

## **Challenges in Healthcare Law, Policy and Ethics**

**MANA 7342**

Version 1.0

Edward J. Kroger, MD, JD, MBA

[ejkroger@uh.edu](mailto:ejkroger@uh.edu)

### **Course Objectives**

1. Appreciate the extent of health legislation and health policy and the influence they have in shaping the healthcare industry.
2. Apply a basic understanding of health law to scenarios routinely encountered in healthcare.
3. Appreciate how economic and equity arguments shape healthcare policy debates.

### **Course Description**

The healthcare system in the United States is unique in that it is the most heavily regulated industry in the world. Laws and regulations define or shape every healthcare financial exchange, institutional action, professional decision, marketing approach, professional relationship, patient encounter, treatment decision, drug and medical device.

The healthcare industry has developed from a decades-long, intense national debate weighing a market economy versus the government's role in ensuring fairness and equality for its citizens. Healthcare policy decisions usually involve a less than perfect compromise between important philosophical positions, stakeholder power and respect for market economy efficiencies.

This course will evaluate the breadth of the United States healthcare legal system and explore the many policy issues which will shape the industry in years to come. No prior healthcare knowledge is assumed or required. The course should be of interest to anyone interested in the healthcare industry and to those more broadly interested in the intersection of law, policy and business in the United States.

## **Required Textbooks**

Contemporary Issues in Healthcare Law & Ethics, 4<sup>th</sup> Edition, Dean M. Harris.

Health Policy Issues, An Economic Perspective, 7<sup>th</sup> Edition, Paul J Feldstein.

## **Course Structure**

Our class will meet for fourteen weeks on Thursday evenings. Check the Sessions section below to make sure you are prepared for online discussions, and to make sure that all assignments are turned in timely.

## **Grading**

The final grade for this class depends on three components. We will rotate groups during the course to allow you to work with different classmates.

### **1. Weekly Applied Law Problem – 50% of Grade**

Group Project. There will be twelve assignments in which you will apply the week's legal topic to a real-world healthcare problem. The assignments will follow the List of Activities in the Harris textbook. These assignments will be due prior to each week's online meeting.

Please complete each law assignment, maximum two pages, double spaced, using Times New Roman 11 font, and submit as a pdf. Include the title of the homework, your name, and your student ID number at the top of the page. You do not need to repeat the questions asked. Please see the schedule for Homework due dates.

### **2. Weekly Healthcare Policy Questions – 50% of Grade**

Group Project. Each week, you will be responsible for answering questions based on the healthcare policy readings for the week. These assignments will be due prior to each week's online meeting.

Please complete each policy assignment, maximum three pages, double spaced, using Times New Roman 11 font, and submit as a pdf. Include the title of the homework, your names, and your student ID numbers at the top of the page. You do not need to repeat the questions asked. Please see the schedule for Homework due dates.

### **3. Class Participation – Bonus**

I will use participation during our weekly sessions as a potential curve. Please note that I will frequently call on you for your input or opinions, so be prepared. Please review Appendix A for details.

## **Excused Absence Policy**

Regular class attendance, participation, and engagement in coursework are important contributors to student success. Absences may be excused as provided in the University of Houston Graduate Excused Absence Policy for reasons including: medical illness of student or close relative, death of a close family member, legal or government proceeding that a student is obligated to attend, recognized professional and

educational activities where the student is presenting, and University-sponsored activity or athletic competition. Additional policies address absences related to military service, religious holy days, pregnancy and related conditions, and disability.

### **Recording of Class**

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Center for Students with Disabilities. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

### **Syllabus Changes**

Please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible.

### **Resources for Online Learning**

The University of Houston is committed to student success, and provides information to optimize the online learning experience through our Power-On website. Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, and Blackboard; requesting a laptop through the Laptop Loaner Program; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact [UHonline@uh.edu](mailto:UHonline@uh.edu).

### **UH Email**

Email communications related to this course will be sent to your Exchange email account which each University of Houston student receives. The Exchange mail server can be accessed via Outlook, which provides a single location for organizing and managing day-to-day information, from email and calendars to contacts and task lists. Exchange email accounts can be accessed by logging into Office 365 with your CougarNet credentials or through Access UH. They can also be configured on IOS and Android mobile devices. Additional assistance can be found at the Get Help page.

### **Webcams**

Access to a webcam is required for students participating remotely in this course. Webcams must be turned on (video unmuted) during all live course meetings to enable our discussions.

### **Honor Code Statement**

Students must abide by an honor code as part of their submission of any graded work including but not limited to projects, quizzes, and exams: "I understand and agree to abide by the provisions in the Houston

Graduate Academic Honesty Policy. I understand that academic honesty is taken very seriously and, in the cases of violations, penalties may include suspension or expulsion from the University of Houston."

### **Synchronous Online Courses**

This course is being offered in the synchronous online format. Synchronous online class meetings will take place according to the class schedule. In between synchronous class meetings, there may also be asynchronous activities to complete (e.g., discussion forums and assignments). An alternative assessment will be used in the place of the traditional final exam at the course conclusion. Instructions will be provided, including the date and time that the assessment materials will be released to the class and will be due, resources and collaborations that are allowed and disallowed in the process of completing the assessment, procedures to follow if connectivity or other resource obstacles are encountered during the assessment period, acceptable submission formats, and submission location.

### **Helpful Information**

COVID-19 Updates: <https://uh.edu/covid-19/>

Coogs Care: <https://www.uh.edu/dsaes/coogscare/>

Laptop Checkout Requests: <https://www.uh.edu/infotech/about/planning/off-campus/index.php#do-you-need-a-laptop>

Health FAQs: <https://uh.edu/covid-19/faq/health-wellness-prevention-faqs/>

Student Health Center: <https://uh.edu/class/english/lcc/current-students/student-health-center/index.php>

### **Professor Evaluation**

The C.T. Bauer College of Business has a policy for its instructors to be evaluated by students to provide feedback on how their teaching performance can be improved. I strongly encourage you to participate in the evaluation process. I am available throughout the course to receive any informal input. I rely on your input to improve the class each time I teach it.

### **Disability-Based Accommodations**

The C.T. Bauer College of Business would like to help students who have disabilities achieve their highest potential. To this end, students must register with the Center for Students with Disabilities (CSD) (Telephone 713-743-5400) It is the mission of the Disability Resource Center (DRC) to be committed to providing access to the educational environment for students. Students who may need accommodations should contact the DRC to discuss their needs and begin the registration process.

## Sessions

### WEEK ONE INTRODUCTION TO LAW, POLICY AND ETHICS

#### Readings

##### Harris

1. Using the Law to Promote Our Policy Goals and Ethical Principles
2. The American Legal System
3. How to Conduct Legal Research

##### Feldstein

1. The Rise of Medical Expenditures
2. How Much Should We Spend on Medical Care?
3. Do More Medical Expenditures Produce Better Health?

#### Assignments Due

None

#### Class

Introduction to Course

Lecture

Discussion of Readings

### WEEK TWO GOVERNMENT REGULATION

#### Readings

##### Harris

5. Government Regulation of Public Health and Healthcare Services  
CON for Open-Heart Surgery

##### Feldstein

4. In Whose Interest Does the Physician Act?
5. Rationing Medical Services

#### Assignments

CON for Open-Heart Surgery

#### Class

Lecture

Discussion of Readings

WEEK THREE  
TORT LIABILITY

Readings

Harris

10. The Law of Tort Liability

John Parker

Feldstein

6. How Much Health Insurance Should Everyone Have?

7. Why are Those Who Most Need Health Insurance Least Able to Buy it?

Assignments

John Parker

Class

Lecture

Discussion of Readings

WEEK FOUR  
OBLIGATION TO PROVIDE CARE

Readings

Harris

11. Legal and Ethical Obligations to Provide Care

Joan Grant

Feldstein

8. Medicare

9. Medicaid

10. How Does Medicare Pay Physicians?

Assignments

Joan Grant

Class

Lecture

Discussion of Readings

WEEK FIVE  
STRUCTURE OF HEALTHCARE ORGANIZATIONS

Readings

Harris

4. The Legal Structure and Governance of Healthcare Organizations  
    Alternatives for Developing a Hospital

Feldstein

11. The Impending Shortage of Physicians
12. Why Is Getting into Medical School so Difficult?
13. The Changing Practice of Medicine

Assignments

Alternatives for Developing a Hospital

Class

Lecture

Discussion of Readings

WEEK SIX  
PHYSICIAN AND OTHER EMPLOYMENT

Readings

Harris

7. Medical Staff Membership and Clinical Privileges  
    Dr. Michael Henry

Feldstein

14. Physician Malpractice Reform
15. Do Nonprofit Hospitals Behave Differently from For-Profit Hospitals?
16. Competition Among Hospitals: Does It Raise or Lower Costs?

Assignments

Dr. Michael Henry

Class

Lecture

Discussion of Readings

WEEK SEVEN  
ANTITRUST

Readings

Harris

9. Antitrust Law in Healthcare  
North Florida Women's Center

Feldstein

17. The Future Role of Hospitals  
18. Cost Shifting  
19. Can Price Controls Limit Medical Expenditure Increases?

Assignments

North Florida Women's Center

Class

Lecture

Discussion of Readings

WEEK EIGHT  
MEDICARE AND MEDICAID

Readings

Harris

8. The Law of Government Payment Programs: Medicare, Medicaid and Fraud and Abuse  
The Fraud and Abuse Waiver for ACO Patient Incentives

Feldstein

20. The Evolution of Managed Care  
21. Has Competition Been Tried—and Has it Failed— To Improve the US Healthcare System?  
22. Comparative Effectiveness Research

Assignments

Class

Lecture

Discussion of Readings

WEEK NINE  
FRAUD AND ABUSE

Readings

Harris

8. The Law of Government Payment Programs: Medicare, Medicaid and Fraud and Abuse



## The Fraud and Abuse Waiver for ACO Patient Incentives

Feldstein

23. Who Bears the Cost of Employee Health Benefits?

24. Will a Shortage of Registered Nurses Reoccur?

Assignments

The Fraud and Abuse Waiver for ACO Patient Incentives

Class

Lecture

Discussion of Readings

## WEEK TEN COST CONTAINMENT

Readings

Harris

14. Legal Issues in Health Cost Containment

Albert Crenshaw

Feldstein

25. The High Price of Prescription Drugs

26. Ensuring Safety and Efficacy of New Drugs: Too Much of a Good Thing?

27. Why are Prescription Drugs Less Expensive Overseas?

Assignments

Albert Crenshaw

Class

Lecture

Discussion of Readings

## WEEK ELEVEN HEALTH REFORM

Readings

Harris

15. Legal Issues in Health Insurance and Health Reform

Waivers for State Innovation

Feldstein

28. The Pharmaceutical Industry: a Public Policy Dilemma

29. Should Kidneys and Other Organs Be Bought and Sold?

30. Should Profits in Healthcare be Prohibited?

Assignments  
Waiver for State Innovation

Class  
Lecture  
Discussion of Readings

WEEK TWELVE  
HEALTHCARE INFORMATION

Readings  
Harris  
6. Protecting the Privacy of Medical Information  
Hilltop Memorial Hospital

Feldstein  
31. The Role of Government in Medical Care  
32. Health Associations and the Political Marketplace  
33. Medical Research, Medical Education, Alcohol Consumption, and Pollution: Who Should Pay?

Assignments  
Hilltop Memorial Hospital

Class  
Lecture  
Discussion of Readings

WEEK THIRTEEN  
BIRTH

Readings  
Harris  
13. Reproductive Health  
State Abortion Statute

Feldstein  
34. The Canadian Healthcare System  
35. Employer-Mandated National Health Insurance  
36. National Health Insurance: Which Approach and Why?

Assignments  
State Abortion Statute

Class

Lecture  
Discussion of Readings

WEEK FOURTEEN  
DEATH

Readings

Harris

12. Legal and Ethical Issues in Termination or Refusal of Care and Physician-Assisted Suicide  
Cases on Termination of Treatment

Feldstein

37. Financing Long-Term Care

38. The Affordable Care Act: Did it Achieve its Goals?

Assignments

Cases on Termination of Treatment

Class

Lecture

Discussion of Readings

## Appendix A

### Live Session Expectations

**PLEASE BE PREPARED TO BE CALLED ON DURING CLASS – IT IS EXPECTED THAT YOU HAVE READ AND ARE FAMILIAR WITH ASSIGNED READINGS AND CASES**

#### **High/Above-Average Contributions Assessment Criteria:**

1. Contributions reflect thorough or exceptional preparation.
2. Ideas offered are usually or always substantive, provide one or more significant insights and provide above average or highly productive direction for discussion among classmates.
3. Challenges to the ideas of others, including authors of assigned readings, are well-substantiated and often or always presented persuasively.
4. If this person were not present in our class sessions, the quality of discussion would be diminished markedly.

#### **Medium/Average Contributions Assessment Criteria:**

1. Contributions reflect satisfactory preparation.
2. Ideas offered are sometimes substantive, provide generally useful insights but seldom offer new and substantive direction for discussion among fellow classmates.
3. Challenges to the ideas of others, including authors of assigned readings, are sometimes well-substantiated and sometimes presented persuasively.
4. If this person were not present in our class sessions, the quality of discussion would be diminished.

#### **Low/Below-Ave Contributions Assessment Criteria:**

1. Contributions reflect inadequate preparation.
2. Ideas offered are seldom substantive, provide few, if any, insights and, at times, take the classroom discussion in an unproductive, insightful direction.
3. Integrative comments and effective challenges are rare or absent.
4. If this person were not present in our class sessions, the quality of discussion would not be changed or might improve.