PUBLIC HEALTH LAW:
INDIVIDUAL RIGHTS & PUBLIC HEALTH POWERS
LAW H512 / HSERV 551 (2 Credits) Fall 2019
Tuesdays, 1:00 PM – 2:50 PM

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Summary of Course
This course explores the legal basis of the public health system in the United States. We will examine the inherent tension between the government’s fundamental goals of ensuring and protecting the public’s health and respecting constitutionally-protected individual rights. We will consider the extent to which the government may limit individual liberties to promote public health, safety, and morals.

This course is designed to introduce students to foundational and contemporary issues in law and ethics that affect the policies and practice of public health. The goal of the course is to equip students to identify and evaluate legal and ethical issues that underlie the field of public health. We will address topics such as constitutional law relating to public health; tort litigation for the public’s health; privacy protection; and public health powers such as immunization, testing, screening, quarantine, and isolation, as well as public health current events.

Course Objectives:
• Identify constitutional foundations of the American public health system.
• Evaluate the balance between individual rights and societal needs to achieve public health goals.
• Understand the role of government, its powers and limitations with respect to individual rights.
• Recognize the current federal, state and local laws that seek to regulate and promote public health.
• Identify stakeholders and interests at issue in public health law and recognize and critique the arguments they present.
• Differentiate between the social, economic and political underpinnings of public health disparities and inequities and analyze how these interdependent variables apply in engineering public health policy.

Questions to keep in mind:
• Who do public health policies protect, and how? Who protects the public from the policymakers, and how?
• How do health policies protect and compromise individual rights and privileges?
• To what extent does the legal system appreciate public health issues involved?
• Do people have a right to harm themselves or engage in behavior that is dangerous to others?
• Who are the stakeholders, and what are their interests in health policies and their consequences?
• How do federal, state, and local government actions differ? How do they relate to each other?
• How do we balance collective interests with individual interests?

Class Participation

Active and thoughtful discussion are important in this course. Before class, please read the assigned materials and think critically about them. Please be prepared to contribute your questions and comments to the class discussion. We will sometimes discuss controversial topics. Although we encourage debate and interaction, please be respectful of different points of view.

Course Materials

• Scott Burris, et al., The New Public Health Law, Oxford University Press, 2018
• Additional Course Materials: Relevant Cases and Articles are posted on course website
• Some class sessions will include PowerPoint slides, which will be made available on the course website after we finish the respective unit.

Course Grade

Students should read the assigned material before class and be prepared to engage in discussion with the instructor and other students. The course grade will be composed of a grade for an 8- to 10-page paper and a final exam.

There are two topic options for the paper, both of which are escalating threats to public health:

• Gun violence: for this paper you will need to reflect on the impact of recent events with respect to access to a wide variety of firearms with substantial "kill" capacity. Over the summer, we witnessed several mass shootings (El Paso, Odessa) adding to our long list such incidents (Parkland, Pittsburgh Synagogue). As a nation, our propensity for gun violence far exceed that of other developed nations. Notably 1 in 3 homes with children have guns and injury and death among children is escalating; shooting is the third among causes of death. Those of you selecting this topic should consider the public health impact of proposed gun legislation in the wake of these gun tragedies. Each of you should pick a state or nation and consider their laws and proposed law with respect to gun regulation, their
potential reforms in response to recent and accelerated gun violence, and how the proposals presented by presidential candidates will be received in your state.

- Vaping: The individual and public health threat of vaping is just beginning to be fully realized. Vaping has become massively popular among young adults; it has also become a cigarette alternative for "former" smokers. In the former populations, the purveyors of vaping woo teens and young adults with colorful packaging and candy-like flavors. In the latter, the purveyors offer addicted smokers an "less dangerous" alternative. Not surprisingly, many of the purveyor of vaping supplies and substances are tied to the tobacco industry and are skilled at marketing their products. Those of you choosing this paper topic should consider the threat that these products present to the public health of the nation, especially young people and former smokers, Taking into account the recent attempts to address vaping by some of our political leaders (President Trump, Governor Cuomo) and using the long history of tobacco comparison, propose a plan to regulate this emerging epidemic.

The final exam will likely be a series of short-answer questions and some complex multiple-choice questions; it will be cumulative. The paper will compose 40% of the grade and the final exam 60%. Final grades may be adjusted upward for exceptional class participation or downward for poor participation and attendance.

Access and Accommodation

To request academic accommodations due to a disability, please contact Disability Resources for Students (DRS), 011 Mary Gates Hall or 206-543-8924 or uwdrs@uw.edu or disability@uw.edu. If you have a letter from DRS, please present the letter to the instructor so that we can discuss appropriate accommodations.

Religious Accommodations:

“Washington state law requires that UW develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW’s policy, including more information about how to request an accommodation, is available at Religious Accommodations Policy (https://registrar.washington.edu/staffandfaculty/religious-accommodations-policy/).

Accommodations must be requested within the first two weeks of this course using the Religious Accommodations Request form (https://registrar.washington.edu/students/religious-accommodations-request/).”

Course Syllabus

Tuesday, October 1
What is Public Health? What is Law? The Role of the Constitution
Text: Pages 3-35
Cases:
Jacobsen v. Massachusetts
DeShaney v. Winnebago County Dept. of Social Services, 492 U.S. 189 (1989)

Tuesday, October 8
Federal Public Health Authority, Federal Preemption, and Federalism
Text: Pages 105-134
Cases:
Gonzalez v. Raich
South Dakota v. Dole
National Federation of Independent Business v. Sebelius
U.S. v. Graydon Earl Comstock
Compagnie Francaise de Navigation a Vapeur v. Louisiana Board of Health (1902)
U.S. v. Windsor
County of Santa Clara v. Trump

Tuesday, October 15
State and Local Public Health Authority
Text: Pages 136-142
Cases:
Spokane County Health District v. Brockett, 120 Wash.2d 140, 839 P.2d 324 (1992)
Actions
Bush v. Schiavo, No SCO4-925, decided September 23, 2004

Tuesday, October 22
Substantive Due Process & Fundamental Rights: State Intrusion into Reproductive Decision Making and Vaccination Decision-making
Text: 144-152
Cases:
Buck v. Bell
**Tuesday, October 29**

**Constitutional Rights and Limitations – First Amendment: Free Speech and Religion**

Text: 161-170

Cases:

- **Rust v. Sullivan**

- **USAID v. Society for Open Society International Inc.**


- **Burwell v. Hobby Lobby**


- **Emily Bazelon, Did Little Sisters of the Poor Win or Lose at the Supreme Court? Slate, Jan 24, 2014**

- **Curtis v. School Committee of Falmouth**

- **Employment Division, Dept. of Human Resources of Oregon v. Smith**

- **Gonzales v. O Centro Espirita Beneficence Uniao do Vegetal**

- **Church of the Lukumi Babalu Aye v. City of Hialeah**

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**Tuesday, November 5 - No Class; Class to be Rescheduled on date to be determined**

**Equal Protection and Unwarranted Searches**

Text: 153-160

Cases:

- **City of Cleburne v. Cleburne Living Center, 473 U.S. 432 (1985)**
Craig v. Boren, 429 U.S. 190 (1976)


Norman-Bloodsaw v. Lawrence Berkeley Laboratory, 135 F.3d 1260 (9th Cir. 1998)


Tuesday, November 12
Procedural Due Process: Deprivation of Liberty and Isolation and Quarantine
Cases:
Jew Ho v. Williamson

Greene v. Edwards

City of Newark v. J.S.


O’Connor v. Donaldson

Addington v. Donaldson

In re the Matter of Harris

Tuesday, November 19
Informational Privacy, Mandatory Reporting and Duty to Disclose/Warn
Whalen v. Roe

FAA v. Cooper

In the Matter of Miguel M.

Northwestern Memorial Hospital v. Ashcroft

Review People v. Hodges

NY State Society of Surgeons v. Axelrod

Tarasoff v. Regents of the University of California, 131 Cal.Rptr. 14, 551 P.2d 334 (1976)
Volk v. DeMeerleer, 386 P.3d 254 (2016)

Tuesday, November 26 – NO CLASS - Happy Thanksgiving!

Tuesday, December 3 (class to be extended to accommodate presentations)  
Class Discussion and Student Presentations on Gun Violence and Vaping as Public Health Threats