

Module 1 – Chapter 2

Model Curriculum:

Legal Medicine and Medical Ethics

Compiled by S. Sandy Sanbar, M.D., Ph.D., J.D., F.C.L.M.

Adapted in part from Professors Theodore LeBlang, J.D., FCLM, W. Eugene Basanta, B.A., J.D., LL.M., George J. Annas, J.D., M.P.H., Leonard H. Glantz, J.D., Wendy K. Mariner, J.D., LL.M., M.P.H., and Michael A. Grodin, M.D.¹

The multidisciplinary topics of Legal Medicine and Medical Ethics education are intimately intertwined and are critical to the practice of all health care providers, including medicine, dentistry, nursing, other health care professions, forensic sciences, public health, medical humanities, as well as the practice of health law by attorneys.

The Legal Medicine and Medical Ethics curriculum is designed to be administered by a Department or Section of Legal Medicine and Medical Ethics (or Bioethics). However, it encompasses the collective efforts of multiple disciplines, departments and medical, dental, nursing and paramedical schools. The curriculum can be integrated and taught at all American university health sciences centers, with the help of the departments of public health, medical humanities, state licensing boards, and the offices of the Medical Examiner or Coroner. The term, “medicine” as used in this text includes all medical, dental, nursing and paramedical professions.

The two disciplines, legal medicine and medical ethics, must be taught in unison beginning in the under-graduate college years and throughout the years of professional medical, dental and paramedical schooling so that the student can learn about the cross-fertilization of the two disciplines. The Model Curriculum of Legal Medicine and Medical Ethics present educators, teachers and professors at American health sciences centers with a “**template**” to select the topics of their choice for their individual courses.

Students and health care providers need to understand the similarities and differences in the ways medicine and law frame questions, address problems, and approach moral

¹ Sanbar, S.S., Annas, G.J., Grodin, M.A., Wecht, C.H., *Legal Medicine: Historical Roots and Current Status*, in LEGAL MEDICINE, 6th Ed., American College of Legal Medicine, Mosby-Elsevier, pp-3-23 (2004)

quandaries, as well as the various resources available to analyze these problems. They should learn that it is as problematic to never follow the law as it is to always mechanically follow what they consider to be the letter of the law. Failure to understand how the law works often results in inappropriate defensive medicine. The lack of a minimal understanding of the law can lead to inappropriate and misguided treatment of patients.

Legal Medicine and Medical Ethics Curriculum

There are certain key elements that must be considered when one organizes and teaches a course in legal medicine and medical ethics. These include:

1. The legal medicine and medical ethics topics must be prominent within the overall professional school curriculum, substantiating their importance.
2. The topics should be relevant, rigorously taught, and should be horizontally and longitudinally integrated into the curriculum from the classroom through the clinical clerkships, to post-graduate training and medical practice.
3. They must be seen as part of and as an integral to the practice of medicine.
4. They must be taught over time, space, departments, and courses. As such, interdisciplinary teaching is almost an imperative.
5. There must be specific learning objectives. Those objectives must be content and method focused, the purpose being:
 - a. To sensitize students and health care providers to the value and nature of the professional medical or paramedical practice;
 - b. To supply students and health care providers with methods to identify and describe legal and ethical dilemmas; and
 - c. To give them formal, procedural, and substantive methodologies for resolving such dilemmas.
6. They should increase the students' legal knowledge and provide skills in ethical analysis, as well as to educate students about tolerance and diversity of ethical opinions. Case-based analysis should draw on the student's experience.
7. The ultimate goal should be is to graduate students and health care providers who are committed to being professionals with high moral character and an understanding of the law and to practicing ethical and legal medicine.

Basic Skills in Legal Medicine and Medical Ethics

There are also certain basic skills that medical, dental nursing and paramedical students, residents, fellows and health care providers should master.² These include:

- The ability to identify the moral and legal aspects of medical practice;
- The ability to obtain a valid informed consent or a valid refusal of treatment;
- The knowledge of how to proceed if a patient is only partially competent or incompetent to consent to or refuse treatment;
- The knowledge of how to proceed if a patient refuses treatment;
- The ability to decide when it is morally and legally justified to withhold information from a patient;
- The ability to decide when it is morally justified to breach confidentiality; and
- The knowledge of the moral and legal aspects of care of patients with a poor prognosis, including patients who are terminally ill.

Essential Prerequisites for a Legal Medicine and Medical Ethics Curriculum

There are certain essential prerequisites for implementing a legal medicine and medical ethics curriculum for health care providers at any health sciences medical center, be it nationally or internationally. The prerequisites comprise:

- **Faculty.** A full-time senior academic in law and ethics with relevant professional and academic expertise is required to provide and coordinate the Legal Medicine and Medical Ethics curriculum. Other interdisciplinary faculty members from the professional medical and paramedical schools are involved in teaching group discussions.
- **Faculty courses and workshops.** Specific courses and workshops should be designed for the faculty of the medical and paramedical school professionals to assist in teaching some of the legal medicine and medical ethics course materials.
- **Core Component.** Legal Medicine and Medical Ethics should constitute one of the required core components of the medical and paramedical school curricula and postgraduate residency and fellowship training programs.
- **Systematic Presentation.** The curriculum should be introduced systematically in order to prepare students to meet their own professional and legal responsibilities when working with patients.

² C.M. Culver et al., *Special Report: Basic Curricular Goals in Medical Ethics*, 312(4) New Engl. J. Med. 253-255 (1985).

- **Lecture hours.** To effectively teach legal medicine and medical ethics, one should allow approximately 20 hours for lectures, group discussions or conferences per scholastic year.
- **Integrated and interdisciplinary.** The legal medicine and medical ethics curriculum should be presented together in an integrated and interdisciplinary approach and in a balanced, sustained, academically rigorous and clinically relevant manner. It should fully be integrated with the rest of the medical school curriculum.
- **Formal Course Assessment.** The Legal Medicine and Medical Ethics curriculum should be formally assessed for effectiveness of such teaching and learning as are all other medical school core subjects.
- **Focus.** Emphasis should be placed on situations that health care professionals confront most frequently in practice, elucidation of concepts in legal medicine and medical ethics, comprehension of analysis and decision-making procedures, application of the concepts and decision-making procedures in real cases, and acquisition of communications skills to interact with patients. Student self-motivation and inquiry should also be emphasized, along with the provision of special study modules.
- **Goal** The goal of teaching Legal Medicine and Medical Ethics is to help create good health care providers who would enjoy a more fulfilling ethically and legally informed professional practice, which will promote patient safety, dignity, autonomy and rights.

Curriculum Overview

- The Model Curriculum of Legal Medicine and Medical Ethics Curriculum is aimed at Health Sciences Centers across the United States and elsewhere to be offered to students of Medicine, Osteopathy, Dentistry, Nursing, Pharmacy, Public Health, Health Law and other paramedical field.
- The curriculum is designed to provide students with core knowledge in Legal Medicine and Medical Ethics, or Bioethics, by emphasizing application of the content and methodologies of the two disciplines to the practice of medicine.
- Substantive areas of teaching emphasis include the:
 - Legal and ethical aspects of medical practice, medical humanities, history, philosophy, and psychosocial care;
 - Medical licensure, privileging, profiling, and the impaired or disabled professional;

- Communication between patients and health care providers, issues of consent and refusal of treatment;
 - Patient safety, medical errors and professional medical liability;
 - Professional specialties and care of special patients;
 - End-of-life issues, aid in dying and assisted suicide;
 - Forensic sciences, and the Medical Examiner and Coroner systems;
 - Public health policy and issues;
 - Federal mandates, agencies and the judicial process.
 - Criminal professional conduct, fraud and abuse.
 - Business aspects of medical practice.
- Department of Legal Medicine faculty will include Faculty from various other Departments.
 - They will provide educational experiences for undergraduate medical students during Years One and Two.
 - During Year Three, the Department of Legal Medicine will deliver a two-week curricular segment, entitled “The Physician-Patient Relationship.” This two-week segment forms part of the School’s Doctoring curriculum. Also during Year Three, the Department delivers multiple integrated learning experiences, or “modules,” that form part of the Clinical Clerkships.
 - During Year Four, a second two-week curricular segment is delivered, which is entitled “Society, Law, and Health Care: The Physician’s Role.” This segment also forms part of the Doctoring curriculum. Additionally, numerous electives are offered during Year Four for students enrolled in the M.D. and M.D./J.D. dual degree programs.

The program of LEGAL MEDICINE AND MEDICAL ETHICS is an academic program in the Department of Legal Medicine. Although teaching activity in the program is integrated throughout the four-year curriculum, required instruction in legal medicine is concentrated during Years Three and Four.

- In Year Three, the two-week Legal Medicine curricular segment focuses on the physician-patient relationship. Significant issues in law and medicine are considered as part of learning experiences focusing on confidentiality and privacy, informed consent, standards of care (malpractice), withholding and withdrawing life-sustaining treatment, assisted death, and organ donation. Teaching methodologies include lectures, panel discussions, case conferences, tutor group

activities, and simulated patient interactions. Throughout the segment, teaching emphasis is placed on strengthening the physician-patient relationship.

- In Year Four, the two-week Legal Medicine curricular segment comprises the following content areas:

1. the physician's role in the administration of justice;

During this first part of the segment, students are exposed to an overview of the judicial process and the manner in which physicians serve as expert witnesses in civil and criminal trial proceedings. Systems of medicolegal investigation also are discussed, with emphasis on forensic pathology. Students further explore issues involving regulation of medical expert testimony in the courts. Finally, a mock trial is staged, permitting students to observe the trial process in a courtroom setting.

2. the physician's role in society, with emphasis on current changes in health care delivery.

During this second part of the segment, students examine various important issues relating to health care in the United States. These issues include the following: access to and availability of health care; the economics, financing, and cost of health care; responsibility and accountability of physicians; assessing quality in health care; access to care for rural and underserved populations; and clinical, ethical, legal, and policy issues in managed care.

Educational activities in the program of law and medicine are based on prescribed learning objectives that convey to each student relevant faculty expectations. Learning objectives are contained in modules, which are the basic learning components of the curriculum. Modules are self-contained curriculum units, wherein faculty designate specific learning objectives, required and recommended learning activities, and the criteria for successful completion.

Presentation of legal medicine modules during Year 3 (the clinical clerkship year) familiarizes students with important legal principles at a time when these principles are particularly relevant to their clinical activities. Within the two-week Legal Medicine curricular segment, as previously described, approximately 50% of learning modules focus entirely, or in part, on issues arising at the interface of law and medicine. In addition to the modules that form part of this curricular segment, numerous additional modules focus on issues that are uniquely relevant to the medical specialties of internal medicine, obstetrics and gynecology, pediatrics, and psychiatry. These modules are integrated directly into the respective clinical clerkships.

- In the Internal Medicine Clerkship, a multidisciplinary module on domestic violence focuses on clinical, legal, and psychosocial considerations relating primarily to partner abuse.

- In the Obstetrics and Gynecology Clerkship, a learning module focuses on the legal aspects of abortion.
- In the Pediatrics Clerkship, a learning module focuses on the legal aspects of child abuse and neglect.
- And in the Psychiatry Clerkship, a learning module focuses on issues involving the following topics: civil commitment and patients' rights after involuntary hospitalization; concepts of insanity, competency, and testamentary capacity; confidentiality and privacy within the psychiatrist-patient relationship; and psychiatric malpractice, with emphasis on potential areas of liability, including the failure to warn third parties of a patient's dangerous propensities.

Thus throughout the clinical clerkship segment of the undergraduate curriculum, students participate in numerous required learning modules addressing important issues in legal medicine.

During Year Four, law and medicine teaching is included in the second two-week Legal Medicine curricular segment. Additionally, a diverse selection of electives is offered to students in the M.D. program who wish to further their knowledge in areas of legal medicine. Included among these electives are the following: STD & HIV/AIDS: Law and Ethics; Health Policy Issues for the 21st Century—eHealth, Public Health, and Beyond; Law and Bioethics; Legal and Policy Issues in Aging; Legal and Ethical Issues in Organ and Tissue Donation and Transplantation; Negotiation and Dispute Resolution in Health Care; Business Aspects of Medical Practice; and Studies in Law and Medicine.

Curriculum Detail

Titles and descriptions of the various required and elective learning experiences that form part of the program of law and medicine are detailed in the following sections.

Year One

Confidentiality: legal and ethical issues. As soon as medical students begin their studies, they face legal and ethical questions about protecting patient confidentiality and privacy. These questions will persist throughout their professional lives in one form or another. The purpose of this module is to give students a legal and ethical framework for thinking about whether to protect or breach confidentiality and privacy. The module focuses on dilemmas that participants face as students.

Year Two

Introduction to family violence. With increasing frequency, physicians are confronted with problems of family violence in the context of patient care. Accordingly, students should be familiar with the basic clinical, legal, ethical, and psychosocial issues that may arise in treating victims of child abuse, partner abuse, or elder abuse. This multidisciplinary learning experience provides students an opportunity to explore these issues in the context of lectures and small group, case-based discussions.

Year Three

Two-week Legal Medicine (doctoring) curricular segment

Legal perspectives on the physician-patient relationship: overview of sources of law. Various societal expectations pertaining to the clinical practice of medicine have been codified in law. Predominantly this codification takes the form of state and federal legislation, as well as applicable regulations of state and federal agencies. Common law principles, which are articulated by state and federal courts, also constitute an important source of law in this regard.

It is the purpose of this module to provide students with an overview of the sources and types of law that bear upon the physician-patient relationship. Certain illustrative Illinois statutes have been selected for discussion. In varying ways, each of these legislative enactments has an impact on the practice of medicine and the physician-patient relationship. Consideration of these statutes provides an excellent foundation for evaluating legal issues that arise in the context of clinical practice.

Standard of care: legal rights and responsibilities in the physician-patient relationship. The physician-patient relationship has at its core a set of rights and responsibilities attributable both to the physician and to the patient. These rights and duties establish the broad parameters of the relationship and are affected in various ways by established common law doctrines and pertinent statutory enactments. These bodies of law delineate the nature and scope of such concepts as medical malpractice, informed consent, physician-patient privilege, and privacy and confidentiality.

Because of the significance of these legal concepts in the context of the physician-patient relationship, it is essential to develop awareness of the specific meaning and applicability of these concepts and the legal bases on which they are founded. It is the purpose of this module to discuss the common law and statutory bases of medical malpractice against the background of specific clinical case illustrations in which medical malpractice may have occurred. Emphasis is placed on consideration of the standard of care in the context of health care delivery and the physician-patient relationship.

Informed consent in the physician-patient relationship. Within the physician-patient relationship there is a set of legal rights and responsibilities applicable to both physician and patient. These rights and responsibilities provide a framework for consideration of the

doctrine of informed consent. Under this legal doctrine, physicians are obligated to disclose to patients the nature of a proposed medical treatment or procedure, the anticipated benefits and material risks thereof, and any reasonably available alternatives. This disclosure obligation is evaluated based on application of principles of negligence and medical malpractice law, with emphasis on the standard of care.

It is the purpose of this module to discuss common law and statutory foundations for the legal doctrine of informed consent against the background of specific case illustrations that demonstrate applicability of this doctrine in clinical situations. Historical evolution of the informed consent doctrine also is traced with emphasis on medical ethics.

Confidentiality and privacy: ethical and legal considerations. Confidentiality within the physician-patient relationship facilitates full, frank, and candid disclosure of medical information from patient to treating physician. This is intended to permit the physician to reach an appropriate diagnosis and achieve a satisfactory clinical outcome. Because of the personal nature of confidential patient information, in most situations physicians are ethically and legally obligated to protect such information from improper disclosure. Moreover, a statutory privilege exists to ensure that, as a general rule, physicians are not required to disclose confidential information in certain courtroom situations.

It is the purpose of this module to discuss the common law and statutory predicates of the legal doctrines of confidentiality and privacy against the background of specific case illustrations that demonstrate applicability of these principles in clinical situations. Related ethical and philosophical considerations also are addressed.

Legal, ethical, and psychosocial aspects of withholding or withdrawing treatment.

Some physicians believe that they have an obligation to prolong life without regard to its quality or other considerations. CPR and ICU technologies have made it possible to prolong life in individuals who have little or no prospect of improving. Death is kept at bay as if death were always undesirable and the physician's enemy. As a result, patients have sometimes been forced to endure a prolonged process of dying or to live what they or others judge to be a meaningless existence.

The ethical, legal, and psychosocial issues associated with these behaviors are complex. The purpose of this module is to familiarize students with a variety of issues, including the following: Do physicians really have an obligation to prolong life under all circumstances? Is withholding or withdrawing life support killing? If it is proper to withhold or withdraw care in some circumstances, then who makes this decision? What criteria should be used to decide when medical care should be withheld or withdrawn? What mechanisms exist to insure that the previously expressed desires of incompetent patients, with respect to withholding or withdrawing life-sustaining treatment, may be acted on by health care providers?

Case studies in withholding or withdrawing treatment. This module focuses on the

practical clinical problems associated with managing cases of terminal illness. In particular, the module explores the professional attitudes and beliefs that contribute to difficulties surrounding terminal illness involving communicating and decision-making with patients, their surrogates, and other health professionals.

Assisted death: legal and ethical issues. The growing controversy over whether physicians should assist patients in dying raises difficult ethical and legal questions. The purpose of this module is to help students understand the concepts that are used to make ethical distinctions among the “options of last resort” practiced in the United States, how those distinctions are imbedded in law, and how the law in turn shapes the options available to terminally ill patients and their physicians.

Organ donation. During the last 40 years the science of organ transplantation has advanced rapidly. Concomitant advances in medical procedures and medical technology have rapidly increased the number of patients who are medically eligible to receive donated organs as well. In an effort to respond positively to this demand, state and federal laws have changed repeatedly. Each change and proposal for change has raised questions about the rights and responsibilities of individuals, their families, physicians, and other health care professionals in supplying organs for potential recipients.

Physicians, because of their close relationships with patients, are sometimes looked to as a source of information about organ donation. They also manage dying patients who will be organ donors. As such, they need to understand legal and ethical frameworks for organ donation.

Internal Medicine Clerkship (multidisciplinary learning module)

Domestic violence: interdisciplinary workshop. Legal Medicine faculty participate with Department of Internal Medicine faculty in the context of a domestic violence workshop, focusing primarily on spousal abuse. Clinical, legal, social, and psychosocial issues are explored in lectures, small group discussions, and simulated patient examinations that are observed and critiqued by faculty.

Obstetrics and Gynecology Clerkship (integrated learning module)

Legal aspects of abortion. Statutes regarding abortion, as well as U.S. constitutional law, have undergone considerable change in response to the social, philosophical, cultural, religious, and political issues that relate to abortion. The changes have become increasingly significant, and in the absence of a constitutional amendment, the relevant decisions of the U.S. Supreme Court, on their face and through resulting state statutes, affect the parameters of the physician-patient relationship.

It is the purpose of this module to familiarize students with certain important Supreme Court decisions relating to abortion. It is also the purpose of this module to acquaint

students with relevant Illinois laws that relate to abortion and to trace the development of these laws.

Pediatrics Clerkship (integrated learning module)

Legal aspects of child abuse and neglect. Although children have been victims of maltreatment throughout history, child abuse has become a major concern for our society. As a result of the rapidly increasing numbers of abused and neglected children, there is a significant likelihood that the practicing physician will be confronted with such children in a variety of contexts.

It is the purpose of this module to familiarize physicians with their statutory rights and responsibilities in the context of providing care and treatment to abused and neglected children. This module focuses on the State Abused and Neglected Child Reporting Act. Emphasis also is placed on significant provisions of the State Juvenile Court Act that pertain to cases of child abuse and neglect. In this regard, the role of the physician as a participant in juvenile court proceedings and how the physician can effectively carry out this role are examined and discussed. Finally, this module addresses the issue of civil liability, which may result from a physician's failure to report instances of child abuse and neglect.

Psychiatry Clerkship (integrated learning module)

Psychiatry and law. The impact of law on clinical psychiatry has become increasingly apparent. Judicial decisions, state and federal legislation, and administrative regulatory schemes affect day-to-day clinical decision-making across a broad range of psychiatric settings and patient populations.

It is the purpose of this module to familiarize the student with significant statutory and common law developments at the state and federal levels that impact the nature and delivery of psychiatric patient care. Primary emphasis is placed on legal issues that involve hospitalization of mentally ill patients, patients' rights, confidentiality and privilege, psychiatric negligence, insanity, and fitness to stand trial.

Year Four

Two-week Legal Medicine (doctoring) curricular segment

Overview of the judicial process. Because of the significant potential for physician involvement in litigation either as a witness on behalf of a patient, an expert witness, or a party to a lawsuit, it is important for the physician to possess a general knowledge of the judicial process. The purpose of this module is to provide a broad overview of the judicial process with emphasis on pretrial, trial, and post-trial procedures. This module also addresses the appellate court process and its relationship to trial court activities. Federal and state court activities and litigation also are compared.

The physician as expert witness. Throughout the course of an active medical practice, a physician is likely to become involved as an expert witness during the course of civil or criminal litigation. In the capacity of a medical expert, the physician may be asked to give testimony regarding the nature and cause of injuries suffered as a consequence of an automobile accident or employment-related mishap. The physician expert also may be called on to testify regarding the standard of care in a medical malpractice case or regarding medical facts that bear directly upon a criminal prosecution charging homicide or sexual assault.

In any of these situations it is important that the physician be aware of the precise role played by the medical expert and the manner in which the medical expert's responsibilities may best be fulfilled. The purpose of this module is to examine the physician's role as a medical expert witness in civil and criminal proceedings, placing focus on pretrial and trial involvement.

Forensic medicine: medical-legal investigation. Forensic medicine, broadly defined, has to do with an interaction between medicine and law and more specifically relates to medical problems that result in subsequent legal procedures. Forensic pathology is that branch of forensic medicine that involves the examination of deaths generally falling into the following categories: (1) physical injury; (2) chemical injury; and (3) unexpected "natural" death. The forensic pathologist is expected to aid in determining the cause of death, the mechanisms of death, and the manner of death.

Forensic pathology is conducted within the framework of a specific system created by state or local laws. The systems currently operating within the United States are the coroner's system and the medical examiner's system. Medical-legal investigation includes the circumstances of death, the postmortem examination, and a variety of laboratory procedures, including toxicology and trace analysis. Investigation of the circumstances of death is carried out by various law enforcement agencies along with representatives of the coroner's or medical examiner's offices. The postmortem examination is generally carried out by a pathologist; however, in some instances practicing physicians perform postmortem examinations. Laboratory procedures may be performed in the pathologist's laboratory (usually a hospital laboratory), a state toxicology laboratory, and the so-called crime laboratory.

There are three systems for handling medical-legal investigation. In some counties, a medical examiner's system is responsible for all branches of the medical-legal investigation. Some counties use the classic coroner's system. Some counties eliminate the coroner, and the county board appoints a "death investigator." The death investigator may be the local sheriff, a physician in the community, or some other citizen in the community.

The physician as expert witness—regulating the medical expert. Physicians make ideal expert witnesses: they are well-educated, well-respected members of society with superior knowledge of complex scientific issues. A physician expert witness who can present to the jury an articulate, plausible opinion as to why a particular chain of events led to a particular result can be a primary reason why a jury will come to a particular decision.

While most physician experts perform their roles admirably, there are concerns that some others, through inaccuracies or misrepresentations in their testimony, are contributing to the ever-rising costs of health care services and malpractice insurance, damaging the public's confidence in the medical profession, and occasionally leading to the destruction of personal and professional reputations.

This module explores what is being done to ensure that the physician who appears as an expert witness is a responsible participant in the administration of justice, as well as a practitioner who is promoting sound medicine.

Mock trial. The opportunity for the medical student to integrate substantive and procedural legal knowledge in the context of a clinical courtroom proceeding is an essential adjunct to a full and complete law and medicine learning experience. It is the purpose of this module to stage a mock trial presentation that offers a realistic forum for consideration of substantive and procedural law.

To ensure maximum reality, the mock trial takes place in a Court setting. A landmark case (e.g. *Darling v. Charleston Memorial Hospital*) is reenacted in an abridged fashion with emphasis on demonstrating the major aspects of a complete civil trial.

Introduction to the United States health care system. As a result of economic overhaul of the health care delivery system in the United States, it is important that students be provided with an overview of the United States health care system. Strengths and inadequacies of the current system are considered. Various modules incorporate certain legal issues in evaluating health care delivery from the perspectives of cost, quality, and access. These include the following: Introduction to the United States Health Care System; Financing Health Care; Managed Care—Physician and Hospital Services; Clinical Decision Making and Quality of Care—Contemporary Challenges; Access to Health Care—EMTALA; Mental Health Care: Cost, Quality, and Access; and Health Care Access and Availability for Vulnerable Populations.

Electives

AIDS: law and ethics. The purpose of this elective is to enable students to understand and think critically about the ethical and legal questions surrounding the AIDS epidemic. Those issues include but are not limited to testing, screening, reporting, partner

notification, quarantine, and drug development. Students engage in research that results in an oral presentation and written research paper.

Health policy issues for the 21st century—eHealth, public health, and beyond. The health care delivery landscape of the twenty-first century looks drastically different from that of a generation ago, and the regulators and legislators who oversee physicians and other service providers must promptly recognize the new terrain and find ways both to allow for continued innovation and to effectively address new public protection concerns as they arise.

In this elective, students examine the following issues: the use of the internet and computers in medicine; the law of public health, including responses to bioterrorism and issues concerning vaccination of children and the general public; and patients' rights, which may include discussions of managed care regulation, the uninsured, privacy and confidentiality in medicine, and direct-to-consumer advertising of pharmaceuticals and health services. A wide array of resources are used to help students scrutinize the legal, political, ethical, practical, and medical challenges arising within each of these subject areas. Students are afforded the option of examining health policy areas of personal interest in place of one or more of the above-listed topics. In addition, students are required to make an oral presentation on a related subject of their choice.

Law and bioethics. Students read and discuss significant legal cases on issues such as reproductive technologies, assisted suicide, organ transplantation, the right to refuse treatment, human subjects research, the definition of death, confidentiality, and informed consent. A two-page written analysis of a question related to a case is required for each session.

Legal and policy issues in aging. In the year 2011, the first members of the 76-million-strong baby boomer generation will turn 65. This will have enormous economic, social, and political consequences, and put even greater strain on the country's already unstable health care delivery system. This elective is designed to enable students to develop an understanding of policy and legal issues concerning the care and treatment of America's aged population. Issues addressed may include the role of managed care in Medicare and Medicaid, the impact of changes in use of home health, assisted living, and nursing home services, proposed and recently adopted changes to the Medicare system, and special circumstances affecting the rural elderly. During the course of the elective, students engage in research that results in an oral presentation and written research paper. Students also are responsible for completing assigned readings and participation in small group discussion.

Legal and ethical issues in organ and tissue donation and transplantation. The purpose of this elective is to enable students to understand and think critically about the

legal and ethical issues related to organ and tissue donation and transplantation. Topics include the following: gift vs. market paradigms; use of anencephalic fetuses, prisoners, minors, and non-heart-beating cadavers as sources of organs and tissue; rationing of scarce, life-saving medical resources; and cost-effectiveness analysis of transplantation. The Uniform Anatomical Gift Act, the End-Stage Renal Disease Amendments to the Social Security Act, the National Organ Transplant Act, statutory and proposed definitions of brain death, routine inquiry, and required request, and other statutes and proposals are analyzed.

Negotiation and dispute resolution in health care. Negotiation occurs daily at all levels of the health care industry—from discussing treatment options with patients and insurance companies to resolving intra-office conflicts to engineering multi-billion-dollar hospital mergers. Knowing how to effectively negotiate solutions to problems and disagreements is critical to a physician’s ability to practice successfully in today’s complex health care environment. This elective is designed to enable medical students to learn negotiation and dispute resolution techniques that can be used in medical and nonmedical settings. Students enrolled in this elective study the various forms of dispute resolution available outside the courtroom setting. Through assigned readings and role-playing exercises, students learn techniques that will enable them to resolve conflicts by identifying and building upon mutual interests.

Studies in law and medicine. This elective enables students to develop the ability to analyze medical decisions from a legal viewpoint. It involves review of case law relating to health care delivery, the physician-patient relationship, and the physician’s role in the administration of justice. The elective emphasizes a sophisticated analysis of national case law and a comparison of issues raised in previous medical humanities rotations.

Lectures and Seminars. Students attend lectures and seminars provided by various faculty, including attorneys from state agencies and professional organizations, representing the interests of health care providers. Students also examine medical-legal issues that are of specific interest to them.

M.D./J.D. Dual Degree Program

Southern Illinois University Schools of Medicine and Law

Program Overview

Recognizing the heightened level of interaction between the professions of law and medicine in today's society, Southern Illinois University Schools of Medicine and Law offer an M.D./J.D. dual degree program to accommodate the increasing number of individuals seeking a carefully structured interdisciplinary education. The dual degree program is designed to lead to the concurrent award of degrees in law and medicine at the completion of a six-year program involving academic and clinical study.

Curriculum Design and Program Content

The SIU program requires students to spend their first year at the School of Law in Carbondale, where they complete 31 credit hours of prescribed first-year course work. Students then enroll in the law school summer session and complete 6 credit hours of advanced course work, as well as a 1-hour legal research course offered during the summer intersession.

During the second academic year, students continue as full-time law students in Carbondale, completing an additional 32 credit hours of course work with concentration in health law. Enrollment in a second summer session is required, during which students complete 6 credit hours of course work. This session may include legal research and clinical experience at state or federal agencies or private not-for-profit organizations involved in health policy development, regulation of public health, or the activities of the medical profession.

Students spend their third academic year enrolled as first-year students in the School of Medicine at Carbondale, where they complete all requirements of Year One of the medical school curriculum. Students then move to Springfield, where they continue as full-time medical students, completing Years Two and Three of the curriculum.

During Year Four of medical school, students are required to take a specially designed set of law, medicine, and health policy electives lasting 14 weeks full-time. In completing degree requirements for both the M.D. and J.D. degrees, this 14-week elective sequence fulfills 14 credit hours of course work required for attainment of the J.D. degree and 14 weeks of elective course work required for attainment of the M.D. degree.

M.D./J.D. Elective Sequence

Eighteen weeks of electives are available to M.D./J.D. program students, from which they must select and participate in at least 14 weeks full-time. Descriptions of these electives are detailed here.

Forensic psychiatry subinternship

This elective provides a focused clinical experience in forensic psychiatry that builds on and enhances the basic clinical experience provided in the psychiatry clerkship. Emphasis is placed on clinical interaction with forensic patients and inpatients who have been involuntarily hospitalized under the provisions of the Illinois Mental Health and Developmental Disabilities Code. Students act as subinterns at the Chester Mental Health Center (Chester).

Supervision is provided by designated attending forensic psychiatrists at Chester and consists of daily oral review of diagnosis, treatment, and management plans and individual supervisory sessions reviewing all aspects of patient care, with emphasis on forensic considerations and medical-legal interventions.

Activities and experiences include daily rounds, psychiatric evaluation and management of assigned patients, daily written progress notes and orders, and preparation of forensic reports based on psychiatric assessments of patients involved in criminal proceedings regarding their sanity and fitness to stand trial. Students also participate in treatment interventions with medical-legal ramifications, such as involuntary treatment, restraint, and seclusion.

Health policy formulation: the legislative and regulatory processes in Illinois

This elective is designed to enable students to develop an understanding of health policy formulation in Illinois; emphasis is on the nature and scope of both the legislative and regulatory processes. Students are involved in reviewing proposed legislation and regulations having an impact on the development of health policy and the practice of medicine in Illinois. Students interact with the Illinois General Assembly with an objective of obtaining insights into the legislative process. In situations where interest groups are attempting to influence legislation affecting health policy, students interact with members of these groups to explore and evaluate their views.

Learning experiences also include interaction with regulatory personnel at state agencies having jurisdiction over medical practice, health care delivery, public health, and health welfare programs. Students are afforded the opportunity to evaluate proposed regulations and to examine the assessment by the Joint Committee on Administrative Rules.

During the elective, students undertake sophisticated analysis of proposed health laws and regulations. Students also attend seminars, lectures, and tutorials with state agency regulatory personnel, general assembly members and staff, and teaching faculty. In addition, students are responsible for completing assigned readings describing the legislative and regulatory processes in Illinois.

History of medical jurisprudence in American medical education

This elective provides students with an overview of the development of medical jurisprudence as a special area for scholarly inquiry. Emphasis is placed on the early history of medical jurisprudence teaching in nineteenth-century U.S. medical schools, but important European influences are also explored. Students trace the evolution of medical jurisprudence as a subject of study in medical schools from its era of central importance in the early 1800s to the resurgence of interest in law and medicine in contemporary curricula.

In exploring the history of medical jurisprudence, students pay particular attention to classic areas of medicolegal overlap, including medicine's role in assisting with legal definitions of paternity and insanity. The role of physicians as expert witnesses is discussed, and the history of toxicology as a forensic tool is explored. Attention also is paid to the development of a number of related legal issues as they have informed the curricula of American medical schools, particularly the emergence of malpractice as the central concern of medicolegal study.

Hospital and health care organizations: current legal issues

This elective is intended to provide students with an overview of legal issues that bear upon the structure, organization, and operation of health care organizations. By attending seminars, students will gain insights into predominant aspects of the administration, management, and operation of health systems and associations. Additional learning activities focus on legal issues that form part of the policy agenda of the Illinois Hospital and Health Systems Association.

Issues in mental disability law

This elective provides the student with an opportunity to undertake in-depth scholarly study of some of the critical legal issues involving persons with mental disabilities.

There is a general overview of mental disability law and a review of some of the major cases affecting mental health services. The elective focuses on the following three issues: (1) the role of the psychiatrist in the implementation of the death penalty, such as participation in the insanity defense, competency to stand trial, and testimony concerning

fitness to be executed; (2) the effect of the major “patient’s rights” lawsuits on the quality of state mental health services, the impact of landmark court decisions on improving institutional conditions, and Supreme Court case law that sets a standard for violation of constitutional rights in institutions; and (3) the development and implementation of the right to refuse psychotropic medication in Illinois and other states, with emphasis on major cases defining such a right and studies on the impact of such a right on the delivery of mental health services.

Each issue is examined with emphasis on the interaction between law and psychiatry. Death penalty cases involve a potential moral dilemma of a psychiatrist asked to perform an evaluation and thereby become part of a legal process he or she may find objectionable. The institutional quality cases reflect the effect of law on public policy both on the state bureaucracy and the daily treatment and living conditions of the patients. The right to refuse cases are the paradigm of a conflict between the “medical model” and the “rights model” in mental health service delivery.

Medical-legal investigation: advanced studies in forensic pathology

This elective provides students with an in-depth understanding of the systems for medical-legal investigation. The role of forensic pathology in the context of medical-legal investigation is carefully explored. Student learning activities and experiences may include participation in and attendance at activities such as coroner’s inquests, crime scene and laboratory investigations, postmortem examinations, criminal trial proceedings, and off-site visits to facilities that support medical-legal investigations (e.g., polygraph testing facilities and toxicology laboratories) or facilities where investigations may occur (e.g., investigations of death in prisons, jails, and mental health facilities).

During the course of the elective, students are responsible for completing various assigned readings focusing on topics in forensic pathology, maintaining a daily record of activities, and preparing a 1-hour formal oral presentation using photographs, graphics, and an annotated bibliography.

Regulation of the medical profession: current legal and policy issues

This elective provides students with the opportunity to examine some of the key policy and legal issues confronted by state medical licensing boards in the context of regulating the medical profession. The role of the professional regulatory board in the context of the modern health care delivery system will be examined in depth. Discussion will focus on issues such as the role of licensing boards in managed care, prescribing practices and privileges, the impact of technology on physician oversight, and the changing supervisory

role of physicians over allied health professionals. A seminar/ tutorial teaching format is used, with emphasis on student research and class discussion.

Studies in medical-legal aspects of obstetrics and gynecology

This elective is intended to provide students with an overview of medical-legal issues that have arisen in the context of clinical obstetrics and gynecology, with additional consideration of relevant research-related medical-legal issues. A seminar and tutorial teaching format is used, with emphasis on student research and group discussion.

Students are expected to read and evaluate assigned cases, focusing on important constitutional and common law issues involving such topics as abortion, maternal-fetal conflict, artificial human reproduction, the rights of newborns (including anencephalic infants), and other assigned topics. Relevant statutory law also is considered and discussed. Student activities include attendance at lectures, participation in interactive seminar discussions, and oral presentation of assigned research.

Introduction to Health Law

Boston University School of Medicine

George J. Annas, J.D., M.P.H.

Leonard H. Glantz, J.D.

Wendy K. Mariner, J.D., LL.M., M.P.H.

Michael A. Grodin, M.D.

Legal Medicine and Health Law Education

- Introduction to the American
- Medical malpractice
- Informed consent
- Confidentiality
- Death and organ
- Treatment of the dying
- *HTLV*, Human T cell leukemia/lymphoma virus; *HIV*, human immunodeficiency virus.

Human Rights and Health

Boston University School of Public Health

Michael A. Grodin, M.D.

George J. Annas, J.D., M.P.H.

Course Description

Human health is closely linked to the realization of human rights. Preventable illness, infant mortality, and premature death, for example, are closely tied to violation of human rights. This course explores the relationship between human rights and health by examining relevant international declarations in historical context, exploring the meaning of “human rights” and “health,” and analyzing specific case studies that illuminate the problems, prospects, and potential methods of promoting health by promoting human rights on the national and international levels.

Goals and objectives

By the end of this course the student will:

1. Understand the relationship between human rights and health.
2. Be familiar with the Universal Declaration of Human Rights and the International Conventions on Human Rights.
3. Understand the history, role, and function of non-governmental organizations (NGOs) in addressing human rights problems.
4. Be able to determine when human rights have been violated, and be able to suggest strategies to protect and promote human rights.

Students

This course will be of special interest to the non-U.S. students (who are exempt from the introductory U.S.-focused Health Law courses) as well as U.S. students interested in international health, international law, and human rights.

Course texts

- Wiesel, E. *Night* (New York: Bantam, 1982) ISBN 0553272535 (pbk.)
- Steiner, H.J. & Alston, P. *International Human Rights in Context: Law, Politics, Morals*, 2d ed. (New York: Oxford University Press, 1996) ISBN 0-19-829849-8 (pbk.)
- Mann, J., Gruskin, S., Grodin, M. & Annas, G. *Health and Human Rights: A Reader* (New York: Routledge, 1999) ISBN 0-415-92102-3 (pbk.)

Requirements

A 20-page research paper (80% of final grade) addressing a specific problem in the area of human rights and health. The topic, outline, and bibliography must be submitted and discussed with faculty prior to writing the final paper. The paper will be written in two parts.

Part I:

- define the nature, scope and context of a human rights and health problem;
- describe the impediments to addressing the problem.

Part II:

- prepare a detailed proposed policy agenda for problem resolution which includes identifying foes and allies, funding considerations, implementation strategies, and mechanisms for review of plan efficacy.

Students will also give a brief oral presentation of their proposals to the class (10% of final grade). Class participation, preparation of the readings, and quizzes will also be considered in the final grade (10% of final grade).

Course Outline

Preassignment

Wiesel

- Entire book

Reader (Pp. 281-335)

- The Nuremberg Doctors' Trial
- Medicine and Human Rights: Reflections on the Fiftieth Anniversary of the Doctors' Trial
- Questing for Grails: Duplicity, Betrayal, and Self-Deception in Postmodern Medical Research

Class One: Health and Human Rights in the Shadow of the Holocaust; Introduction to Health and Human Rights; the Link Between Health Status, Vulnerability and Rights

Steiner & Alston

- Pp. 1-17—Introduction to Human Rights Issues and Discourse (Global Snapshots)
- Skim pp. 18-55—Introduction to Human Rights Issues and Discourse (From Death Row to Execution: The Global Framework for Contemporary Human Rights Discourse)

Reader (Pp. 1-71)

- Introduction
- Human Rights and Public Health
- The Impact of Health Policies and Programs on Human Rights

Class Two: Human Rights Instruments and Documents: The International Bill of Human Rights

Steiner & Alston

- Pp. 56-135—Up to Nuremberg: Background to the Human Rights Movement
- Pp. 1365-1401—Charter of the United Nations; Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; Protocols to the International

Covenant on Civil and Political Rights; International Covenant on Economic, Social, and Cultural Rights

Reader (Pp. 480-481)

- List of documents

Class Three: Mechanisms of Enforcement and Reporting

Steiner & Alston

- Pp. 137-158, 180-186, 220-222, 224-236—Civil and Political Rights
- Pp. 237-319—Economic and Social Rights
- Pp. 592-604, 612-615, 619-623, 641-643, 694-698—Intergovernmental Enforcement of Human Right Norms: The United Nations System
- Pp. 1192-1198—The International Criminal Court

Class Four: Human Rights in Public Health Practice—Universality vs. Cultural and Ethical Relativism (Case Study: Female Genital Mutilation, Family Planning)

Steiner & Alston

- Pp. 323-324, 341 (note), 366-368—Rights, Duties, and Cultural Relativism
- Pp. 403-428—Conflicting Traditions and Rights: Illustrations

Reader (Pp. 336-372)

- Irreversible Error: The Power and Prejudice of Female Genital Mutilation

Class Five: Non-Governmental Organizations, Epidemiology Case Study: Amnesty International, Physicians for Human Rights, Global Lawyers and Physicians

Steiner & Alston

- Pp. 936-955, 965-967, 976-983—Civil Society: Human Rights NGOs and Other Groups

Reader (Pp. 397-438)

- How to Proceed from Concept to Action

Class Six: AIDS and TB Policy and Research and Its Relation to Human Rights—Discrimination, Immigration, and Stigmatization (Case Study: AIDS in Africa—Treatment and/or Prevention)

Steiner & Alston

- Pp. 705-714—Treaty Organizations: The ICCPR Human Rights Committee
- Pp. 814-835—Regional Arrangements (Cases)
- Pp. 987-1005—Interpretation of International and National Systems: Internal Protection of Human Rights by States

Reader (Pp. 202-226, 373-394)

- Interrelationship Between Gender Relations and the HIV/AIDS Epidemic: Some Possible Considerations for Policies and Programs
- Human Rights and AIDS: The Future of the Pandemic
- Human Rights and Maternal-Fetal HIV Transmission Prevention Trials in Africa
- Human Rights and Human Genomic Variation Research

UN Millennium Statement

Class Seven: Human Rights in Extremis, Humanitarian Law, Geneva Convention—Physician Involvement in Human Rights Violations—Armed Conflict and Torture (Case Study: Boston Center for Refugee Health and Human Rights) (Part One of paper due)

Reader (Pp. 75-112)

- Health Impacts Resulting from Violations of Human Rights

Handouts—Boston Center for Refugee Health and Human Rights

Class Eight: International Criminal Court and Criminal Tribunals for the Former Yugoslavia and Rwanda

Steiner & Alston

- Pp. 1131-1195—Massive Human Rights Tragedies: Prosecutions and Truth Commissions

Class Nine: Economics and Human Rights—Development, Economic Social and Cultural Rights, Sanctions, Multinational Corporations, World Bank, IMP, Structural Adjustment, Debt Relief

Steiner & Alston

- Pp. 1306-1361—Globalization, Development, and Human Rights
- Pp. 1079-1081—Craig Scott, Multinational Enterprises and Emergent Jurisprudence on Violations of Economic, Social, and Cultural Rights
- Pp. 1109-1115—Case Study: Most Favored Nation Treatment and the People's Republic of China

Class Ten: Families, Women, and Children and Human Rights—Problems of Gender Discrimination, Empowerment of Women, Children and Population Control, CRC, CEDAW, Cairo, Beijing

Steiner & Alston

- Pp. 158-224—Women's Rights and CEDAW
- Pp. 511-533—Children
- Pp. 972-976—NGOs in the United Nations Setting
- Pp. 1402-1419—Convention on the Elimination of All Forms of Discrimination Against Women

Reader (Pp. 253-280)

- Gender, Health, and Human Rights

- Health, Human Rights, and Lesbian Existence

Class Eleven: Oral Presentations and Discussion of Individual Papers

Class Twelve: Right to Health—General Comment 14, Iowa Declaration on the Right to Health

Readings to be handed out in class

Class Thirteen: Future of Health and Human Rights, Human Rights Advocacy; Lobbying; Use of the Media

Reader (Pp. 439-450)

- Medicine and Public Health, Ethics and Human Rights

Class Fourteen: Course Review (final paper due)

Paper Topic Areas in Human Rights and Health

General topic areas

Sexual rights and health in [country or region]

Refugees and internally displaced people in [country]

Mental health and human rights in [country]

Environment, health, and human rights [focusing on specific environmental problem]

Universalism and cultural relativism [in specific context]

HIV/AIDS: new frontiers in prevention

Health professionals and the legacy of Nuremberg: where should we go from here?

Complex humanitarian emergencies: lessons from past failures (e.g. Somalia)

Homelessness: is it a human rights issue?

Women's health and human rights in [country]

Child labor: necessary evil for economic development?

Paper topics from past years

Truth-telling and patients' rights in Japan: the case of HIV
Child prostitution in Brazil
Rape as a war crime in Bosnia
Persecution of Coptic Christians in Egypt
Palestinian human rights in the West Bank
Economic sanctions in South Africa
Needle exchange program in Anchorage, Alaska
Group consent human genome diversity project
Child soldiers: the role of children in armed conflict
Trafficking: sale of women/children into forced prostitution in Thailand—effects on health
Corporal punishment in U.S. schools
Mandatory HIV testing of infants and women's rights
Dowry-related crimes in India
Canadian Red Cross tainted blood scandal
The Ogoni situation in Nigeria
HIV vaccine in developing countries
Routine episiotomy as violation of women's human rights
TB in developing countries in a context of human rights and health
Human rights: a new basis for public health?
Guatemalan human rights abuses: the 1996 Peace Accord
Environmental protection and disease prevention
Physicians' role in torture in Turkey
Human rights violation in orphanages in China
Capital punishment in U.S. death row inmates: human rights violations
Torture and the medical profession in Chile
Female genital mutilation in Egypt
Enforcing the Biological Weapons Convention
Environmental degradation as a human rights violation
HIV clinical trials in Africa
Involuntary sterilization

Women, reproductive rights, and pregnancy discrimination in Mexico
Disability rights in China
Effectiveness of the Truth Commission and human rights in El Salvador
Human rights of the elderly: a new convention on human rights
The media campaign to abolish the death penalty
Native American land claims
Embargos including food and medicine as a political weapon
Human rights and China's orphan policy
Genocide and unaccompanied children in Rwanda
Chernobyl: environmental contamination from nuclear power plants
The Taliban's rule over women
Human rights: political asylum seekers and victims of torture
The problem of early marriage within a health and human rights framework
HIV/AIDS vaccine clinical trials
Human rights of the mentally ill