

SAN DIEGO STATE UNIVERSITY
College of Health and Human Services
Graduate School of Public Health

Public Health Law & Ethics (PH 670)

Professor Bryan A. Liang, MD, PhD, JD

Executive Director and Professor of Law Institute of Health Law Studies California Western School of Law	Co-Director and Associate Professor of Anesthesiology San Diego Center for Patient Safety University of California, San Diego School of Medicine	Adjunct Associate Professor of Public Health College of Health and Human Services San Diego State University	Adjunct Professor of Aviation Safety in Medicine College of Aviation Western Michigan University
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Office:
350 Cedar Street
San Diego, CA 92101
Phone: 619.515.1568
FAX: 619.515.1599
Email: baliang@alum.mit.edu

Course Description

Public Health Law & Ethics seeks to provide interested individuals with a context regarding the boundaries of permissible public health action as defined by law, including the interface of public health, individual rights, and property rights. These concepts will be illustrated primarily through guided readings of legal texts and discussion of how the principles elucidated in these texts apply historically as well as to modern health care issues. Social and political concerns are also an integral part of public health action, and will also be considered in terms of the ethical issues they raise.

Learning Objectives

Students in this class should be able to describe basic legal standards associated with current public health rules and their impact upon citizens, private property, individual rights, professional rights, privacy, and use of property. This knowledge should extend to both normal circumstances as well as emergent circumstances.

In addition, students should demonstrate ability to synthesize, analyze, evaluate and then communicate orally regarding novel public health issues and whether public health powers do or can extend to coverage of these circumstances, and how they would present such an argument. The student should be able to articulate a process by which traditional public health can encompass these novel issues.

Evaluation

Classroom activities will be based upon the Socratic method, i.e., I ask you questions and you educate the class with your responses. These responses will also be the basis for discussion, and others will be encouraged to join the dialogue. I will help you try to succeed in the course by calling upon you if necessary. Classroom participation will represent 20 percent of your grade. This includes attendance and participation in class, with attendance requirements as dictated by school policy.

The Socratic method may be seen through watching at least the first half of the movie, "The Paper Chase" (the second half is the cheesy love story) or by reading the book, "IL" by Scott Turow.

As well, during the term, you must write a 10 page, publishable quality (and hopefully, at some point, published) paper on a current public health issue and its interface with the law. The paper's topic must be agreed to by you and me through mutual consent **before Class 8**, but the sooner the better for our mutual sanity. You will then be a guest lecturer in the class, giving your colleagues the benefit of your expertise. Your paper will represent 20 percent of your grade and is due at the beginning of the Week 12 class.

Note: LATE WORK WILL NOT BE ACCEPTED. PLEASE DO NOT PUT YOURSELF OR ME IN THAT AWKWARD POSITION BY TRYING TO PASS YOUR PAPER IN LATE—THERE ARE ABSOLUTELY NO EXCEPTIONS TO THIS RULE. SO PLEASE, PLEASE, PLEASE DON'T BE LATE!! The schedule for student guest lectures will be assigned by me through random ordering, and you will be notified relatively early when you will be scheduled to impart your wisdom to the group.

At the end of the course, there will be a multiple-choice, final examination during the final examination week. The final will represent 60 percent of your grade.

So ...

Class Participation	20%
Paper	20%
Final Exam	60%

Standards (at the graduate level in attainment of educational objectives):

- A=Superior performance
- B= Adequate performance
- C=Less than adequate performance
- F= Fail

Materials

All materials will come from a course packet as posted on Web Blackboard.

Course Schedule with Required Readings*

*Note: this syllabus is subject to change.

Class 1. Overview & Introduction

Class 2: Public Health Law in a Historical Context

LIANG, CONCEPTS OF LAW, HEALTH LAW & POLICY (2000).

TOBEY, PUBLIC HEALTH LAW, 3D ED. CH.1 (1947)

GOSTIN ET AL. THE LAW AND THE PUBLIC'S HEALTH: THE FOUNDATIONS. GOODMAN RA (ED.), LAW IN PUBLIC HEALTH PRACTICE (OXFORD UNIV. PRESS 2003).

Class 3. State Police Power

Jacobson v. Comm. Of Massachusetts, 197 U.S. 11 (1905)

State of Iowa v. Hartog, 440 N.W.2d 852 (Iowa 1989)

Benning v. State of Vermont, 641 A.2d 757 (Vt. 1994)

Bliss Code Ann., Public Safety §14-3A-02: Governor Power to Declare State of Emergency

10 USC §§331-333: Insurrection Statutes Declaring State of Emergency

42 USC §5121 et seq.: Stafford Act, Disaster Relief

Class 4. Individual Rights: Freedom of Persons and Use of Providers

People v. Strautz, 54 N.E.2d 441 (Ill. 1944)

In re Haiko, 246 Cal. App. 2d 553 (1966)

Jew Ho v. Williamson, 103 F. 10 (9th Cir. 1900)

Bliss Code Ann., Public Safety §14-3A-03: Individual Rights

42 USC §§264, 266: DHHS Secretary Authority/Powers, Quarantine

42 USC §243: Public Health Service to cooperate with and aid state and local authorities in enforcement of their quarantine and other health regulations.

42 CFR §70.2: CDC may take reasonably necessary measures to prevent spread between states if local efforts insufficient.

42 CFR §§70.5, 70.6: Secretary of DHHS may require permits for interstate travel; individuals with specified diseases may be detained.

Class 5. Public Health and Private Property Rights

Altman v. City of High Point, 330 F.3d 194 (4th cir. 2003).[skip part II.A.; part B is the most important for our purposes, unless you want read about dogs as property]

Camera v. Municipal Court, 387 U.S. 523 (1967)

New York v. New St. Mark's Baths, 497 N.Y.S.2d 979 (1986)

10 USC §2538: Federal Power to Seize

42 USC §5196(i): FEMA Director may condemn or purchase materials or facilities with immediate possession.

Bliss Code Ann., Governor—Executive & Administrative Departments §14-3A-03: Seizure of Property

Bliss Code Ann., Public Safety §14-3A-03(c): Mandated Health Provider Participation

Bliss Code Ann., Health-General §18-903: Mandated Health Provider Action

Bliss Code Ann., Health-General §§18-907(b), 18-907(c): Penalties for Nonparticipation

Class 6. Mandatory Immunization and Treatment

Bliss Code Ann., Public Safety §14-3A-03: Power to Vaccinate and Treat

Brown v. Stone, 378 So.2d 218 (Miss.1979)

McCarthy v. Boozman, 212 F.Supp.2d 945 (W.D.Ark. 2002)

42 CFR 70.2: CDC Power Over State for Action

Bliss Health-General §18-902: Mandatory Treatment

Review Jacobson v. Comm. Of Massachusetts, 197 U.S. 11 (1905)

Class 7. Treatment and Privacy Issues

Allen v. Illinois, 478 U.S. 364 (1986).

Bliss Code Ann., Health-General §18-102: Power to Investigate Diseases

Bliss Code Ann., Health-General §18-902: Power of Surveillance

Bliss Code Ann., Health-General §18-904: Power to Mandate Reports

45 CFR 164.512(b): Public Health Exception, Health Insurance Portability and Accountability Act

Class 8. Public Health Emergencies: Federal-State Law Interaction, Liability for Responses to Weapons of Mass Destruction

SECTION I: OVERVIEW OF THE RESPONSE STRUCTURE, DOMESTIC WMD INCIDENT MANAGEMENT LEGAL DESKBOOK 1-1 TO 1-21 (2003).

SECTION IV: MEDICAL AND LIABILITY ISSUES, DOMESTIC WMD INCIDENT MANAGEMENT LEGAL DESKBOOK 4-20 TO 4-26 (2003).

Bliss Code Ann., Public Safety §14-3A-06: Liability Immunity

Bliss Code Ann., Health-General §18-907)(d): Liability Immunity

28 USC §2680(f): Liability Immunity for Federal Quarantine

Class 9. Public Health and International Coordination: WHO International Health Regulations and Their Use

David P. Fidler, Revision of the World Health Organization's International Health Regulations, AMERICAN SOCIETY OF INTERNATIONAL LAW INSIGHTS, April 2004.

World Health Organisation, Third report of Committee A, Revision of the International Health Regulations (20 May 2005).

N. Pieter O'Leary, Pan Avian Flu and International Legal Conflagrations: Historical Contexts

David P. Fidler, The Continuing Global Spread of Avian Influenza A (H5N1) and Its Implications for International Law, AMERICAN SOCIETY OF INTERNATIONAL LAW INSIGHTS, NOVEMBER 2005.

Class 10: Ethics in Public Health

Case Studies

Class 11: Guest Lecture: Louise Gresham and Peter Anderson, Epidemiologic Investigations

Class 12: Guest Lecture: Alfonso Rodriguez, Border Surveillance

Class 13: Student Guest Lectures

Class 14: Student Guest Lectures

Class 15: Student Guest Lectures