

PUBLIC HEALTH LAW, ETHICS, AND POLICY 543

Winter 2005

I. General Description and Objectives

Course Objective: To examine urgent issues in health policy and public health, this course brings ethics and the law "to the table"; two critical perspectives that sometimes agree and sometimes conflict. Various issues such as addictions, infectious diseases, biotechnologies (e.g., genetics), and psychosocial behaviour will be studied using seminal ethical and legal concepts such as rights versus responsibilities, freedom/choice versus integrity/relationships, the individual versus the public good, and criminal versus civil punishments or constraints.

Specific objectives of the course are to:

- develop an understanding of, and be able to explain the legal and ethical issues raised by a number of current topics in public health;
- understand and apply basic principles of ethics and law in a variety of contexts;
- participate respectfully in discussions on sometimes controversial issues in public health;
- articulate major arguments about specific issues in public health, and be able to adopt and defend a position on that issue.

II. Instructors and Contact Information

Co-Instructors:

Ms. Tracey Bailey, LLB

- Executive Director, Health Law Institute, University of Alberta
- Adjunct Professor, John Dossetor Health Ethics Centre, University of Alberta
- Adjunct Professor, Postgraduate Medical Office Faculty of Medicine and Dentistry, University of Alberta
- Contact: tbailey@law.ualberta.ca; 492-6127

Dr. Barbara Russell, PhD (Philosophy) MBA

- Assistant Clinical Professor, John Dossetor Health Ethics Centre, University of Alberta
- Contact: brussell@ualberta.ca; 492-1028

III. Format of the course:

Course time: Tuesdays 9:00 – 11:50 a.m. Room: 13-126 Clinical Sciences Bldg.

Is there a prerequisite course? NO

The first few weeks of the course will be mainly lecture style to cover some foundational principles in law and ethics that will provide the framework for our later topical discussions. After that, the course will be conducted in a seminar format, which means that we will introduce the context for the class discussions and then facilitate discussion. Some classes will begin with one of the students providing the context based on the readings assigned for that day. Most classes will revolve around the consideration of various real and/or hypothetical problems. We will often break out in the second half of the class to do group work around these problems. In order for the seminar to be effective as a

learning experience, it is essential that students come to class prepared to discuss the issues raised by the assigned readings.

Guest speakers will be invited to some of the classes and the format of the class may be modified to accommodate the speaker.

IV. Evaluation Method

The final grade for the course is based on the grades assigned for the following:

- Analytic, scholarly paper on a timely public health issue; 12-15 text pages, due on April 5th; worth 40% of course grade
- Reflective response on a public health issue covered in a major, refereed public health journal; 5-6 text pages, due by March 1st class (can be handed in earlier); worth 15% of course grade
- Final term exam during finals week; worth 20% of course grade
- Present one reading in class and generate discussion about it; this can begin with February 1st class; worth 15% of course grade
- in-class participation; worth 10% of course grade. Students are expected to contribute regularly to classroom discussions and to participate in in-class exercises. Effective, thoughtful and constructive participation is grounded in regular attendance, preparation (by completion of assigned readings), self-motivation and respect for fellow participants. Students should remember that effective participation also depends upon effective listening.
- Grades will be assigned on the basis of the University of Alberta four-point grading system. Graduate courses are expected to comply with the University's distribution curve. All rules governing academic offences apply.

Research Papers

- You may write on the topic of your choice, but topics must be cleared with us in advance. Bear in mind when selecting your topic that the paper must involve consideration of both legal and ethical issues. This means that you need to select a topic that will allow you to consider both. It does not mean that every paper must be devoted 50% to law and 50% to ethics – the appropriate balance will depend on the topic.
- Papers must be no shorter or longer than the number of pages stipulated (including footnotes or endnotes), in double-spaced type, in a 12 point font, on pages with 1 inch margins.
- Proper references are essential. All sources of ideas, words, phrases, statistics, etc., must be properly cited. Failure to do so is plagiarism and will result in proceedings being taken against you. For further information about the University's rules governing academic offences. Consult the Code of Student Behaviour. If you have questions about how to cite a particular source, please speak to us before your paper is handed in.
- Papers are due **no later than the dates as set out above by 12:00 noon**. This deadline is firm and **10% per day (including weekends and holidays) will be deducted for late submissions**. Extensions may be granted, at the instructors' discretion, in circumstances similar to those for the Associate Dean would grant a deferral of a final exam.
- Please feel free to consult with us about your papers at any stage.

V. Teaching/Learning Resources

The following make up the required readings for this course:

- 1) A reading package, available at the University Bookstore
- 2) Consent, Privacy, and Confidentiality on Longitudinal, Population Health Research: The Canadian Legal Context, *Health Law Journal*, supplement 2004, editors Caufield, Ries, Bailey, available at the University Bookstore

The following are available online:

- 3) The Constitution Act 1867, sections 91 and 92. <http://laws.justice.gc.ca>, click on "Constitution"
- 4) The Constitution Act 1982, sections 1, 2, 7, 8, 9, 10, 12, 15, 24, 32. <http://laws.justice.gc.ca>, click on "Charter of Rights and Freedoms"
- 5) Canada Health Act, sections 7 – 12. <http://laws.justice.gc.ca>, click "By title", then on letter C, then scroll down to Act
- 6) Alberta's Public Health Act parts 3,4, and the Communicable Diseases Regulation. <http://ww.qp.gov.ab.ca>, click on "Catalogue", then letter P, then on Public Health Act
- 7) Alberta College of Physicians and Surgeon's guideline entitled "HIV Infection in Health Care Workers". <http://cpsa.ab.ca>, click on "Publications and Resources", then "Policies & Guidelines", then under Guidelines scroll to this particular guideline.
- 8) Bill 204 Blood Samples Act. <http://www.qp.gov.ab.ca>, click on "Catalogues", then letter B, then scroll to Act
- 9) Criminal Code of Canada, section 268 <http://www.law.justice.gc.ca/en/C-46>, then go to "Criminal Code"
- 10) Linda McKay-Panos v. Air Canada (Canada Transportation Agency). [http:// www.cta-otc.ga.ca/rulings-decisions/2002/A/AT/567-AT-A-2002_e.html](http://www.cta-otc.ga.ca/rulings-decisions/2002/A/AT/567-AT-A-2002_e.html)

WEEK	GENERAL TOPIC	READINGS
January 11	Introduction and foundations	Article by (1) Rothstein
January 18	Legal Foundations	(1) Constitution 1867,(2) Charter 1892, (3) Canada Health Act, (4) Chapter by Gostin
January 25	Ethical Foundations	Articles by (1) Childress et al, (2) MJ Roberts, (3) Upshur
February 1	Infectious Diseases	Articles by (1) Smith, (2) Public Health Act
February 8	Infectious Diseases	Articles by (1) Schonfeld, (2) Halkyard v. Matthew, (3) CPSA guideline on HIV, (4) Blood Samples Act
February 15	Vaccinations	Article by (1) Verweij, (2) St. Peter's Health System and CUPE 778, (3) Chinook Health Region and UNA 120
February 22	No class, Reading Week	
February 29	Surveillance and Public Health Research	Articles by (1) Shickle, (2) Fairchild, (3) Caufield-Ries
March 1	Health Promotion & Disease Prevention	Articles by (1) Dworkin, (2) Steinbock, (3) Linda McKay-Panos v. Air Canada
March 8	Criminal Law & Public Health	Article by (1) D. Roberts, (2) R v. Cuerrier (SCC), (3) R v. Williams (SCC)
March 15	Genetics & Public Health	Article by (1) Clayton
March 22	Pregnancy, Women, Children	Articles by (1) Schedler, (2) Rodgers

March 29	Globalization & Public Health	Article by (1) Fidler
April 5	Defining Community/ies	Articles by (1) Tauber, (2) Michaelis, (3) Weir, (4) Criminal codes section 268

Reference Details:

AUTHOR(S)	TITLE	JOURNAL/BOOK	PUBLISHER	ISBN/ISSN
T. Caufield, N Ries	Consent, privacy and confidentiality in longitudinal, population health research: the Canadian legal context	<i>Health Law Journal</i> 2004 supplement pp. 1-43	University of Alberta Press	1192-8336
Childress, Faden, Gaare, Gostin, Kahn, Bonnie, Kass, Mastronianni, Moreno, Nieburg	Public health ethics: Mapping the terrain	<i>Journal of Law, Medicine & Ethics</i> 2002 30 (2): 170-8	American Society of Law, Medicine and Ethics	1073-1105
E W Clayton	The complex relationship of genetics, groups, and health: what it means for public health	<i>Journal of Law, Medicine & Ethics</i> 2002 30 (2): 290-7	American Society of Law, Medicine and Ethics	1073-1105
G Dworkin	Voluntary health risks and public policy: taking risks, assessing responsibility	<i>Hastings Center Report</i> 1981 11:26-31	Hastings Center	0093-0334
A L Fairchild	Dealing with Humpty Dumpty: research, practice, and the ethics of public health surveillance	<i>Journal of Law Medicine & Ethics</i> 2003 31 (4): 615-23	American Society of Law, Medicine and Ethics	1073-1105
D P Fidler	A globalized theory of public health law	<i>Journal of Law, Medicine & Ethics</i> 2002 30 (2): 150-61	American Society of Law, Medicine and Ethics	1073-1105
L O Gostin	A theory of definition of public health law	<i>Public Health Law: power, duty, restraint</i> , 2000, pp. 3-22	University of California Press total 491 pages	0520226488
A P Michaelis	Priority-setting ethics in public health	<i>Journal of Law Medicine & Ethics</i> 2002 23 (4): 399-412	Palgrave Macmillan	0197-5897
D Roberts	The ethics of punishing indigent parents	<i>From Social Justice to Criminal Justice: Poverty and the Administration of Criminal Law</i> , edited by WC Heffernan, 200, pp. 161-88	Oxford University Press, total 312 pages	0195129857

M J Roberts	Ethical analysis in public health	<i>The Lancet</i> 2002 359 (9311): 1055-9	The Lancet Publishing Group	0140-6736
S Rodgers	Winnipeg Child and Family Services v. D.F.G.: juridical interference with pregnant women in the alleged interest of the fetus	<i>Health Law Journal</i> 1998 36 (3): 711-24	University of Alberta Press	1192-8336
M A Rothstein	Rethinking the meaning of public health	<i>Journal of Law, Medicine & Ethics</i> 2002 30 (2); 144-9	American Society of Law, Medicine and Ethics	1073-1105
G Schedler	Forcing pregnant drug addicts to abort: rights-based and utilitarian justifications	<i>Social Theory & Practice</i> 1992 18 (3): 347-58	Florida State University Press	0037-802X
T L Schonfeld	Pride or Prejudice?	<i>Philosophical Inquiry</i> 2002 24 (1-2): 97-109	International Research Center of Philosophy and Sciences Inquiry	1105-235X
D Shickle	"On a supposed right to lie [to the public] from benevolent motives": communicating health risks to the public	<i>Medicine, Health Care and Philosophy</i> 2000 3(3): 241-9	Kluwer Academic Publishers	1386-7423
Smith, Battin, Jacobson, Francis, Botkin, Asplund, Domek, Hawkins	Are there characteristics of infectious diseases that raise special ethical issues?	<i>Developing World Bioethics</i> 2004 4 (1) ONLINE	Blackwell Publishing	1471-8731
B Steinbock	Drunk driving	<i>Philosophy & Public Affairs</i> 1985 14: 278-95	Princeton University Press	0048-3915
Al Tauber	Medicine, public health, and the ethics of rationing	<i>Perspectives in Biology and Medicine</i> 2002 45(1): 16-30	John Hopkins University Press	0031-5982
R E G Upshur	Principles for justification of public health intervention	<i>Canadian Journal of Public Health</i> 2002 93(2): 101-3	Canadian Public Health Association	0008-4263
M Verweij	Individual and collective considerations in public health: influenza in nursing homes	<i>Bioethics</i> 2001 15 (5-6): 536-46	Blackwell Publishing	0269-9702
E Weir	Female genital mutilation	<i>CMAJ</i> 2000 162(2): 1261-88	Canadian Medical Association	0820-3946
	Halkyard v. Matthew (Alberta Court of Appeal)	ABCA 67 Alberta 2001		
	Re: St. Peter's Health Systems and C.U.P.E. Local 778	106 L.A.C. (4 th) 170 Ontario 2002		

	Re: Chinook Health Region and U.N.A. Local 120	113 L.A.C. (4 th) 289 Alberta 2002		
	R. v. Cuerrier	S.C.J. No. 64 1998		
	R. v. Williams	S.C.J. No. 41 2003		