Health Law Course Selection Guide

Welcome to Health Law at Boston University. Health law covers everything from biotechnology to bioethics, and health insurance to health reform – in other words, almost any area of legal practice that touches upon health. Health care is one of the largest industries in the US, and is heavily regulated. As a result, lawyers interested in practicing health law have a wide range of options from which to choose.

The course offerings are organized into three sections: (i) the introductory survey course; (ii) advanced topical courses; and (iii) advanced experiential courses. If you have questions, seek out the BU Law professors teaching in health law, including Professors Zeiler and Outterson. We offer a health law concentration; Professor Outterson is the concentration advisor. For questions about the American Journal of Law & Medicine, attend the journal write-on meeting organized each spring for 1Ls.

(i) Introductory Survey Course. The survey course Health Law (JD 856) is a gateway to the rest of the health law curriculum. Health Law focuses on the business side of health care, including health care insurance regulation and laws designed to increase the quality and lower the cost of health care. Topics include managed care regulation, institutional liability for medical malpractice and other forms of negligence, professional and facilities regulation, the corporate practice of medicine doctrine, corporate form, medical staff organization, referral fee laws, and antitrust law related to health care providers. The course is designed to develop a solid doctrinal foundation on today's most relevant areas of health law and to develop a strong ability to view the doctrine and policy through the lens of economics with a particular focus on law as both the cause of and solution to health care and health care insurance market imperfections.

(ii) Advanced Topical Courses. We offer an array of advanced topical and practical courses taught by leading academics and practicing lawyers:

Bench to Bedside: Translating Biomedical Innovation from the Laboratory to the Marketplace (LA 997) is taught by an expert in university technology development, Professor Nijhawan. Navigate the intellectual property and business issues in biotechnology innovation, together with BU’s School of Management graduate students (QST HM 801).

Competition in Health Care (JD 867), taught by Professor Zeiler, examines the role that competition and regulation play in the health care industry in the United States. Antitrust enforcement agencies believe strongly that promoting competition in health care is critical to control health care costs. Many of those involved in the health care industry disagree. Some health care professionals argue that we can cut costs and improve care only through increased collaboration and cooperation. The course will consider the clash of these views by examining how competition is treated in the Affordable Care Act, what weight antitrust enforcement agencies give to values other than competition, the accelerating trend towards consolidation in the health care
industry today, and integration among providers, including increasing hospital acquisition of physician groups.

**Ethical Issues in Law and Public Health (SPH LW 725)**, taught by Professor Grodin, reviews the nature and scope of moral dilemmas and problematic decision making in public health, medicine, and health care. After a survey of ethical theory, the course focuses on a broad range of ethical concerns raised by the theory and practice of public health and medicine: the nature of health, disease and illness, health promotion and disease prevention; rights, access, and the limits of health care; the physician-patient relationship; truth telling and confidentiality. Through a series of case studies, the course examines specific topics: the bioethics movement and its critiques; human experimentation; the role of institutional review boards; the concept and exercise of informed, voluntary consent; abortion, reproduction, genetic counseling and screening; euthanasia, death and dying; ethics committees; and international and cross-cultural perspectives.

**Food, Drug, and Cosmetics Law (JD 802)** is Professor Emerita Fran Miller’s favorite seminar; we have many alums working at the US Food and Drug Administration in Washington, DC. This seminar examines the FDA as an administrative agency combining law and science to regulate activities affecting public health and safety. Topics include testing and approval of pharmaceuticals and medical devices; food safety and nutritional policy; biologics and biotechnology regulation; cosmetic regulation; pricing of and reimbursement for drugs and devices; global aspects of pharmaceutical regulation, US and foreign patent issues, and FDA practice and procedure; jurisdiction and enforcement.

**Health and Human Rights (SPH LW 740)**. This School of Public Health seminar is offered in both the fall and spring semesters, and taught by worldwide experts on human rights and health: Professors Michael Grodin and George Annas. Health is closely linked to the realization of human rights. Preventable illness, infant mortality, and premature death, for example, are closely tied to societal discrimination and 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.

**Health Care Decisions and Bioethics (JD 727)**, taught by Professor Christopher Robertson, explores the myriad legal, regulatory, and ethical issues that arise in clinical healthcare settings, primarily involving who decides and on what basis. The course considers questions – such as informed consent, end-of-life decision making, human subjects research and institutional review boards, pre-approval access to drugs, rationing of scarce healthcare resources – that define the relationships between healthcare institutions, researchers, medical professionals, and patients.
Health Care Fraud & Abuse (JD 726) is probably the most important advanced course for law firm, corporate and Department of Justice health law practice. This class is taught by Erica Hitchings of Whistleblower Law Collaborative, one of the most successful *qui tam* law firms in the country.

Health Insurance and the Affordable Care Act (SPH LW 830). Professor Mariner’s seminar (which meets at the School of Public Health, and for which law students may cross-register) offers an in-depth examination of the pivotal role of public and private insurance in US health policy. Health insurance pays for almost all health care in the US, strongly influencing (often dictating) who gets what care and on what terms. The class explores how the Affordable Care Act affects the design, operation, and regulation of health benefit plans, including Medicare, Medicaid, employer-sponsored group plans, and commercial insurance. Investigating contemporary regulations, students learn fundamentals of insurance, where reforms do and do not alter such fundamentals, and whether reforms affect larger principles of law. Topics include state and federal regulation; ERISA plan requirements; ERISA preemption of certain state laws; accepting, managing and shifting financial risk; designing health insurance exchanges; contracting with providers, Accountable Care Organizations, employers, and individuals; designing and administering plans; defining benefits, including Essential Health Benefits; appeals and remedies; and state adaptations of health insurance exchanges, subsidy wrap-arounds, risk corridors, and Medicaid expansions.

Health Law, Bioethics, and Human Rights (SPH LW 840). Health law, bioethics, and human rights are converging in challenging ways, especially at the national level (in both legislation and constitutional adjudication), and the international law level. This seminar, taught by Professor Huberfeld, explores the convergence and its meaning for the law and society through specific case studies including post-9/11 proposals for mass quarantine; torture and force-feeding justifications in the GWOT; genetic engineering and the new reproductive technologies; the relationship between abortion and the death penalty; and the meaning of the “right to health.” This class is taught at BU School of Public Health and meets the Health Law, Bioethics, and Human Rights Department capstone requirement.

Hospital Law (JD 913) is an essential course for anyone interested in advising hospitals or academic medical centers, in either an in-house or outside counsel capacity. It also serves as a foundational course in our health care compliance curriculum. The course is co-taught by BUSL alum Larry Vernaglia, who serves as outside counsel to some of the country’s leading hospitals, health systems, and academic medical centers, and Jim Bryant, VP and Chief Compliance Officer at Brigham & Women’s Hospital.

Mental Health Law, Policy & Ethics (SPH LW 854). This SPH course, taught by Professor Grodin, addresses subjects including an overview of clinical psychiatry, institutionalization, deinstitutionalization, the insanity defense, incompetence to stand trial, the right to treatment and the right to refuse treatment, involuntary commitment,
dangerousness, the meaning of mental illness, the use of invasive treatments, psychotherapy, privacy, and professional ethics.

**Public Health Law (JD 926).** Public health is transforming from state programs that prevent disease in populations (e.g., vaccination, newborn screening) to federal and international efforts to broadly promote a population and individual "right to health." This seminar, taught by Professor Huberfeld, explores contemporary examples of public health problems such as firearms regulation, obesity, and reproductive health. The course offers a framework for identifying and controlling health risks drawing on principles and theories of law, assessment of risk, policy evaluation, and empirical evidence. We will consider the scope of laws at the state and federal levels that regulate personal behaviors, products, and commercial activities. Students will analyze different legal strategies that can be used to influence public health such as governmental nudges through funding, criminal and civil prohibitions, data collection and privacy, marketing restrictions, and taxation. A research paper to develop a legal strategy that addresses a contemporary public health problem is required.

**Representing Life Sciences Companies: Biotechnology, Pharmaceuticals and Medical Devices (JD 907).** Biotechnology and Pharmaceuticals are two of the fastest growing industries in the U.S., and the legal issues that arise in connection with representing them are complex and evolving. This seminar, taught by Priya Mannan, a part-time faculty member who serves as global compliance officer for a leading pharmaceutical firm, focuses on the transactional, intellectual property, and regulatory legal issues that challenge lawyers working with clients in these industries.

The practice of law in the health care industry is heavily focused on Risk Management and Compliance. As a result, if you are interested in working in the industry – especially in an in-house role – you should consider enrolling in foundational courses in the Risk Management and Compliance concentration, such as the following: **Introduction to Risk Management and Compliance (JD 778), Compliance and Risk Management in Global Commerce (JD 918),** and the Compliance Policy Clinic.

(iii) **Advanced experiential courses.**

**Health Care Transactions (JD 998)** is taught by two law firm partners with decades of experience in the field, and is an excellent capstone experience in health law. After an introduction to joint venture theory and the regulatory context of health care, everyone in the class examines 2 transactions: a physician recruiting agreement and an ambulatory surgery center joint venture. The remainder of the course will involve 5-6 complex health care transactions, using actual documents from recent deals. The transactions run the gamut from hospital M&A to biotech licenses. For the transaction you select, students work in teams to analyze the deal, and present their conclusions to the lawyers who closed it. The final project is a negotiation or drafting assignment drawn from class materials.
**Health Sector Consulting (QST HM 840)**, offered at BU’s Questrom School of Management, is a live-client consulting class with health sector management MBA students. Learn how to work with your future clients.

**Semester in Practice.** There are many different health-law-related options for a Semester in Practice, ranging from federal agencies to multinational NGOs to in-house roles in hospitals or biotech firms. If you are interested in a health law-related externship or semester in practice, you should consult with the Director of BU Law’s externship program.

**Health Law Research (JD 717)** is a one-credit class focused on research in health law; beyond introducing you to key health law resources, it can help you with your journal note.