

Revised December 13, 2021

University of Washington School of Law

Fundamentals of Health Law

Law H501, Autumn 2021

4 Credits

Tuesdays and Thursdays 8:30 a.m. – 10:20 a.m.

Wm. H. Gates Hall, Room 127

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Office Hours: Thursdays 2:30 - 3:30 p.m. and by email appointment

In addition, I will make myself available after class for trailing questions and will schedule a few class consultation hours by Zoom.

Class Description

This course provides an overview of healthcare law, policy, and organization in the United States. We begin by studying how healthcare is delivered and paid for in the United States, with attention to Medicare, Medicaid, and the ACA Marketplaces. We then examine how healthcare entities are structured and governed, with attention to tax exemption, fraud and abuse law, and competition regulation. Finally, we turn to patient protections, including duties to treat, medical decision-making, and privacy frameworks.

As we delve into these topics, we will consider throughout how the law helps or hinders efforts to create a more equitable, accessible, affordable, and quality healthcare system. We will also consider how these topics relate to legal issues raised by the COVID-19 pandemic. No prior knowledge of health law or policy is required.

This course is intended to be interactive. We will draw on current events. We will hear from attorneys who practice in varied settings. And we will work through many of the discussion prompts and questions set forth in the textbook and inspired by supplemental readings and videos.

Learning Objectives

Students who successfully complete this course should be able to:

- Cogently describe, orally and in writing, the core legal standards covered by the course and their policy groundings.

- Appropriately analyze the applicability of key statutes, regulations, subregulatory guidance, and legal precedents to complex factual situations arising in the areas studied.
- Thoughtfully opine about ways in which American healthcare law helps or hinders efforts to create a more equitable, accessible, affordable, and quality healthcare system.

Textbook, Additional Materials, and Canvas Modules

The required text for this course is The Law of American Health Care by Huberfeld, Outtersen and Leonard (2d ed. Wolters Kluwer 2018). Our study will focus on the material in this textbook, including many of its questions, problems, and capstones. As indicated on the syllabus, there are additional required materials, often connecting our areas of study to current issues. I have also included optional readings and videos; these are pitched at a lay audience and are intended to provide readily accessible background information and context.

To get a full and real-time sense of prominent health law and policy issues, students must subscribe to the Kaiser Health News “Morning Briefing” at <http://khn.org/email-signup/> and regularly scan its contents. We will often consider how current legal and policy issues relate to the material we are studying, and this is one of many good resources for up-to-date information.

I will make extensive use of the “Modules” on the course Canvas page. They are organized by topic. Within the relevant modules, I will post links to PowerPoints, supplementary materials, in-class exercises, and perhaps Panopto and Zoom recordings.

Grading

The course grade will be based on participation, two quizzes, and a final exam.

Participation, worth up to 10 points, will be assessed based on the thoughtfulness and relevance (not merely the frequency) of participation in classroom discussions, contributions to small-group work, and postings on discussion boards.

A 45-minute quiz, worth up to 10 points, will be administered in mid-October and will consist of short answer, multiple choice, and/or true-false questions and an essay question. All questions will be about Medicare and/or Medicaid. The quiz will mimic exam conditions. My goals with this quiz are to make sure that students have a solid grasp of these public insurance programs – a necessity for engaging with the subsequent material – and are familiar with the exam style in advance of the final.

A 45-minute quiz, worth up to 10 points, will be administered in mid-November and will consist of short answer, multiple choice, and/or true-false questions and an essay question. All questions will be about the False Claims Act, the Anti-Kickback Statute, and/or Stark. The quiz will mimic exam conditions. My goals with this quiz are to make sure that students have a solid grasp of federal fraud and abuse laws – a necessity for most areas of health law practice – and are familiar with the exam style in advance of the final.

The 3-hour final exam, worth up to 70 points, will take place at the officially scheduled time in December and will consist of short answer, multiple choice, and/or true-false and essay questions about material from the entire course.

Exams and quizzes from prior years are available for your review through the library's website; I am happy to go over your draft answers. Note that some prior exams and quizzes were drawn from different course materials and administered under different conditions.

Final Exam

The final exam will be administered remotely using Exemplify (ExamSoft) in "non-secure with blocked internet" mode. The 3-hour exam will consist of short answer, multiple choice, and/or true-false and essay questions about material from the entire course. The final exam is currently set to allow students to self-schedule the time-block for taking and completing it anytime between Monday December 13 at 8:30 a.m. and Saturday December 18 at 11:59 p.m. You are responsible for reviewing the exam schedule to determine if there are any changes. The exam schedule for this quarter is posted at [Exams | UW Law School](#).

Class Participation, Expectations, Communication

Active, respectful participation and collaboration are essential components of this course. We will discuss challenging issues. I expect everyone to promote a positive environment that encourages the expression of a wide range of views and respects the varied experiences we each bring to class.

Students should come to class having done the required reading carefully and critically, prepared to participate in class discussions and activities. The better your comments and questions, the better the class will be. I recognize that on rare occasion you might need to miss a class or attend unprepared; if so, please let me know in advance.

Feel free to contact me via email with questions, concerns, or to set up a meeting outside of office hours. I aim to respond to emails within 24 hours during the business week; I will not regularly check email in the evenings or during weekends.

I will utilize the "Announcements" function in Canvas to communicate with the entire class outside of class hours. Please make sure you have set your notification preference so that you receive these messages promptly.

Course Evaluation

Course evaluations are open online during the last week of classes. Class time will be made available on Tuesday, December 7 for filling out your evaluation. Please bring a laptop or mobile device to class on this date to participate in the evaluation. In addition, this class will have a mid-quarter evaluation to help me determine, in this COVID-19 era, which learning practices we should consider stopping, starting, and continuing.

Review Session

I will hold an optional review session on Thursday December 9 during the regular class time. This session will be shaped by your questions.

Use of Cell Phones and Computers

Nothing impedes robust discussion more than web surfing or texting during class. Please use computers only for taking notes or doing in-class exercises and put phones away.

Law School Attendance Policy

Under changes to ABA Accreditation Standard 304, adopted in August 2004, a law school shall require regular and punctual class attendance. At any time after the fifth week of a course (halfway through a summer session course), a student who has been determined by the instructor to have attended fewer than 80 percent of the class sessions in any course will be required to drop the course from his or her registration upon the instructor's so indicating to the Academic Services Office.

Access and Accommodation

Your experience in this class is important to me. If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs in this course.

To request academic accommodations due to a disability, please contact Disability Resources for Students (DRS), 011 Mary Gates, (206) 543-8924 (Voice & Relay); email uwdrs@uw.edu. For additional info, please see the DRS website <https://depts.washington.edu/uwdrs/>. If you have a letter from DRS, please present the letter to me so we can discuss the accommodations you might need in this class.

Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

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
As of December 13, 2021

Check this syllabus periodically. It will change and will indicate the date revised.

I intend to follow the syllabus as described below, particularly as to the order of topics and the textbook readings. It is possible, though, that we will move through the topics more quickly or more slowly, and we have the flexibility to do so. In addition, I will be adding required supplemental materials and optional background resources.

Class Meetings

CLASS 1 – Tuesday, October 28

Topic: Introduction to American Healthcare Law

Text: Preface, Chapter 1; skim section B (pages 5 – 33)

Required Supplemental Materials (also posted in “Introduction to American Health Law” Module):

- Claire Parker, [U.S. Health-Care System Ranks Last Among 11 High-Income Countries, Researchers Say](https://www.washingtonpost.com/world/2021/08/05/global-health-rankings/), Wash. Post (Aug. 5, 2021, 12:39 PM EDT), <https://www.washingtonpost.com/world/2021/08/05/global-health-rankings/> [<https://perma.cc/V377-J829>]
- Courtney Connley, [Racial Health Disparities Already Existed in America—The Coronavirus Just Exacerbated Them](https://www.cnbc.com/2020/05/14/how-covid-19-exacerbated-americas-racial-health-disparities.html), CNBC (May 15, 2020, 10:26 AM EDT, updated June 3, 2020, 10:29 AM EDT), <https://www.cnbc.com/2020/05/14/how-covid-19-exacerbated-americas-racial-health-disparities.html> [<https://perma.cc/DH37-8F2V>] (and watch the 7-minute embedded video, *What Covid-19 Health Disparities Mean to Six Black Medical Professionals*).

Optional Supplemental Materials:

- A “Health Care Acronym and Statute List” is posted in the “General Resources” Module. It is in a word document format in case you want to add your own notes.

Be prepared to share your answers to these questions:

- Based on the text, your experience, or other reading, what are some of the problems with the American healthcare system(s)?
- According to the CNBC article and video, how has coronavirus pandemic exacerbated or exposed racial health disparities in the United States?
- What are the distinctive aspects of health and of healthcare as a product from an economic perspective? From a distributive justice perspective?

Guidance for Pre-Class work: The Preface explains the philosophy guiding the format of this textbook, which likely differs from others you have used in law school. Chapter 1 introduces many of the themes, authorities, and topics we will explore in this class. It also provides, in section B, three example case studies; we will focus on these case studies during the next class.

CLASS 2 – Thursday, September 30

Topic: Introduction to American Healthcare Law

Readings: Chapter 1, focus on section B

Questions and Guidance:

- “Guidance for Preparation and Discussion of the Case Studies” is posted in the Module for labeled “Introduction to American Health Care Law.”
- How is *Jacobsen* relevant or not to the current debates over COVID-19 vaccine mandates?
- What potential conflicts of interest exist in the scenario described in the Redding Medical Center materials?
- What sources of law have been important in determining the nature and scope of health plans’ obligations to provide contraceptive coverage without cost to patients?

CLASS 3 –Tuesday, October 5 GROUP 6

Topic: Public Provision of Health Insurance

Text: Chapter 2 Sections A and B (Medicare); omit subsection B6 (pp 83 – 89)

Required Supplemental Materials:

- Watch “The Power to Heal: Medicare and the Civil Rights Revolution” produced by Bullfrog Films (2019) (60 minutes). It is available through the UW Library System as either a [DVD](#) or an [evideo](#); you will need to sign in with your UW ID to view the evideo.
- Watch [The ABCs of ACOs](#), KAISER FAM. FOUND., Sept. 14, 2015 (3-minute video).

Optional Supplemental Materials:

- CMS Video: [Medicare & You: Understanding Your Medicare Choices](#) (3 minutes)
- Sallie Thieme Sanford, [Health Care's Fraternal Twins at 50: The Birth and Development of Medicare and Medicaid](#), JURIST-ACADEMIC, Nov. 1, 2015.

Questions and Guidance:

- Before class, please post in the “Power to Heal” Discussion at least a few sentences reflecting on the film, noting something you learned from it, a phrase or image or person from it that sticks with you, and/or lessons that the early Medicare certification process might hold for current transformational efforts. Once you post, you will be able to see what others have posted.
- Before class, please post in the “Medicare” Discussion at least one comment or question you have about Medicare. Once you post, you will be able to see what others have posted.

CLASS 4 –Thursday, October 7 GROUP 5

Topic: Public Provision of Health Insurance

Text: Chapter 2 Section C (Medicaid); omit subsections C4 and C5 (pp. 128 – 148) but do read the Capstone at p. 148

Required Supplemental Materials:

- [Gresham v. Azar](#), No. 19-5094 (D.C. Cir. 2020). (posted in Module)

- Lydia Wheeler, [Supreme Court Leaves Fight Over Medicaid Work Rules in Limbo](#), Bloomberg News, July 12, 2021.

Questions and Guidance:

- How does Medicaid differ from Medicare in terms of the states' roles?
- How did the ACA change the Medicaid program?
- What were the issues in [Gresham v. Azar](#)? What did the court hold? What were the bases for the court's decision?

CLASS 5 – Tuesday, October 12 GROUP 4

Topic: Public Provision of Health Insurance

Text: Review Materials for Classes 3 and 4

Guest Speaker: Ashlan Strong, JD, MPH, Senior Policy Director, Washington State Hospital Association

Required Supplemental Material:

- Sallie Thieme Sanford, *Health Reform and Higher Ed: Campuses as Harbingers of Medicaid Universality and Medicare Commonality*, 47 J.L. MED. & ETHICS, No. 4 Supp., Winter 2019, at 79-90. (posted in Module)

Optional Supplemental Material:

- [“Summary of the Affordable Care Act”](#) KAISER FAM. FOUND., March 2017 (summarizing key provisions related to private health insurance, Medicaid, and Medicare).

Questions and Guidance:

- Please bring your questions and comments about Medicare and Medicaid.

CLASS 6 –Thursday, October 14 GROUP 3

Topic: Regulation of Private Insurance

Text: Chapter 3 Sections A (Introduction), B (Private Market) and C (ERISA) through and including page 195 (we will skip *McGann*, which begins on page 196, and the HIPAA provisions that follow it)

Required Supplemental Materials:

- Listen to [The Week in Health](#) Law podcast, [episode 171 “The Voldemort of Health Law”](#) (37 minutes)
- An ERISA flow chart with self-insurance diagram is posted on the Canvas Module

Questions and Guidance:

- You might find it helpful to listen to the podcast before reading the ERISA textbook section. Why is ERISA “the Voldemort of health law”?
- How does ERISA present challenges for state health reform efforts?
- What rights and remedies does ERISA provide for Juan Davila and Ruby Calid (the plaintiffs in *Aetna Health Inc. v. Davila*, which begins on page 188)? Do you think these are appropriate? Why or why not?

MIDTERM QUIZ ONE (Medicare, Medicaid)

Thursday October 14 5:00 pm – Monday October 18 10:00 pm (45 minutes to complete once you log in; must be completed by 10:00 pm October 18)

CLASS 7 – Tuesday, October 19 GROUP 2

Topic: Regulation of Private Insurance

Text: Chapter 3 Section C middle of page 201 (“no lifetime or annual limits) through p. 202, and all of Section D (Individual and Small-Group Markets)

Required Supplemental Material:

- Nicolas Bagley, [California v. Texas – Ending the Campaign to Undo the ACA in the Courts](#), New Eng. J. Med., August 19, 2021.

Optional Supplemental Material:

- [“Summary of the Affordable Care Act”](#) KAISER FAM. FOUND., March 2017 (summarizing key provisions related to private health insurance, Medicaid, and Medicare).

Questions and Guidance:

- If you have utilized an ACA Marketplace, or helped someone do so, consider if you would like to tell the class about your experience.
- How does federal law, including the ACA, provide health insurance options for those who have lost employer-sponsored coverage during the COVID-19 pandemic?
- As you read [King v. Burwell](#), give some thought to question 1 on page 214. In this alternative history scenario, what spillover effects might we have seen?

CLASS 8 – Thursday, October 21 GROUP 1

Topic: Regulation of Private Insurance

Text: Review Materials for Classes 6 and 7

Guest Speakers: [Jane Beyer, JD](#), Senior Health Policy Advisor, Office of the Washington Insurance Commissioner [Joan Altman, JD, MPH](#), Director of Government Affairs and Strategic Partnerships, Washington Health Benefit Exchange

CLASS 9 – Tuesday, October 26 GROUP A

Topic: Structure and Governance of Healthcare Entities

Text: Chapter 4; in section C, skim [Berlin v. Sarah Bush Lincoln Health Center](#) and the New Jersey statute

Guest Speaker: [Lisa Hayward, MHA, JD](#), Senior Vice President and Chief Legal Officer, Seattle Children’s

Required Supplemental Material:

- Patti Payne, Puget Sound Business Journal, [Seattle Children’s investigation ends, but lack of transparency could have ‘chilling effect’](#), August 4, 2021.

Questions and Guidance:

- What prompted the Seattle Children’s Board of Directors to hire former Attorney General Eric Holder? What has the board done with Holder’s report? (If you would like more background, Crosscut and the Seattle Times published several articles about Dr. Danielson’s protest resignation last year.)
- In reading the MEETH case, consider what failures of process by the board led the court to deny the requested sale. What advice to the board in 1998 would have permitted it to sell the hospital’s property and open the diagnostic and treatment centers?
- According to the Caremark court, what is the board’s duty to ensure that a health care corporation complies with applicable laws? As a practical matter, how can the board carry out those duties?

CLASS 10 – Thursday, October 28 GROUP B

Topic: Tax-Exempt Health Care Charitable Organizations

Text: Chapter 5

Required Supplemental Material:

- Look at the Washington State Hospital Association Webpage regarding [“Charity Care and Financial Assistance at Washington State Hospitals”](#)

Optional Supplemental Material:

- Listen to “An Arm and a Leg’: [How Charity Care Made it into the ACA](#)” Podcast September 9, 2021.

Questions and Guidance:

- The ACA made several changes to 501(c)(3) requirements for healthcare entities. After studying the chapter, you should be able to describe a couple of key ones and their policy bases.
- Consider the Wall Street Journal article that starts on page 287. Is Yale-New Haven Hospital a business or a charity? What facts lead to your conclusion?
- Consider the St. David’s Health Care System 5th Circuit decision involving a joint venture between a for-profit and a not-for-profit hospital that starts on page 297. You represent St. David’s. What one provision of the agreement with HCA would you renegotiate after this opinion to best preserve tax-exempt status?
- In the context of charitable hospitals, what is an “excess benefit transaction”? What are “intermediate sanctions”?
- The 2010 Illinois Supreme Court decision in Provena (begins page 307) sent shockwaves through the tax-exempt hospital community. Why?

CLASS 11 – Tuesday November 2 GROUP C

Topic: Health Care Fraud and Abuse

Text: Chapter 6 until D. Stark Law (page 375); skip the Kellogg Brown decision starting on page 351.

Required Supplemental Material:

- Read U.S. Department of Justice, Press Release, [“Attorney General Announces Task Force to Combat COVID-19 Fraud,”](#) May 17, 2021.

- Skim “[A Roadmap for New Physicians: Avoiding Medicare and Medicaid Fraud and Abuse](#),” Office of the Inspector General, U.S. Department of Health and Human Services.

Optional Supplemental Material:

- “A Simple Summary of Complex Fraud and Abuse Laws” (posted on module)

Questions and Guidance:

- These sections of the textbook focus on the False Claims Act (FCA) and Antikickback Statute (AKS). We will turn to the third major federal law in this area, Stark, next class session. Note that a single factual situation could involve all three of these laws, and that an alleged Stark or AKS claim is often brought as a FCA case.
- What aspects of the FCA make it such a powerful law?
- What did Dr. Krizek do that violated the FCA?
- Please make up a situation, invent a hypothetical, involving the COVID-19 response that would support a finding that the FCA was violated. Extra karma points if your hypothetical also involves the AKS. (The “case examples” at the bottom of the “[COVID-19 Fraud Enforcement Task Force Fact Sheet](#)” might give you some ideas.)

CLASS 12 – Thursday November 4 GROUP D

Topic: Health Care Fraud and Abuse

Text: Chapter 6, page 375 to the end.

Required Supplemental Material:

- Read the CMS [press release](#) and [fact sheet](#) about new Stark regulations.
- Read the OIG [fact sheet](#) about new AKS safe harbor regulations.
- Read U.S. Department of Justice, Press Release, “[United States Resolves \\$237 Million False Claims Act Judgment against South Carolina Hospital that Made Illegal Payments to Referring Physicians](#),” Oct. 16, 2015.
- Read U.S. Department of Justice Press Release, “[Former Chief Executive of South Carolina Hospital Pays \\$1 Million and Agrees to Exclusion to Settle Claims Related to Illegal Payments to Referring Physicians](#),” Sept. 27, 2016.

Optional Supplemental Material:

- Stark Decision-Tree Flow Chart (posted on module)

Guest Speaker: [Darby Allen](#), Partner, Davis Wright Tremaine

Questions and Guidance:

- In November 2020, CMS and OIG issued final rules, effective in 2021 and 2022, that make changes to the AKS and Stark regulations. What was the agencies’ intent in making these changes?
- How is the Stark Law narrower than the AKS? Broader?
- Why do you think Congress extended the reach of the Stark Law to compensation arrangements and not only to “ownership and investment interests”?

CLASS 13 – Tuesday, November 9 GROUP E

Topic: Health Care Fraud and Abuse

Text: Review Materials for Classes 11 and 12

We will review details of the federal fraud and abuse laws and work through some hypotheticals.

VETERAN'S DAY – Thursday, November 11

No Class

CLASS 14 – Tuesday, November 16

Topic: Competition in HealthCare Markets

Note: This class session will be remote and asynchronous. Please watch the three Panopto videos linked from Canvas page's Competition in Healthcare Markets Module.

Text: Chapter 7; skim ACO Guidelines (pp. 436 – 442) and omit U.S. v Siegelman (pp. 452 – 456)

Required Supplemental Material:

- Ch. [49.62 RCW](#) (Noncompetition Covenants)
- [Emerick v. Cardiac Study Ctr](#), 189 Wn. App. 711, 357 P.3d 696 (2015) (re: validity of physician noncompete agreement)
- AHLA Antitrust Practice Group News, "[FTC and Pennsylvania Lose Bid to Block Hospital Merger in Philadelphia Area: Focus Now Turns to the Third Circuit \(Links to an external site.\)](#)," (Dec. 18, 2020) (posted on module)
 - You must be an AHLA member to access this content via the hotlink; AHLA membership is free to law students. A copy is also posted on the module
- JD Supra, "[FTC Abandons Appeal of Philadelphia Hospital Merger, Allowing Jefferson and Einstein to Proceed with Creation of 18-Hospital System \(Links to an external site.\)](#)"

Guest Speaker (remote and asynchronous): [Doug Ross](#), JD, Affiliate Instructor, UW Law School (and former Partner, Davis Wright Tremaine)

Questions and Guidance:

- Does it make sense to apply antitrust law to health care? Do you have a blanket answer or does your response vary depending on the segment of the industry at issue?
- Antitrust enforcement authorities spend significant resources fighting hospital and physician mergers they consider anticompetitive. Do you agree with this policy? Why or why not?
- As you read Maricopa and review the ACO guidelines, ask yourself: when can otherwise unaffiliated physicians jointly negotiate rates?
- What are the pros and cons associated with physician non-competes?
- Resolved: certificate of need laws should be abolished. Do you agree or disagree, and why?

CLASS 15 – Thursday, November 18

Topic: Competition in Health Care Markets

Text: See Class 14

Required Supplemental Material: See Class 14

Guest Speaker (in person): [Doug Ross](#), JD, Affiliate Instructor, UW Law School (and former Partner, Davis Wright Tremaine)

Questions and Guidance: See Class 14

MIDTERM QUIZ TWO (FCA, AKS, Stark)

Thursday November 18 5:00 pm – Monday November 22 10:00 pm (45 minutes to complete once you log in; must be completed by 10:00 pm November 22)

CLASS 16 – Tuesday, November 23

Topic: Duties Related to Patient Care

Text: Chapter 8 (until “Direct Government Regulation of Quality, p. 508)

Required Supplemental Material:

- Department of Health and Human Services Press Release, [HHS Announces Prohibition on Sex Discrimination Includes Discrimination on the Basis of Sexual Orientation and Gender Identity](#), May 10, 2021.
- John Mastando et al., [What's At Stake In High Court's CVS Disability Bias Case](#), Law360 (Sept. 10, 2021).

Optional Supplemental Material:

- EMTALA Fact Sheet, Washington State Hospital Association (posted on module)

Questions and Guidance:

- Which providers have obligations under EMTALA? What are those obligations?
- On December 7, 2021, the United States Supreme Court will hear [CVS v. Doe](#) (the case discussed in the Law360 article above. What is at stake as courts as resolve open interpretive questions involving §1557 of the ACA?
- What is the difference between the implied authority and apparent authority theories recognized in *Petrovich*? What facts could help the plaintiff succeed under each theory?
- Should arbitration clauses be allowed in settings other than nursing homes?

THANKSGIVING – Thursday, November 25

No Class

CLASS 17 – Tuesday November 30

Topic: Duties Related to Patient Care and Health Privacy in the Digital Age

Text: Chapter 8, p. 508 to end; Chapter 10 until p. 634 C.

Required Supplemental Material:

- Health and Human Services Office for Civil Rights [webpage on Health Information Privacy](#)

Guest Speaker: Mindy Taylor, JD, Vice President and Senior Corporate Counsel, Providence St. Joseph (tentative)

Questions and Guidance:

- What legal methods (common-law or statutory) exist to try to ensure that doctors identified as posing safety risks do not harm patients? What competing concerns do these methods reflect? Do you think an appropriate balance has been struck?
- What is the purpose of HIPAA's Privacy Rule? How is the purpose of the Security Rule different? Where does the Breach Notification Rule fit in?
- The Department of Health and Human Services Office for Civil Rights has a great deal of information about the HIPAA Privacy Rule. Spend at least 10 minutes poking around the [webpage on Health Information Privacy](#) (e.g. "HIPAA for Professionals," "HIPAA and COVID-19"), and then post on the discussion page something you learned that you think the rest of us ought to know *and that no one else has posted yet*.

CLASS 18 – Thursday, December 2

Topic: Health Privacy in the Digital Age

Text: Chapter 10 p. 634 to end

Required Supplemental Material:

- Cason D. Schmit, et al., *Telehealth in the COVID-19 Pandemic*, 2 COVID-19 Pol'y Playbook 123 (2021) (posted in module).

Questions and Guidance:

- How is HIPAA relevant, if at all, in the state cases included in the textbook?
- What legal and practical issues might be involved as to telehealth visits?
- How has the COVID19 pandemic highlighted both the potential value of broader adoption of telemedicine and impediments to broader adoption?

CLASS 19 – Tuesday, December 7

Topics: Review of Class Materials

Bring your questions!