethical issues that arise when public health initiatives constrain individual rights. It will introduce students to the scientific foundations of public health, the regulatory origins of public health policy, and the ethical and legal tools for thoughtfully examining public health measures. Specific topics for consideration will include the role of federal and state governments in public health regulation; constitutional limitations on state police power; tort law as a public health tool; the just allocation of resources during disasters; and the tension between public health and civil liberties in contexts such as compulsory vaccination programs, the testing/screening/disclosure of disease or drug use, the quarantine/isolation of people with infectious disease, and various responses to bio-terrorism.

**Tobacco Control Clinic (5)**
This clinic, established in conjunction with the Legal Resource Center for Tobacco Regulation, Litigation and Advocacy, will provide an experiential learning opportunity for law students interested in working on public health policy at the state and local level as well as the national and international level. Students will be engaged in advocacy before the state and local legislatures, contribute to national litigation and policy development and assist developing countries create and implement sound tobacco control programs. Student responsibilities will include: 1) drafting state and local public health legislation; 2) assisting legislators and advocates in the support of such legislation or in opposition to legislation counter to public health goals, including drafting testimony for legislative sponsors and advocates and testifying before the General Assembly or local legislative bodies; 3) meeting with local government officials and community advocates for the purpose of advising on or assisting with the creation of new public health initiatives; 4) meeting with state officials working in this area to evaluate current policy and examine new policy options; 5) researching public health and legal resources to determine the effectiveness of existing or proposed tobacco control initiatives in Maryland and other states or countries; 6) speaking publicly to groups for the purpose of educating them about legal issues relevant to tobacco control efforts; 7) preparing amicus curiae briefs in relevant public health litigation; and 8) drafting informational materials for tobacco control advocates for publication in the Center newsletter, on the Center website, or other Center publications.

Class content: Class content will include an historical perspective of the interaction of public health and the law, with further examination of specific issues of tobacco control. Class readings, lectures and discussions will cover areas such as the history behind and provisions of the Master Settlement Agreement, the economics of tobacco control, professional responsibility issues for lawyers working for and with State and local government, local government structure and authority in Maryland, and how to research and understand public health studies. Classes will also provide skills training in drafting legislation and related materials, advocating at the state and local level, conducting public health research, and preparing non-traditional written work common in public health law practice.

**Tobacco Control Seminar: Legal Theory and Practice (6)**
The LTP component of this course is conducted in conjunction with the Legal Resource Center for Tobacco Regulation, Litigation and Advocacy. The LTP will provide an experiential learning opportunity for law students representing local governments, community advocates and individuals with tobacco-related legal problems. Student responsibilities will include: 1) drafting state and local tobacco control legislation; 2) assisting advocates in the support of such legislation or in opposition to legislation counter to tobacco control goals, including drafting testimony for legislative sponsors and advocates and testifying before the General Assembly or local legislative bodies; 3) meeting with state officials working in this area; 4) researching public health and legal resources to determine the effectiveness of existing or proposed tobacco control initiatives in Maryland and other states; 5) identifying potential opponent groups to a proposed bill, ordinance or initiative and preparing to negotiate or respond to those groups; and 6) drafting informational materials for tobacco control advocates for publication in the Center newsletter, on the Center website, or other Center publications. The course satisfies the Cardin Requirement.

Related Courses

The following courses will present material that is helpful to the study of health law. Not all of these courses will apply toward the health law certificate.

**Administrative Law (3) (credits apply toward Health Law Certificate)**
This course is concerned with the nature and function of administrative agencies; procedure before administrative tribunals, including notice, hearings and enforcement of rules and orders; and judicial control over administrative action. P/C: Constitutional Law.

**Antitrust Law Seminar / Course (3)**
This course deals with the regulation of competition, monopoly and restraints of trade by federal antitrust statutes. Primarily, it is a study of the Supreme Court cases interpreting these statutes toward the goal of preserving and fostering the competitive economic system. This course may be offered as either a seminar or as a course, or both, at the discretion of the Associate Dean and instructor. In the seminar to be taught by Prof. Noonberg emphasis will be placed on recent trends in enforcement, including merger enforcement, the impact of globalization and the policy questions resulting from shifts in economic power.

**Business Associations (3 OR 4)**
This course is a survey of the law relating to corporations and other forms of business organization and related aspects of basic tax law, securities regulation, and corporate finance. Coverage of the course includes, with varying degrees of emphasis, the law of agency; choice of business form; partnership and other unincorporated entities; formation of corporations; capitalization and distributions; allocation of authority among stockholders, directors, and officers; fiduciary duties; closely held corporations; derivative litigation; insider trading; proxy regulation; contests for control, and mergers and other fundamental changes. The three-credit version of the course will cover less of certain subject areas (particularly those subject areas that are covered in regularly
offered advanced courses such as corporate finance, securities regulation, and mergers and acquisitions) and may focus relatively more heavily on partnerships and other unincorporated forms of organization.

**Intellectual Property Law Survey (3)**
This course considers intellectual property law, which includes the specialties of patent, trademark, copyright and trade secret law. The survey is a recommended foundation course for students who plan to enter intellectual property law practice and take one or more of the advanced specialty courses. The survey is also appropriate for students who anticipate a career in other legal fields, but who seek an introductory exposure to intellectual property law. A technical proficiency in science or engineering is neither required nor favored.

**International Human Rights Seminar/Course (3 OR 2)**
This seminar will examine the international human rights movement and the international law of human rights, including its origin and theory. UN treaties examined cover civil and political rights, economic and social rights, gender and racial discrimination, children’s rights and torture. The course will consider both the substantive law and the operational strategies associated with their implementation. It will analyze the UN institutional mechanisms for promoting implementation and explore the root causes of the system's failures and successes.

**International Intellectual Property Seminar/Course (3 OR 2)**
This seminar examines intellectual property issues on an international basis, exploring the principles and policies supporting the international protection and exploitation of creative and commercial rights, as well as the sources of those rights. The major international treaties for copyright, patent, and trademark protection, as well as the international intellectual property organizations that produce and administer those treaties and effect policy changes, will be analyzed. With that framework, the seminar will examine questions of enforcement, jurisdiction, and choice of law, the interaction of trade policy and intellectual property laws, and issues relating to establishing and enforcing intellectual property rights in less developed nations. Prerequisites: Completion of one intellectual property law course (Patents, Trademarks and Unfair Competition, Copyrights, or the Intellectual Property Law Survey).

**Not for Profit Corporations (2)**
This course will survey the law of nonprofit organizations. It will begin with an examination of the theoretical justifications for the existence of the nonprofit sector of our economy, its historic development, and its role in our society. The main body of the course, which follows, will then explore the regulation, formation, organization, and internal governance of nonprofit organizations. The final weeks of the course will be spent considering the issues created by tax-exempt status. These issues will be reviewed from a policy-oriented non-technical perspective, and the analysis will not delve beyond basic tax principles.