

Course Syllabus

Course Information

GOVT 4365, Law and Medicine, Fall 2007, Section 001

Professor Contact Information

Professor Anthony Champagne, Phone: 972-883-2927 or 972-883-4607, email: tchamp@utdallas.edu, Offices: GR3.802 and MP3.206, I can often be found in MP3.206—my phone number there is 972-883-4607. I will have office hours in GR3.802 from 5:15pm-6:45pm on Mondays and 5:15pm-6:30pm on Wednesdays. My phone number for GR3.802 is 972-883-2927.

Teaching Assistant: Michael Gunnin. Phone: 972-883-4594. email: michael.gunnin@student.utdallas.edu. Office: GR3.224. Office hours: Mondays 2:00pm-3:45pm.

Course Pre-requisites, Co-requisites, and/or Other Restrictions

None

Course Description

One of the most rapidly changing areas of the law deals with issues of law and medicine. This course will explore some of those issues that are relevant to health care, life, reproduction, and death. This is not a settled area of law, but exploration of court cases in these areas allows us to explore some of the most profound questions affecting our existence.

Student Learning Objectives/Outcomes

Students should expect:

1. To gain an understanding of contemporary medical problems and how the legal system grapples with resolving those problems;
 2. To gain an understanding of key legal concepts; and,
 3. To learn to read and analyze court cases.
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Required Textbooks and Materials

Barry R. Furrow, Thomas L. Greaney, Sandra H. Johnson, Timothy S. Jost, and Robert L. Schwartz, *HEALTH LAW: CASES, MATERIALS AND PROBLEMS*, 5th ed. (West, 2004). The reading assignments will concentrate on the assigned court cases. You should be able to get used copies of this text.

Assignments & Academic Calendar

(Topics, Reading Assignments, Due Dates, Exam Dates)

August 20—Introduction

August 22, 27, 29 —Issues Involving Reproduction

Read: *Roe v. Wade*, p. 1156; *Planned Parenthood of Southeastern Pennsylvania v. Casey*, p. 1162; *Stenberg v. Carhart*, p. 1173; *Partial Birth Abortion Ban Act of 2003*, p. 1185; *Gonzales v. Carhart*, www.law.cornell.edu/supct.html/05-380.zs.htm; *Smith v. Cote*, p. 1196; *Davis v. Davis*, p. 1224; *Roman v. Roman*, case currently before the Texas Supreme Court, “Contract Law Found to Govern Disposition of Frozen Embryos in Divorce,” <http://texasfamilylawblog.wordpress.com/tag/roman-vs-roman/>; *In the Matter of Baby M*, p. 1235; *Johnson v. Calvert*, p. 1242; *Prato-Morrison v. Doe*, p. 1250; *In Re A. C.*, p. 1265; *Guardianship of J.D.S.*, p. 1278.

September 3 (Labor Day Holiday), 5, 10, 12, 17, 19, 24—Issues Involving Death and the Right to Die

Read: *In Re T.A.C.P.*, p. 1325; *In the Matter of Baby “K”*, p. 1334; *Cruzan v. Director Missouri Department of Health*, p. 1349; *Bouvia v. Superior Court*, p. 1363; *Application of the President and Directors of Georgetown College, Inc.*, p. 1375; *Public Health Trust of Dade County v. Wons*, p. 1377; *In Re Eichner*, p. 1403; *In Re Conroy*, p. 1406; *Conservatorship of Wendland*, p. 1417; *Guardianship of Schiavo*, p. 1433; Note on the Legal and Political History of the Schiavo Case, p. 1436; see the Schiavo family website at www.terrisfight.org and see the University of Miami Ethics Program website at <http://www6.miami.edu/ethics/schiavo/timeline.htm>; *Superintendent of Belchertown State School v. Saikewicz*, p. 1442; *In Re Storar*, p. 1444; *Newmark v. Williams*, p. 1447; *Miller v. HCA*, p. 1461; the case of Emilio Gonzales, www.washingtonpost.com/wp-dyn/content/article/2007/04/10/AR2007041001620_pf.html

Film: Bill Moyer’s on Death and Dying

September 26—Midterm

October 1, 3—Physician Assisted Suicide and Regulation of Painkillers

Read: Washington v. Glucksberg, 1471; Vacco v. Quill, p. 1482; Oregon Death With Dignity Act, p. 1493; Gonzales v. Oregon, www.law.cornell.edu/supct/html/04-623.zs.htm; Gonzales v. Raich, www.law.cornell.edu/supct/html/03-1454.zs.html

October 8, 10—Issues of Informed Consent

Read: Canterbury v. Spence, p. 358; Johnson v. Kokemoor, p. 369; Arato v. Avedon, p. 379; Truman v. Thomas, p. 387; Moore v. Regents of the University of California, p. 392; Tisdale v. Pruitt, Jr., M.D., p. 404; Nuremberg issues, pp. 1515-1519.

Film: The Tuskegee Syphilis Experiment

October 15, 17, 22—Access to Health Care

Read: Ricks v. Budge, p. 529; Child v. Weis, p. 532; Williams v. U.S., p. 534; Baber v. Hospital Corporation of America, p. 541; Howe v. Hull, p. 552; Bragdon v. Abbott, p. 555. Read also, “Code Red: The Critical Condition of Health in Texas, www.coderedtexas.org/#findings, Read the 56pp. summary.

Guest Speaker—Beatriz Champagne, Executive Director of the Inter-American Heart Foundation

October 24—Managed Care

Read: Lubeznik v. HealthChicago, p. 576; Bush v. Dake, p. 602

Film: Dr. Solomon’s Dilemma

October 29, 31, November 5, 7, 12, 14, 19, 21, 26—Issues in Medical Malpractice

Read: Hall v. Hilbun, p. 185; Helling v. Carey, p. 220; Campbell v. Delbridge, p. 226; Chumbler v. McClure, p. 245; Henderson v. Heyer-Schulte Corp., p. 245; Brook v. St. John’s Hickey Memorial Hospital, p. 249; Ostrowski v. Azzara, p. 256; Perez v. Wyeth Laboratories Inc., p. 265; Hardi v. Mezzanotte, p. 276; Herskovits v. Group Health Cooperative of Puget Sound, p. 282; Tunkl v. Regents of University of California, p. 308; Shorter v. Drury, p. 311; Bing v. Thunig, p. 414; Schlotfeldt v. Charter Hospital of Las Vegas, p. 417; Berel v. HCA Health Services of Texas, Inc., p. 420; Sword v. NKC Hospitals, p. 422; Simmons v. Tuomey Regional Medical Center, p. 429; Washington v. Washington Hospital Center, p. 436; Johnson v. Hillcrest Center, Inc., p. 442; Muse v. Charter Hospital of Winston-Salem, Inc., p. 448; Darling v. Charleston Community Memorial Hospital, p. 453; Thompson v. Nason, p. 457; Douglass v. Salem Community Hospital, p. 465.

Film: Mistake in the Operating Room

Guest Speakers: Walt Borges, long-time journalist

Hunter Hillin, medical malpractice lawyer with the Law Offices of Mark Mueller in Austin, Texas (specializes in birth injury medical malpractice)

Optional lecture (but I think of great interest to students interested in Law and Medicine): Edmund Pellegrino, who is a member of the President’s Council on Bioethics, is the Founding editor of the JOURNAL OF MEDICINE AND PHILOSOPHY, and is an author or editor of nineteen books dealing with Bioethics will give a lecture on campus. He is scheduled to be on campus on November 13. The time and place for his lecture will be announced later in the semester.

November 30—Final Exam is at 2:00pm

Grading Policy

(including percentages for assignments, grade scale, etc.)

Option A: Exams: There will be two in-class exams. Each exam will be 50% of your grade. Each of these exams will cover approximately one-half of the course and will consist of a combination of short answers and essay questions.

Option B: You may choose to take the two exams mentioned in Option A and you may write a paper on a topic you agree on with me. The paper should be footnoted with at least four different sources and should be at least 8 double-spaced pages. It can be on a case or an issue in this class. The paper will be 25% of your grade and the exams will each be 37.5% of your grade. You may wait until one week after the midterm is returned (but no later) to decide if you wish Option A or Option B for your grade. If you choose Option B, you must notify me in writing by the above deadline. Otherwise, I will assume you have chosen Option A.

Grading:

98-100% = A+

92-97% = A

90-91% = A-

88-89% = B+

82-87% = B

80-81% = B-

78-79% = C+

72-77% = C

70-71% = C-

68-69% = D+

62-67% = D

60-61% = D-

Below 60% = F

Course & Instructor Policies

(make-up exams, extra credit, late work, special assignments, class attendance, classroom citizenship, etc.)

1. Class participation: In general, the course will follow a lecture-discussion format with emphasis on class discussion. Socratic method, similar to the general law school teaching method, will be used at times.

2. Policy on Make-Up Exams:

If you can not take an exam on the date noted in this syllabus, you should call me or leave a message on my machine. Dial (972) 883-2927 (a message machine is activated after four rings) and explain why you can not take the test on the day of the exam. Alternatively, send me an e-mail at tchamp@utdallas.edu. If I have not heard from you by the time of the exam, you will receive a grade of zero on the exam. I realize terrible things can happen to people on examination days--things ranging from dead batteries and missed airplane connections to hospitalizations and deaths in the family, but everyone should be able to call and at least leave a message by the time of the exam regardless of the emergency. You should have a significant reason for missing the exam. You will not be excused from the exam if your reasons are that you are not prepared or that you have an exam in another course. In general, I expect make-ups to be taken within one week of the regular exam.

Remember that if you are having problems that are affecting your performance in the class, talk to me. If a student needs help, I will try to help and I will be very helpful if I am aware that the student is trying, but some problem is preventing high quality work.

Field Trip Policies

Off-campus Instruction and Course Activities

Off-campus, out-of-state, and foreign instruction and activities are subject to state law and University policies and procedures regarding travel and risk-related activities. Information regarding these rules and regulations may be found at the website address http://www.utdallas.edu/BusinessAffairs/Travel_Risk_Activities.htm. Additional information is available from the office of the school dean. Below is a description of any travel and/or risk-related activity associated with this course.

I do not expect any travel or risk-related activity associated with this course.

Student Conduct & Discipline

The University of Texas System and The University of Texas at Dallas have rules and regulations for the orderly and efficient conduct of their business. It is the responsibility of each student and each student organization to be knowledgeable about the rules and regulations which govern student conduct and activities. General information on student conduct and discipline is contained in the UTD publication, *A to Z Guide*, which is provided to all registered students each academic year.

The University of Texas at Dallas administers student discipline within the procedures of recognized and established due process. Procedures are defined and described in the *Rules and Regulations, Board of Regents, The University of Texas System, Part 1, Chapter VI, Section 3*, and in Title V, Rules on Student Services and Activities of the university's *Handbook of Operating Procedures*. Copies of these rules and regulations are available to students in the Office of the Dean of Students, where staff members are available to assist students in interpreting the rules and regulations (SU 1.602, 972/883-6391).

A student at the university neither loses the rights nor escapes the responsibilities of citizenship. He or she is expected to obey federal, state, and local laws as well as the Regents' Rules,

university regulations, and administrative rules. Students are subject to discipline for violating the standards of conduct whether such conduct takes place on or off campus, or whether civil or criminal penalties are also imposed for such conduct.

Academic Integrity

The faculty expects from its students a high level of responsibility and academic honesty. Because the value of an academic degree depends upon the absolute integrity of the work done by the student for that degree, it is imperative that a student demonstrate a high standard of individual honor in his or her scholastic work.

Scholastic dishonesty includes, but is not limited to, statements, acts or omissions related to applications for enrollment or the award of a degree, and/or the submission as one's own work or material that is not one's own. As a general rule, scholastic dishonesty involves one of the following acts: cheating, plagiarism, collusion and/or falsifying academic records. Students suspected of academic dishonesty are subject to disciplinary proceedings.

Plagiarism, especially from the web, from portions of papers for other classes, and from any other source is unacceptable and will be dealt with under the university's policy on plagiarism (see general catalog for details). This course will use the resources of turnitin.com, which searches the web for possible plagiarism and is over 90% effective.

Email Use

The University of Texas at Dallas recognizes the value and efficiency of communication between faculty/staff and students through electronic mail. At the same time, email raises some issues concerning security and the identity of each individual in an email exchange. The university encourages all official student email correspondence be sent only to a student's U.T. Dallas email address and that faculty and staff consider email from students official only if it originates from a UTD student account. This allows the university to maintain a high degree of confidence in the identity of all individual corresponding and the security of the transmitted information. UTD furnishes each student with a free email account that is to be used in all communication with university personnel. The Department of Information Resources at U.T. Dallas provides a method for students to have their U.T. Dallas mail forwarded to other accounts.

Withdrawal from Class

The administration of this institution has set deadlines for withdrawal of any college-level courses. These dates and times are published in that semester's course catalog. Administration procedures must be followed. It is the student's responsibility to handle withdrawal requirements from any class. In other words, I cannot drop or withdraw any student. You must do the proper paperwork to ensure that you will not receive a final grade of "F" in a course if you choose not to attend the class once you are enrolled.

Student Grievance Procedures

Procedures for student grievances are found in Title V, Rules on Student Services and Activities, of the university's *Handbook of Operating Procedures*.

In attempting to resolve any student grievance regarding grades, evaluations, or other fulfillments of academic responsibility, it is the obligation of the student first to make a serious effort to resolve the matter with the instructor, supervisor, administrator, or committee with whom the grievance originates (hereafter called "the respondent"). Individual faculty members retain primary responsibility for assigning grades and evaluations. If the matter cannot be resolved at that level, the grievance must be submitted in writing to the respondent with a copy of the

respondent's School Dean. If the matter is not resolved by the written response provided by the respondent, the student may submit a written appeal to the School Dean. If the grievance is not resolved by the School Dean's decision, the student may make a written appeal to the Dean of Graduate or Undergraduate Education, and the dean will appoint and convene an Academic Appeals Panel. The decision of the Academic Appeals Panel is final. The results of the academic appeals process will be distributed to all involved parties.

Copies of these rules and regulations are available to students in the Office of the Dean of Students, where staff members are available to assist students in interpreting the rules and regulations.

Incomplete Grade Policy

As per university policy, incomplete grades will be granted only for work unavoidably missed at the semester's end and only if 70% of the course work has been completed. An incomplete grade must be resolved within eight (8) weeks from the first day of the subsequent long semester. If the required work to complete the course and to remove the incomplete grade is not submitted by the specified deadline, the incomplete grade is changed automatically to a grade of **F**.

Disability Services

The goal of Disability Services is to provide students with disabilities educational opportunities equal to those of their non-disabled peers. Disability Services is located in room 1.610 in the Student Union. Office hours are Monday and Thursday, 8:30 a.m. to 6:30 p.m.; Tuesday and Wednesday, 8:30 a.m. to 7:30 p.m.; and Friday, 8:30 a.m. to 5:30 p.m.

The contact information for the Office of Disability Services is:

The University of Texas at Dallas, SU 22
PO Box 830688
Richardson, Texas 75083-0688
(972) 883-2098 (voice or TTY)

Essentially, the law requires that colleges and universities make those reasonable adjustments necessary to eliminate discrimination on the basis of disability. For example, it may be necessary to remove classroom prohibitions against tape recorders or animals (in the case of dog guides) for students who are blind. Occasionally an assignment requirement may be substituted (for example, a research paper versus an oral presentation for a student who is hearing impaired). Classes enrolled students with mobility impairments may have to be rescheduled in accessible facilities. The college or university may need to provide special services such as registration, note-taking, or mobility assistance.

It is the student's responsibility to notify his or her professors of the need for such an accommodation. Disability Services provides students with letters to present to faculty members to verify that the student has a disability and needs accommodations. Individuals requiring special accommodation should contact the professor after class or during office hours.

Religious Holy Days

The University of Texas at Dallas will excuse a student from class or other required activities for the travel to and observance of a religious holy day for a religion whose places of worship are exempt from property tax under Section 11.20, Tax Code, Texas Code Annotated.

The student is encouraged to notify the instructor or activity sponsor as soon as possible regarding the absence, preferably in advance of the assignment. The student, so excused, will be allowed to take the exam or complete the assignment within a reasonable time after the absence: a period

equal to the length of the absence, up to a maximum of one week. A student who notifies the instructor and completes any missed exam or assignment may not be penalized for the absence. A student who fails to complete the exam or assignment within the prescribed period may receive a failing grade for that exam or assignment.

If a student or an instructor disagrees about the nature of the absence [i.e., for the purpose of observing a religious holy day] or if there is similar disagreement about whether the student has been given a reasonable time to complete any missed assignments or examinations, either the student or the instructor may request a ruling from the chief executive officer of the institution, or his or her designee. The chief executive officer or designee must take into account the legislative intent of TEC 51.911(b), and the student and instructor will abide by the decision of the chief executive officer or designee.

These descriptions and timelines are subject to change at the discretion of the Professor.