

The University of Western Ontario
School of Health Studies

Health Sciences 4090 (Law 5385)

Public Health Law & Policy

Winter 2017

Instructor: Jacob Shelley

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Office Room Number: Room 21, Law Building

Office Hours: By appointment

Course Time: Tuesday 1:30-3:20 (all students)

Thursday 2:30-3:20 (all students); 3:30-4:20 (law students)

Location: Josephine Spencer Niblett Law Building, Room 51

Course Information:

This course examines the role of law and policy in public health in Canada. Public health is what we, as a society, can do to ensure the health of the people. Law historically has played an important role in public health. Traditionally, emphasis has been on the state, and the duties and limits of the state, although increasingly it is accepted that private law doctrines are relevant for public health. This course will examine the theoretical and legal foundations of public health. It will also highlight some of the competing values within and between public health and law, identify the place of ethics, reflect on the role of risk evaluation, and consider the challenges associated with using evidence in legal decision-making. With this background, the course will then examine critical public health problems, considering whether law should be used, and how. This will include an examination of traditional public health problems, such as quarantine and the prevention of communicable diseases, more modern problems, such as the prevention of chronic disease (e.g., tobacco control), and emerging problems (e.g., climate change). Throughout the course, students will reflect on the role of public, private, and international law, and the challenges with policy making in the public sphere.

This course is cross-listed with Law, and will have students from both faculties. Law students will join the class as of January 30th. In the three weeks prior to the Law students participating, the course will focus on the legal foundations of public health, including an examination of the constitution, the *Charter of Rights and Freedoms*, and other relevant legal principles. These sessions will prepare Health Studies students sufficiently for participating in the remainder of the class, which will focus on topics and issues relevant to both group of students. To facilitate deeper engagement with the legal issues, each week the Law students enrolled in the course will meet for an additional hour for a seminar discussion on specific

topics. Health Studies students will not be required to participate in these sessions, though they may decide to, and involvement will have no bearing on evaluations.

Course Objectives:

This course aims to provide an understanding of the role of law in population health in Canada. Upon successful completion of the course, students will be able to:

1. Discuss the theoretical foundations of public health and public health law.
2. Identify the legal foundations of public health law in Canada, and the role of public law, private law and international law.
3. Understand how the law has been used – or not used – to respond to specific issues in public health, including: prevention of disease (communicable and non-communicable), injury prevention, public safety, health promotion, immunization, and others.
4. Reflect on the tension between values at play in the development of public health laws (e.g., individualism vs collectivism in law)
5. Recognize and analyze the role health evidence plays in the development of legal policies to address public health issues.
6. Identify the role ethics and values play in assessing how law should respond to public health problems.

Course Materials:

All required materials, including cases and articles, will be posted on OWL.

Recommended text (will be on reserve in the library): Tracey Bailey, Timothy Caulfield & Nola Ries, eds, *Public Health Law & Policy in Canada* 3rd ed (LexisNexis, 2013).

Evaluation:

The assignments in this course are designed to allow meaningful interaction between Health Studies and Law students. The two groups of students will be assessed differently, but the assignments are linked. The main assignment in the course for Law students is an in-class moot on a public health issue (there will be five separate issues). Health Science students will write scientific reports that will be used as authorities for the purpose of the moot. While Health Studies students will not be involved in the moot exercise directly, for each moot a group of Health Studies students will act as observers and, in the class following the moot, will host a debate about the moot proceedings. For their final assignment, students will write a policy report on the court proceedings.

Because the assignments are intertwined, the evaluation for Law students is included in this rubric. All Law assignments are italicized and shaded. The marks of Health Studies students will not be influenced by the Law assignments, and vice versa.

<p>Participation</p> <p>This course is structured to encourage ongoing participation between Health Studies and Law students, and attendance and ongoing participation is required.</p> <p style="padding-left: 20px;">In-class Participation – 10%</p> <p style="padding-left: 40px;">Students will be assessed on their participation in class, with weight given to attendance on days where there</p> <p style="padding-left: 20px;">Submitted Discussion Questions – 5%</p> <p style="padding-left: 40px;">Students will be required to submit discussion questions in advance of class based on the readings, or other relevant material.</p>	15%
<p><i>Law: Participation – Law students will also be assessed on in-class participation (10%), submitted discussion questions (5%), as well as their role in judging the moots (5%)</i></p>	20%
<p>Research Report</p> <p>Health Science students will write a research report on one of five specific topics, identified in the first class (January 10th). These topics correspond with the public health issue that will be the focus of an in-class moot (mock trial) that will be done by the law students. On the first day of the integrated class, five scenarios will be released to the Law students, who will be divided into five groups. The Law students will prepare legal memos, and use these memos for their moot. Health Studies students will prepare research reports that the Law students will be instructed to rely on in their legal memos. These reports will address scientific evidence and health research relevant for the moot issues, and not legal issues. Specific instructions on what aspect of the issue is to be researched will be provided in class, in addition to guidelines for the report itself (length, formatting, etc).</p> <p>Note: these reports will be completed in <u>groups of two</u>, so that there will be three reports for each moot issue. Each group will be assigned a specific perspective (e.g., industry, NGO, etc).</p> <p style="padding-left: 20px;">Outline – 5%</p> <p style="padding-left: 40px;">An outline of the research report is to be submitted by January 31st.</p> <p style="padding-left: 20px;">Research Report – 25%</p> <p style="padding-left: 40px;">The Research Report will be due on February 16th.</p> <p style="padding-left: 40px;">All of the reports will be posted on OWL, and can be viewed by all students in the course. These reports will be used by the Law students in the preparation of their legal memos and during the moot. They will also be used by both Health Science and Law students for their final assignment.</p>	30%
<p><i>Law: Legal Memo – Students will submit a legal memo on their issue that will highlight the legal issues to be discussed in the moot. These memos will rely on the research reports for all scientific and evidentiary claims (with some limited exceptions). These memos will also be posted on OWL for viewing by all class members. Memos will be due March 10th.</i></p>	25%
<p>Moot & Debate</p> <p>From March 21 until April 6, there will be three weeks (six classes) dedicated to moots and debates. The format for each week will be the same (with the exception of week three, which will only have one moot and one debate). On the first day, there will be two moots in class. This will involve the participation of the Law students mooting (4 per moot), the Law students judging (4 per moot), and Health Science students who will be acting as observers and will debate about the moot in the following class (6 per moot). All other students not actively involved are expected to attend class, but will not participate. On the second day there will be two in-class debates by the Health Studies students who observed the moot. This will repeat for three weeks. The schedule of events are: moots on March 21st, 28th & April 4th, with debates on March 23rd, 30th & April 6th.</p>	

The readings for these classes will be the Research Reports and Legal Memos.	
<i>Law: Moot – Law students will participate in an in-class moot based on their Legal Memo.</i>	15%
<p>Debate</p> <p>A group of six students will be assigned to observe each moot. While they will not be actively involved in the moot, they will be required to debate the proceedings in the next class (see above). The students will be required to respond to the arguments raised in the Legal Memos and Moots by the Law students. Students will take the role of a journalist/policy analyst, and not legal experts. The intent is to mimic the kind of discussion that might take place on a political news show following an important trial. Specific instructions will be given in class regarding the format and approach.</p>	15%
<p>Final Report</p> <p>The final assignment, which will be a take-home exam, will be to produce a report on one of the public health issues discussed in class. Each student will submit an individual report. Students will be given specific instructions about the topic and format of their report at the beginning of the exam period. There will be a series of specific questions that students will have to answer in their report. Some will require the students to draw upon the Research Report, Legal Memo, Moot, and Debate related to their particular issue, and some questions may require some additional research.</p> <p>Note: students will not be assigned to the same issue they wrote their research report on or debated in class. As students will not know which of the remaining issues they will be writing their report on, attendance for the three weeks of moots and debates is mandatory. Students will be randomly assigned to an issue, irrespective of whether or not they were in attendance for the in-class moot and debate, subject only to approved accommodations as set out by the University.</p>	40%
<i>Law: Judgement – Students will be required to write a judgment on the moot they observed as judges. These judgments will be treated as take-home exams. Students will be given specific instructions at the beginning of the exam period.</i>	40%

Evaluation Policies:

- there will be a 10% penalty per day for late assignments;
- if an assignment more than five days late, it will not be marked, and the student will receive a mark of zero;
- failure to participate in any in-class assignments will result in a mark of zero;
- for group assignments, students will have an opportunity to discuss the participation of group members with the instructor, who reserves the right to modify a student's grade accordingly (each group member will have an equal opportunity to speak with the instructor);
- the University's policy on plagiarism will be strictly enforced – and this includes the use of the Research Report and Legal Memos in the Final Report;
- all of the above is subject to the University's policy on academic accommodations.

Statement on Use of Electronic Devices

Electronic devices will be permitted during class time, except during student presentations (moots and debates).

ADDITIONAL STATEMENTS

Student Code of Conduct

The purpose of the Code of Student Conduct is to define the general standard of conduct expected of students registered at The University of Western Ontario, provide examples of behaviour that constitutes a breach of this standard of conduct, provide examples of sanctions that may be imposed, and set out the disciplinary procedures that the University will follow. For more information, visit <http://www.uwo.ca/univsec/pdf/board/code.pdf> .

English Proficiency for the Assignment of Grades

Visit the website http://www.uwo.ca/univsec/pdf/academic_policies/exam/english.pdf

Accommodation for Medical Illness or Non-Medical Absences

<http://www.westerncalendar.uwo.ca/2016/pg117.html>

The University recognizes that a student's ability to meet his/her academic responsibilities may, on occasion, be impaired by medical illness. Illness may be acute (short term), or it may be chronic (long term), or chronic with acute episodes. The University further recognizes that medical situations are deeply personal and respects the need for privacy and confidentiality in these matters. However, in order to ensure fairness and consistency for all students, academic accommodation for work representing 10% or more of the student's overall grade in the course shall be granted only in those cases where there is documentation indicating that the student was seriously affected by illness and could not reasonably be expected to meet his/her academic responsibilities.

A UWO Student Medical Certificate (SMC) is required where a student is seeking academic accommodation. This documentation should be obtained at the time of the initial consultation with the physician or walk-in clinic. An SMC can be downloaded under the Medical Documentation heading of the following website: http://www.uwo.ca/univsec/pdf/academic_policies/appeals/medicalform.pdf

Documentation is required for non-medical absences where the course work missed is more than 10% of the overall grade. Students may contact their Faculty Academic Counselling Office for what documentation is needed.

Whenever possible, students who require academic accommodation should provide notification and documentation in advance of due dates, examinations, etc. Students must follow up with their professors and their Academic Counselling office in a timely manner. Documentation for any request for accommodation shall be submitted, as soon as possible, to the appropriate Academic Counselling Office of the student's Faculty of registration. For BHSc students, you may go to the School of Health Studies Office in HSB room 222.

Scholastic Offences

Scholastic offences are taken seriously and students are directed to read the appropriate policy, specifically, the definition of what constitutes a Scholastic Offence, at the following website:
http://www.uwo.ca/univsec/pdf/academic_policies/appeals/scholastic_discipline_undergrad.pdf

Additionally,

1. All required papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted for such checking will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between The University of Western Ontario and Turnitin.com (<http://www.turnitin.com>).
2. Computer-marked multiple-choice tests and/or exams may be subject to submission for similarity review by software that will check for unusual coincidences in answer patterns that may indicate cheating.

Support Services

There are various support services around campus and these include, but are not limited to:

1. Student Development Centre -- <http://www.sdc.uwo.ca/>
2. Student Health – <http://www.uwo.ca/health/services/students/index.html>
3. Registrar's Office -- <http://www.registrar.uwo.ca/>
4. Ombuds Office -- <http://www.uwo.ca/ombuds/>