

Course Syllabus

Marijuana Law and Policy
Fall, 2018
Course 21418
Room 270

Tara L. Tedrow

Friday, Sunday, and Monday, August 31, September 2 and 3, 2018

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CLASS SYLLABUS AND POLICIES:

Required Course Materials: Materials will be provided or you will be responsible for downloading them from Westlaw or Lexis prior to class. No textbook is required.

Description of the Course and Course Objective and Learning Outcomes: This course is one credit hour. Please note that ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in class instruction. It is expected that you will spend two hours preparing for every hour of in class instruction plus complete the final paper. Because the course includes statutory and regulatory excerpts that require careful reading, as well as discussion problems that require thoughtful advance written preparation, you should spend at least one hour on every 10-15 pages of reading.

The implications of Florida’s marijuana laws and regulations, as well as the federal regulation and scheduling of marijuana, have widespread impacts on numerous legal practice areas. Practitioners in real estate, bankruptcy, litigation, employment, criminal, medical malpractice, intellectual property, land use, zoning, development, corporate, business, taxation and other areas must understand how state and federal marijuana regulations impact their clients. Despite the interesting subject matter that marijuana law provides, the primary goal of the course is to develop practical lawyering skills and an understanding of how marijuana regulations impact various practice areas. Additionally, the course will explore the ethical considerations for an attorney advising a client engaged in a marijuana-related business.

By the end of this course, students will be able to:

- Analyze the interaction between state and federal regulation of marijuana and the impact on marijuana businesses;
- Explain and describe the regulations on medical marijuana in Florida and how they impact the operations of Medical Marijuana Treatment Centers;
- Analyze the ways in which marijuana law and regulations intersect with and impact multiple legal practices areas;
- Prepare and present arguments for both sides of the regulatory debate on marijuana; and
- Provide basic advice to future clients on the ways in which marijuana law and policies could impact their clients’ interests.

Teaching Philosophy: Great lawyers don’t just know how to think, they know how to actually solve problems. I want each of you to walk away with a practical understanding on medical marijuana law and regulations that could be implemented in your future legal practice. I want you to be creative in your thinking on how this new area of law may morph in the future, and ways to handle the issues presented by regulations now, but also to preempt issues that may arise later on. I hope each of you will leave this class with a practical skill set that will benefit your career and clients.

Instructional Methods: The best way for you to learn is to participate actively during class. Since this class is condensed into a short time frame, class will consist of student presentations, my own interactive lectures, guest speakers and robust group dialogue. I will challenge everyone to take part in civil debates on the topics- you will be expected to understand how to argue for both sides of an issue, even if it means playing devil's advocate for something with which you personally disagree. I encourage everyone to ask questions and expect everyone to actively participate throughout each class hour.

Office Hours: I will arrange to be available by appointment. I encourage you to call or email me if you are having difficulties with, or simply want to clarify your understanding of, any of the materials covered in the reading or in class. My office number is 407-418-6361, my cell phone number is 407-701-6161 and my email is tara.tedrow@lowndes-law.com.

COURSE POLICIES

Attendance: This is a three day weekend course. Attendance during all of the class hours is mandatory. Attendance will be taken at each class meeting. If there is some reason why you must miss class, please contact me in advance via telephone or email and ask for an excused absence. Students are responsible for ensuring that they are not recorded as absent if they come in late. Depending on the circumstance, a student may be permitted to have an excused absence for 1 hour of class time. If you miss a class, you are responsible for finding out what you missed and obtaining any handouts or assignments. If for any reason you anticipate missing more than 20% of the class time, you are advised to withdraw before it is too late to do so. Please review the Student Handbook for further information regarding the attendance policy. The law school's policy on attendance can be found at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#3>.

Class Assignments: In advance of class please read all of the handouts and materials. Any specific in-class discussion expectations will be provided via email to correspond with such handouts and materials. I expect that all of the reading for the class will have been done prior to the first class.

Laptop Policy: Unless instructed otherwise in advance, you will not be permitted to use laptops during class. This class is meant to be engaging and your use of laptops and cell phones will only serve to distract you and your classmates. Laptops are only permitted if needed for an assigned in-class presentation or to have available for referencing reading materials and assignments. Any in class lecture notes are expected to be taken by hand.

Make-Up Policy: Because there is no exam and only a final paper, there is no make-up available. The final paper is expected to be turned in by the assigned deadline.

UNIVERSITY POLICIES

University Policy on Academic Misconduct

UF students are bound by The Honor Pledge, which states: "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: 'On my honor, I have neither given nor received unauthorized aid in doing this assignment.'" The Honor Code (<https://sccr.dso.ufl.edu/students/student-conduct-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor.

University Policy on Accommodating Students with Disabilities

Students requesting accommodation for disabilities should register first with the Office of the Dean of Students (<https://www.dso.ufl.edu/drc/>). The Office of the Dean of Students will provide documentation to the student who then must provide this documentation to the instructor when requesting accommodation. You must submit this documentation prior to submitting assignments or taking quizzes or exams. Because accommodations are not retroactive, students should contact the Office of the Dean of Students as soon as possible in the semester for which they are seeking accommodation.

Etiquette: Communication Courtesy: All members of the class are expected to follow rules of common courtesy in all email messages, threaded discussions, chats and in class discussions. Please do not disparage or discourage others' views and participations- such actions will negatively impact the grading for the 20% of your overall participation grade.

<http://teach.ufl.edu/docs/NetiquetteGuideforOnlineCourses.pdf>

Class Schedule: We will meet over the Labor Day weekend. On Friday, August 31, we will meet from 3:00 until 6:00 pm. On Sunday, September 2, we will meet from 9:00 am until 6:00 pm. On Monday, September 3, we will meet from 9am-noon. Please bring lunch with you on Sunday as we will have a working lunch during class. We will discuss the due dates for your papers in class.

Online Course Evaluations: Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations typically are open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at: <https://evaluations.ufl.edu/results/>.

GRADING POLICIES

Grading: This class is Pass/Fail. In addition to expectations for class participation, you will be asked to prepare a final paper of 10-12 pages (12 point, double spaced). You will be provided the prompts you will be expected to answer in your final paper during our class. We also will discuss due dates for your papers in class.

This class is pass/fail. You must complete all assignments satisfactorily and participate during class to receive credit for this class.

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

COURSE SCHEDULE

Day/Time	Date	Topic	Reading	Assignment
Day 1 3-6pm	August 31	Background on marijuana regulations	https://www.pbs.org/wgbh/pages/frontline/shows/dope/etc/cron.html	Reading
	August 31	Federal illegality under The Controlled Substances Act	<ul style="list-style-type: none"> • https://www.deaiversion.usdoj.gov/21cfr/21usc/801.htm • https://www.deaiversion.usdoj.gov/21cfr/21usc/801a.htm • https://www.deaiversion.usdoj.gov/21cfr/21usc/811.htm • https://www.deaiversion.usdoj.gov/21cfr/21usc/812.htm • https://www.deaiversion.usdoj.gov/21cfr/21usc/846.htm 	Reading
	August 31	Examples of Criminal Liability for Involvement in the Industry	<ul style="list-style-type: none"> • https://www.law.cornell.edu/uscode/text/18/1956 • https://www.law.cornell.edu/uscode/text/18/1957 	Reading
	August 31	The Cole Memorandum	https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf	Reading
	August 31	The Sessions Memorandum	https://www.justice.gov/opa/press-release/file/1022196/download	Reading
	August 31	Federal Discrepancies	<ul style="list-style-type: none"> • SBA Loans: https://www.sba.gov/sites/default/files/resource_files/SBA_Policy_Notice_5000-17057_Revised_Guidance_on_Credit_Elsewhere_and_Other_Provisions.pdf • FINCEN: https://www.fincen.gov/resources/statutes-regulations/guidance/bsa-expectations-regarding-marijuana-related-businesses • IRS: https://www.irs.gov/pub/irs-wd/201504011.pdf https://www.ustaxcourt.gov/UstcInOp/OpinionViewer.aspx?ID=11671 	Reading
	August 31		<ul style="list-style-type: none"> • <i>Gonzales v. Raich</i>, 545 U.S. 1 (2005) • <i>US v. Pickard</i>, 100 F. Supp. 3d 981 (E.D. Cal. 2015) 	Please download

			<ul style="list-style-type: none"> • <i>Conant v. Walters</i>, 309 F.3d 629 (9th Cir. 2002) 	these cases from Lexis or Westlaw
Day 2 9am-12pm	September 2	Overview of FL Regulations	<ul style="list-style-type: none"> • 2014 Compassion Use Act (SB 1030): https://www.flsenate.gov/Session/Bill/2014/1030/BillText/er/PDF • 2015 Right to Try Act (SB 1052): https://www.flsenate.gov/Session/Bill/2015/1052/BillText/c2/PDF • SB8A: https://www.flsenate.gov/Session/Bill/2017A/8A/BillText/er/PDF 	Reading
Day 2 12-2pm	September 2	Working Lunch/ Guest Speaker: The Science of Medical Marijuana & FL Regulations on Testing and Laboratories	N/A	N/A
Day 2 2-4pm	September 2	FL Case Law on Medical Marijuana: Rule Challenges	<ul style="list-style-type: none"> • <i>Costa Farms, LLC v. Dep't of Health</i>, 2014 WL 6537375 • <i>Baywood Nurseries Co., Inc. v. Dep't of Health</i>, 2015 WL 3456653 • <i>Smith v. Dep't of Health</i>, 2d Judicial Circuit Case No. 2017-CA-001972 	Please download these cases from Lexis or Westlaw
	September 2	FL Case Law on Medical Marijuana: License Challenges	<ul style="list-style-type: none"> • <i>San Felasco Nurseries, Inc. v. Dep't of Health</i>, 2016 WL 3568677 • <i>Nature's Way Nursery of Miami, Inc., v. FDOH</i>, 2018 WL 3084645 (https://www.doah.state.fl.us/ROS/2018/18000721.pdf) 	Please download the San Felasco case from Lexis or Westlaw
	September 2	FL Case Law on Medical Marijuana: Other Advisory Opinions and Cases	<ul style="list-style-type: none"> • <i>Banks v. Dep't of Health</i>, 2016 WL 827359 • In re Advisory Opinion to Atty. Gen. re Use of Marijuana for Certain Medical Conditions, 132 So. 3d 786 (Fla. 2014) • In re Advisory Opinion to Atty. Gen. re Use of Marijuana for Certain Medical Conditions, 181 So. 3d 471 (Fla. 2015) • <i>Redner v. DOH</i>, et. al., 13th Judicial Circuit Case No. 17-CA-5677 	Please download these cases from Lexis or Westlaw

			<ul style="list-style-type: none"> • <i>People United for Medical Marijuana v. DOH, et. al.</i>, 2d Judicial Circuit • <i>Up in Smoke or Down in Flames? A Florida Lawyer's Legal and Ethical Risks in Advising a Marijuana Industry Client.</i> (Access article in the archives of: https://www.floridabar.org/ethics/etarticles/) • <i>The Florida Bar v. Christensen</i>, 233 So. 3d 1019 (Fla. 2018) 	
Day 3 9-12pm	September 3	Impact of Medical Marijuana on Different Practice Areas	<ul style="list-style-type: none"> • <i>Flores v. LivWell, Inc.</i> Case No.: 2015-cv-33528 (Colo. Dist. Ct. Oct. 5, 2015). • <i>Kirk v. Nutritional Elements, Inc., and Gaia's Garden</i>, no. 2016cv31310 (Denver County Court) 	Please download these cases from Lexis or Westlaw
	September 3	Guest Speaker	N/A	N/A

Disclaimer: This syllabus represents my current plans and objectives. Those plans may need to change to enhance the class learning opportunity. Such changes, communicated clearly, are not unusual and should be expected.