University of Washington School of Law  
Medical Malpractice (Law H502) 3 Credits  
Winter 2014  
Tuesdays and Thursdays, 9:00-10:20 AM  

Instructors:

Liz Leedom  
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Office Hours: By appointment

Please copy Ms. Leedom and Ms. Magnano on all written correspondence about the class. There will be times during this quarter when Ms. Leedom or Ms. Magnano will be in trial and in order to guarantee an answer on any class question, copy them both on all email correspondence.

Assistant:  
Lisa Town, William H. Gates Hall, Room 422 (lisatown@u.washington.edu)

Course Overview: The course will begin with a description of the history of the tort of medical malpractice and its evolution as a perceived “crisis.” We will then move on to an overview of informed consent and causes of action flowing from alleged failure to adequately disclose risks and other pertinent information. We will follow our discussion of informed consent claims with an analysis of the framework for a medical malpractice lawsuit, focusing initially on individual providers and ending with an examination of the issues surrounding institutional liability. The medical malpractice portion of the course will end with an analysis and discussion of proposals for medical malpractice reform. Throughout the course, the lectures will focus on practical aspects of the practice of medical malpractice law. This part of the course will conclude with an examination to be taken by all students.


Course Materials: The course materials consist of a textbook and some supplemental readings. The supplemental readings for medical malpractice will provide a focused analysis of the relevant statutes and case law in Washington State. The Supplemental readings are available on-line and can be accessed via the syllabus or the course web-site.

Course Expectations: This class meets on Tuesday and Thursday from 9:00 until 10:20 from January 7 through March 6.

Students are expected to arrive on time for class, prepared to discuss the assigned materials for each session. We will do our best to guide the class through the assigned material in a timely manner but, if we move more quickly or more slowly than anticipated, we will provide updated reading guidance sufficiently in advance of class to permit time to prepare. Students are also expected to check email and the course website on a regular
basis so that they are aware of updates and modifications to the syllabus and any additional information provided to the class. Finally, students are expected to complete all assignments in a timely manner and participate fully and fairly in any assigned group projects.

**Course Grade**: There will be a three-hour open-book examination at the end of the term. This examination will account for 40% of the final grade. There will also be a problem-based legal analysis and writing project designed to provide insight into the trial process; this assignment will comprise 30% of the final grade. In addition there will be two short written case notes on Washington malpractice cases that will each count for 10%. On the syllabus, cases displayed in red are options for case notes. The course website has a sign-up sheet. Case notes should be 4-5 pages in length and fully brief the case, discuss the relevant precedents and their use in determining the holding, and describe how the case fits into the landscape of medical malpractice. Class participation will be weighted at 10%.

**Electronic submissions**: Written assignments are to be submitted in hard copy at the beginning of class AND submitted electronically via Catalyst Collect-It Dropbox by 9:00 AM on the date they are due.

**Disability-related needs**: To request academic accommodations due to a disability please contact Disability Resources for Students, 448 Schmitz, 206-543-8924. If you have a letter from Disability Resources for Students, please present the letter to us so we can discuss the accommodations you might need in this class.

**Class 1, January 7**  
**Introduction and Overview of Course**  
**History and Evolution of Medical Malpractice**  
Joseph Treaster & Joel Brinkley, Behind those Medical Malpractice Rates, NY Times, Feb. 22, 2005 at 1.

**Class 2, January 9**  
**The Treatment Relationship: Duty to Treat, Formation and Termination**  
RCW 7.70.020  
Hurley v. Eddingfield, 156 Ind. 416 (1901)  
Payton v. Weaver, 182 Cal. Rptr. 225 (1982)  

**Class 3, January 14**  
**Informed Consent: Overview**
Class 4, January 16
Informed Consent: WA Law
RCW 7.70.060, RCW 7.70.065
Washington Cases for Case Note Presentations:

Class 5, January 21
Written Assignment handed out (due Feb 13)
The Standard of Care, and the role of the expert witness
Text: 284-320
RCW 7.70.030, RCW 7.70.040.

Class 6, January 23
Medical Malpractice: Alternative Liability Theories
Cases for Case Note Presentations:

Class 7, January 28
Medical Malpractice: Causation and Affirmative Defenses
Text: 338-341
Cases for Case Note Presentations:
DeYoung v. Providence Medical Center, 136 Wn. 2d 136 (1998).

Class 8, January 30
Medical Malpractice: Damages and Settlement
RCW 4.22.070, RCW 4.56.260

Class 9, February 4
FIRST CASE NOTE DUE: Submit hard copy at beginning of class and electronic copy by 9:00 AM on Collect-It
Institutional Liability
Text: 413-419, 423-427, 461-481
Cases for Case Note presentations
   Kadlec Med. Ctr. v. Lakeview Anesthesia Ass’n, 527 F.3d 412 (5th Cir. 2008).

Class 10, February 6
Medical Malpractice Reform
Text: 496-516
Mello MM et al., Deterrence of Medical Errors: Theory and Evidence for Malpractice Reform, 80 Texas L Rev 1595 (2002).
Putnam v. Wenatchee Valley, 166 Wn.2d 974, 216 P.3d 374 (2009)
Congdon-Hohman, Joshua, et al., “Potential Effects of the Affordable Care Act on the Award of Life Care Expenses.” College of Holy Cross, Department of Economics (2012)

Class 11, February 11
Statutes of Limitations
RCW 4.16.350, RCW 7.70.100, RCW 7.70.110
Ohler v. Tacoma General, 92 Wn.2d 507, 598 P.2d 1358 (1979)
DeYoung v. Providence Medical Center, 136 Wn.2d 136, 960 P.2d 919 (1998)

Class 12, February 13
Risk Management
Guest Speaker
Cindy Jacobs – University of Washington

Class 13, February 18
Alternative Dispute Resolution in Medical Malpractice Cases
Discovery Issues in Medical Malpractice Cases
Evidentiary Issues in Medical Malpractice Cases
WRITTEN ASSIGNMENT– TRIAL BRIEF DUE
Submit hard copy at beginning of class and electronic copy by 9:00 AM on Collect-It
RCW 7.70A (voluntary arbitration)
Anderson v. Breda, 103 Wn.2d 901, 700 P.2d 737 (1985)
Heidebrink v. Moriwaki, 104 Wn.2d 392, 706 P.2d 212 (1985)
RCW 4.24.200, RCW 4.24.250
RCW 7.70.060, RCW 7.70.080
RCW 42.17.310, RCW 43.70.510

Class 14, February 20
Guest Lecture – View from the Trenches
William J. Leedom, Bennett Bigelow & Leedom
Steve Pruzan, Miracle Pruzan & Pruzan

Class 15, February 25
Wrongful Death in Medical Malpractice Context
RCW 4.20.010, RCW 4.20.020, RCW 4.20.046, RCW 4.20.060

Class 16, February 27
Confidentiality
Text: 259-283
RCW 70.02.170

Class 17, March 4
SECOND CASE NOTE DUE: Submit hard copy at beginning of class and electronic copy by 9:00 AM on Collect-It
EMTALA
Ostensible Agency
Apportionment/Joint and Several Liability,
Text: 530-544
RCW 4.22.070
Adcox v. Childrens’ Hospital, 123 Wn.2d 15, 864 P.2d 921 (1993)
Class 18, March 6
Promises to Cure/Warranty
Trial Practices Tips for Medical Malpractice Cases
Overview for Final
RCW 7.70.030
Come to class with questions, points of clarification, discussion items, etc

Final Exam
3-hour Catalyst Final Exam: available 8:00 AM March 10 – 5:00 PM March 21