

Challenges in Healthcare Law, Policy and Ethics

MANA 7342

Version 2.0

Edward J. Kroger, MD, JD, MBA

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 the benefits of 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, 4th Edition, Dean M. Harris.

Health Policy Issues, An Economic Perspective, 7th 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

Individual 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 four 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.

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 two pages per question (e.g., so if four questions for the week, four pages), double spaced, using Times New Roman 11 font, and submit as a pdf. It is acceptable for your answers to be in outline/bullet point format. 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.

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.

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/fag/health-wellness-prevention-fags/>

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

Individual: CON for Open-Heart Surgery
Feldstein: Chap 4, Q1, 2, 5
Chap 5, Q1

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

Individual: John Parker
Feldstein: Chap 6, Q5,6
Chap 7, Q5,6

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

Individual: Joan Grant
Feldstein: Chap 8, Q5
Chap 9, Q2, 5
Chap 10, Q1,4

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

- Individual: Alternatives for Developing a Hospital
- Feldstein: Chap 11, Q5
- Chap 12, Q1,5
- Chap 13, Q6

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

- Individual: Dr. Michael Henry
- Feldstein: Chap 14, Q1, 2, 3
- Chap 15, Q5
- Chap 16, Q5

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

- Individual: North Florida Women's Center
- Feldstein: Chap 17, Q5
Chap 18, Q3
Chap 19, Q4

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

- Individual: None
- Feldstein: Chap 20, Q1,6
Chap 21, Q3,6
Chap 22, Q4,5

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

- Individual: The Fraud and Abuse Waiver for ACO Patient Incentives
Feldstein: Chap 23, Q5
Chap 24, Q2,5

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

- Individual: Albert Crenshaw
Feldstein: Chap 25, Q1
Chap 26, Q2
Chap 27, Q3,4

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

- Individual: Waivers for State Innovation
Feldstein: Chap 28, Q1,5
Chap 29, Q1
Chap 30, Q3,4

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

- Individual: Hilltop Memorial Hospital
Feldstein: Chap 31, Q6,7
Chap 32, Q5
Chap 33, Q4

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

- Individual: State Abortion Statute
- Feldstein: Chap 34, Q1
Chap 35, Q1
Chap 36, Q4

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

- Individual: Cases on Termination of Treatment
- Feldstein: Chap 37, Q1,2
Chap 38, Q1,6

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.