SYLLABUS

**Public Health Law 6930**

Fall 2019

**Professor Jennifer Bard**

Bard@uflaw.edu

**Classroom** HH - 285A

**Class time:** Mondays and Wednesdays from 1:30-2:55 PM

**Office:** Room 356

**Office Phone:** 352.273-0666 (not reliable way to reach me—please email!)

**Office hours****:** Mondays and Wednesdays from 3.15-4.15 and by appointment.

Contents

[Course Description: 4](#_Toc16007807)

[Course Purpose: 4](#_Toc16007808)

[What Text Do I Have to Buy? 4](#_Toc16007809)

[**What will I learn: Student Learning Objectives:** 4](#_Toc16007810)

[**How Will My Work be Evaluated?** 5](#_Toc16007811)

[What are the Components of my Final Grade? 5](#_Toc16007812)

[Grade Distribution 6](#_Toc16007813)

[Communication Overview: 7](#_Toc16007814)

[Office Hours 7](#_Toc16007815)

[Forms of Address 7](#_Toc16007816)

[How Will You Be Communicating With Us Outside of Class? 7](#_Toc16007817)

[What will be Expected of me in this class? 7](#_Toc16007818)

[**1.** 8](#_Toc16007819)

[Prepare for Class, Participate in Class Discussions, and Complete Ungraded Assignments 8](#_Toc16007820)

[**Write a Client Letter** 8](#_Toc16007821)

[**Orally Advise the Client through an in-class presentation** 8](#_Toc16007822)

[**Take a Final Exam** 8](#_Toc16007823)

[**What are the Important Dates When Assignments are Due? (to be updated)** 9](#_Toc16007824)

[Classroom Matters 9](#_Toc16007825)

[How Will We spend our Class Time? 9](#_Toc16007826)

[How Much Time Should I Expect to Spend Preparing for Class? (ABA Standard 310) 9](#_Toc16007827)

[**How Should I Prepare for Class?** 9](#_Toc16007828)

[What Should I expect to find in the Gostin & Wiley textbook? 10](#_Toc16007829)

[Uncomfortable Material 10](#_Toc16007830)

[When Will You Distribute the Slides You Use in Class? 10](#_Toc16007831)

[What if I can’t open a Multi-Media Assignments (i.e. “dead links”) 10](#_Toc16007832)

[What is your Attendance Policy? 11](#_Toc16007833)

[Are There Any Excused Absences/Do I Need to Tell you When I will be Missing Class? 11](#_Toc16007834)

[What is Your Policy on Being in Class on Time? 11](#_Toc16007835)

[**How Will You Provide Disability ACCOMMODATIONS?** 12](#_Toc16007836)

[**Classroom Matters** 12](#_Toc16007837)

[Can I Record Class if I Do Not Have an Accommodation? 12](#_Toc16007838)

[**Will We Have Any Make-up Classes?** 12](#_Toc16007839)

[What is Your Policy on Social Media? 12](#_Toc16007840)

[What is Your Policy on Academic Misconduct and the Honor Code? 12](#_Toc16007841)

[What is your Policy on Assigned Seats 13](#_Toc16007842)

[What are your Policies and Preferences for the use of Electronic Devices in Class? 13](#_Toc16007843)

[Can I Use an Electronic Device for Note Taking? 13](#_Toc16007844)

[What if I have personal responsibilities that require me to be available to others while I am in class? 13](#_Toc16007845)

[What if I want to look up something that’s relevant to the class material? 14](#_Toc16007846)

[What is Your Policy Regarding Respect for Others? 14](#_Toc16007847)

[What if Something We Are Covering Makes Me Uncomfortable? 14](#_Toc16007848)

[Where Can I find Resources to Learn More About Public Health and Public Health Law? 15](#_Toc16007849)

[Detailed Assignments for First Month and Outline of Course. Please consult Canvas on Fridays before class. 16](#_Toc16007850)

[Week 1 16](#_Toc16007851)

[Week 2 17](#_Toc16007852)

[Week 3 18](#_Toc16007853)

[Week 4 19](#_Toc16007854)

[Week 5 19](#_Toc16007855)

[Week 6 20](#_Toc16007856)

[Week 7 20](#_Toc16007857)

[Week 8 20](#_Toc16007858)

[Week 9 21](#_Toc16007859)

[Week 10 21](#_Toc16007860)

[Week 11 21](#_Toc16007861)

[Wednesday, November 6th 21](#_Toc16007862)

[**Week 12** 21](#_Toc16007863)

[Week 13 22](#_Toc16007864)

[Week 14 22](#_Toc16007865)

[Week 15 22](#_Toc16007866)

[Appendix: Detailed Description of Client Letter and In-Class Oral Report 23](#_Toc16007867)

[**Sample Letter** 23](#_Toc16007868)

Public Health Law 6930

Fall 2019

**Professor Jennifer Bard**

Bard@uflaw.edu

**Classroom** HH - 285A

**Class time:** Mondays and Wednesdays from 1.30-255 PM

**Office:** Room 356

**Office Phone:** 352.273-0666 (not reliable way to reach me—please email!)

# Course Description:

 Welcome to Public Health Law.

This course will examine the international, federal, state and local laws and policies which govern activities relevant to the public’s health.

Course Purpose:The purpose of public health law is to provide law students with the knowledge, skills, and abilities they will need as practicing attorneys for analyzing the legal, policy and ethical issues raised when events occur which impact or threaten the public’s health or when a public or private entity seeks to improve the public’s health.

# What Text Do I Have to Buy?

Lawrence O. Gostin and Wiley and Lindsay Wiley, Public Health Law: Power, Duty, Restraint (third edition) (University of California Press 2016).

Additional Readings: Assigned each week in Canvas

# **What will I learn: Student Learning Objectives:**

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

1. Identify the duties and limits to those duties of federal, state, and local governments to protect and promote the public’s health.
2. Conduct effect legal research and
3. Use legal analysis to develop strategies for addressing threats to public health.
4. Locate and evaluate reliable sources of scientific and medical information for the purposes of representing clients seeking legal advice on public health matters.
5. Demonstrate effective and written oral skills for communicating with the different audiences who constitute the clients for public health law information.
6. Recognize the ethical issues that arise when developing solutions to public health problems.

# **How Will My Work be Evaluated?**

 This is a graded course.  All assignments are mandatory.  I will grade your exams and issue your final grade without knowing your identity.

## What are the Components of my Final Grade?

Class grades are determined according to the following weights:

1. **Class preparation and Participation including adequate completion of ungraded assignments (30%)**

You are expected to contribute in an active and positive way to class discussion. Of course, this requires your completing the required reading prior to the corresponding class session. Active discussion concerning ideas, concepts, and practices is an important means for learning new materials, integrating your own experiences, and analyzing your own position with regard to these ideas, concepts, and practices. This is also a means for further developing your verbal and listening skills. Each student will come to class prepared to discuss the today’s topic based on his or her completion of the reading and having watched the assigned video clips.

1. **Written two page Client Letter (15% )**

Each student will be able to select a public health law topic of interest to them and then draft a two page letter to a hypothetical client.

1. **Oral -ten minute Presentation of Client Letter (15%)**

Each student will be responsible for giving client legal advice in the form of a two-page letter and a short—ten minutes maximum—oral presentation based on the letter. This assignment is described in detail later in the syllabus.

1. **Final Exam (40%)**

Each student will take a three-hour objective—multiple choice, true false, and short answers—final exam (as scheduled by the Registrar’s Office).

\*\*\*\*\*Note—so that exam grading can be completely blind it is important that I, as the professor, not have any discussion with or information about you that could reveal your identity before I hand in final grades to the registrar. For blind grading to be fair to you and everyone else in the class, I reserve the right to reduce a grade or even refuse to grade an exam if anonymity is compromised.

***PLEASE READ THOROUGHLY ALL OF THE STANDARDS FOR GRADING SINCE THIS SYLLABUS IS THE FINAL AUTHORITY FOR ALL REQUIREMENTS.***

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

|  |  |
| --- | --- |
| Letter Grade | Point Equivalent |
| A (Excellent) | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C (Satisfactory) | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D (Poor) | 1.0 |
| D- | 0.67 |
| E (Failure) | 0.0  |

Grade Distribution

Except as otherwise provided, the distribution of the final grades awarded in all required courses in which more than 15 students are enrolled and in which letter grades are awarded must fall within the following percentages:

|  |  |
| --- | --- |
| Letter Grade | Percentage |
| A  | 5 to 15% |
| A- | 10 to 20% |
| B+ | 20 to 35% |
| B | 20 to 35% |
| B- | 5 to 15% |
| C+ and below | 0 to 20% |

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

## Student Course Evaluations

# “Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at https://gatorevals.aa.ufl.edu/students/. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via https://ufl.bluera.com/ufl/. Summaries of course evaluation results are available to students at https://gatorevals.aa.ufl.edu/public-results/.”

# Communication Overview:

### Office Hours

I very much want to get to know you as individuals and have set aside a block of time after class on Mondays and Wednesdays from 3.15-4.15. I am also always happy to schedule a meeting with you at any mutually convenient time.  Please send me an email bard@law.uf.edu and we can set up an appointment. Please put the word “Public Health Law” in the subject line of any email you send me so that I can identify it quickly.

### Forms of Address

My goal is for each student in class to feel that they are treated with respect and equality. My understanding is that the convention here at the law school is for students to use first names in class. Along those lines, I will be asking you each to let me know what name you prefer to be called and what pronouns you prefer.

 It is also my understanding that the convention here at the law school is to call professors by their last names, so please call me “Professor Bard” and my pronouns are she/her/hers. I usually default to “they” when referring to someone whose preferences I don’t know. Feel free to let me know anytime if your preferred name or pronouns change.

### How Will You Be Communicating With Us Outside of Class?

Other than person to person meetings, our primary method of communication out of class will be email. I will either email you directly or Canvas will email you to alert you to the posting of new materials or information. Please set up your Canvas account so that you receive the alert on whatever account you check most regularly.

I check email frequently and unless I have an out-of-office message will always reply within one business day, usually much sooner. If you ever do not get a response from me by then, PLEASE try again—it is very likely caught up in some kind of filter.

# What will be Expected of me in this class?

|  |  |
| --- | --- |
| **1.** | Prepare for Class, Participate in Class Discussions, and Complete Ungraded AssignmentsAll reading assignments are due for the first class of the week. We will be making our way through a chapter of the Gostin & Wiley Book each week since it provides a good and up-to-date overview of the issues.Because the Gostin & Wiley Book does not contain edited cases, **I will be supplementing it with primary source material (cases, statutes, regulations, policies) when appropriate**.Overview: Public Health Law is a very practical field and you will be putting your knowledge to work very quickly. As soon as we complete an overview of the different areas of law relevant to public health problems, we will be applying that law to specific public health issues. |
| **2.** | **Write a Client Letter**During the second half the course, each of you will take an active role in applying the tools of public health law to topics of particular interest to them. Depending on the size of the class and individual schedules, each week a few students will share with the class a two-page letter they have written to a hypothetical client with a public health law concern. I will provide you with a range of options for topics. We will then have individual meetings (mandatory) to finalize your selections. I will also provide you with very detailed instructions on how to prepare the letter and the oral presentation. **The client letters will require independent research**. |
| **3.** | **Orally Advise the Client through an in-class presentation**Shortly after sharing your letter with the class, you will give a ten minute in-class presentation of the letter in the format of providing further advice and explanation to your client. The rest of the class will play the role of a client during these presentations |
| **4.** | **Take a Final Exam**There will be a three hour, in-class final exam as scheduled by the law school. It will be limited open book in that you will be able to have with you the textbook and any materials assigned for class, including your notes. However, you cannot use any outside materials not assigned for class nor can you use other people’s notes or outlines. You will have three hours to demonstrate your ability to apply your knowledge of the law to a variety of public health situations. You will be asked questions in the format of short answer, multiple choice, and true/false (the true/false questions will require explaining your answer. As sample of what the final exam will look like is posted on Canvas so you can see the format and likely topics. |

# **What are the Important Dates When Assignments are Due? (to be updated)**

Beginning in the second week of class, we will start the process of selecting topics for client letters and oral reports as well as finalizing dates. All oral reports will take place during the second half of the semester. Client letters will be due the class period before the oral report and shared with the class.

I will take student’s preferences for topics and dates into account given the realities of space and time that make it impossible for everyone to present on the same topic and the same day.

# Classroom Matters

## How Will We spend our Class Time?

I have organized the class into units of one week. As it is sometimes difficult to tell how much reading we will get through on any given day, I have given you the reading assignment for the entire week. The entire chapter is due for the first class of the week it is assigned. That will serve as the basis of that week’s discussion. Assigned readings will be aimed at building the knowledge of law, theory, analytical frameworks, and processes related public health law. Other assignments will emphasize the application of this knowledge.

This will not be a lecture course. The majority of class time will consist of class discussions, activities, and exercises that builds on the material in the reading. The video clips assigned for out of class viewing will allow us to use our class time for active and engaged learning about public health law.

You should expect to be participating every day. While I will introduce specific points or topics and help to facilitate discussion, each student should be prepared to discuss assigned readings and class activities.

Because preparation for class and participation in class is such an important component of your grade, it is important to understand what you will need to do to adequately prepare for and participate in class.

## How Much Time Should I Expect to Spend Preparing for Class? (ABA Standard 310)

Students should expect to spend, on average, approximately two hours preparing for every hour of class. Assignments are posted on the “Modules” link on the Canvas site (located on the left side of the Canvas site).

# **How Should I Prepare for Class?**

The weekly assignments will be a mix of reading assignments from *Gostin & Wiley* and from supplemental reading assignments, including edited cases, on Canvas. There will also often be multi-media assignments to review before class. Each week’s assignments will include discussion questions to guide your preparation and give you a head-start on what we will be discussing.

I have organized the class into units of one week. The assignment for Monday will usually be a full chapter in Gostin & Wiley as that will provide the framework for the week. As it is sometimes difficult to tell how much reading we will get through on any given day, I have given you the reading assignment for the entire week and indication of which day I think we will cover the assigned material.

## What Should I expect to find in the Gostin & Wiley textbook?

 Gostin and Wiley’s book is intended as an overview of the law’s role in promoting and protecting the public’s health. The first half of the book reviews the legal foundation for different kinds of action and the second half applies these law to specific topics. You may well have read portions of the cases cited in the Gostin and Wiley book for other classes. Each week I will post on Canvas edited cases targeted to the public health issues we are studying. I will also post links to primary source material such as regulations and statutes as well as secondary sources such as government reports and articles.

If you have any difficulty perceiving/hearing/seeing/understanding in the material in the format it appears, please let me know as soon as possible so we can, again, find another approach.

## Uncomfortable Material

In the section on classroom matters, I discuss the reality that many of the topics and issues we discuss in public health law are inherently upsetting—and some may be particularly so depending on your own personal experience. Each of you brings to this class your own experiences of living in the world. Beyond that, though, is the reality that any assignment that requires a link to the “outside world” of twitter feeds, video clips or current articles opens the door for unexpected or unwelcome encounters with ugliness and hatred. It is likely that we will also see things from the past that have negative connotations today. Some I can warn you about. For example, Michael Jackson played a very important role in the early days of AIDS by his willingness to hug a young boy with HIV who was being banned from school and shunned by his community—of course that looks very different to us today. (Princess Diana and First Lady Barbara Bush did the same in different settings). Others may appear without warning. I would ask that you let me know if you encounter something uncomfortable or offensive or jarring

## When Will You Distribute the Slides You Use in Class?

Any slides I use in class will be posted on Canvas shortly after the class session. So that I can use material that may otherwise be copyright protected, you must consider these slides proprietary to this class and only for your use as students in this class. I will mark them “do not distribute” to remind you not to pass them along to students who may take this course in a future semester (or anyone else).

## What if I can’t open a Multi-Media Assignments (i.e. “dead links”)

Some of the reading will take the form of audio or video clips. If you have any trouble accessing these clips, use your best effort to try a different access approach such as searching in Google using a different browser. Please don’t panic, though, if you can’t access it. Just let me know before class and we can try another approach.

If you have any difficulty perceiving/hearing/seeing/understanding in the material in the format it appears, please let me know as soon as possible so we can, again, find another approach.

## What is your Attendance Policy?

Class attendance is mandatory. In my experience, missing class impairs your learning and your performance on the final exam. The United States Department of Education agrees, and as a result The Council on Legal Education which sets the Standards for Accreditation of Law Schools requires that we certify your attendance in class.

 I do this by passing around a sign-in sheet (or notebook) at the start of each class.

It is your responsibility to sign-in within the first fifteen minutes of class. You can come by my office and review the notebook at any mutually convenient time—but I will not be providing regular updates.

Because taking attendance would be meaningless without a standard for sufficient attendance, I have adopted the usual practice of attending 80% of the scheduled classes as the absolute minimum attendance for eligibility to take the final exam and therefore retain eligibility for getting credit.

If you miss more than 20% of the scheduled classes, you will not be able to take the final exam and cannot pass the class.

## Are There Any Excused Absences/Do I Need to Tell you When I will be Missing Class?

I hope and expect that you will be in class every Monday and Wednesday during the semester at 1.30 PM, in your seats and ready to start. But I appreciate that you all have busy lives and things come up. You do not need my permission to miss class, nor is there any system of approved absences.

However, if you miss two classes in a row, I will be worried about you. So, if you know you are going to miss two classes in a row, I’d appreciate your telling me in advance.

And if you find yourself missing two classes in a row without a prior plan, please check in to let me know that you are OK. Please review the Student Handbook for further information regarding the attendance policy. Also be aware that it is a serious violation of the Academic Integrity policy to sign in other people or to have others sign you in. It’s not worth it, don’t do it, and please don’t ask anyone to do it for you.

## What is Your Policy on Being in Class on Time?

One of the many distinctive features of the practice of law in the United States is the emphasis on being “on time.” Also, in a classroom setting when one person is late it distracts everyone.

Therefore, I am going to ask you to make every effort to be in your seats, ready to work when class starts at 1.30 PM. If you come in after class starts on a regular basis (more than three times) then you run the risk of having your lateness impact your grade or even result in your being excluded from class.

Any student not in class within the first fifteen minutes of class (or leaving more than fifteen minutes early) is not permitted to sign the attendance sheet.

# **How Will You Provide Disability ACCOMMODATIONS?**

 Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester. Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

# **Classroom Matters**

## Can I Record Class if I Do Not Have an Accommodation?

No. What goes on class is intended for the benefit of your education and those of your classmates. Please do not make your own recordings and if somehow you acquire a recording, please do not share it further by any means. Since you’re reading this—if you have any concerns about anything you hear in class please do not hesitate to let me know.

## **Will We Have Any Make-up Classes?**

Yes. Because our class bumps up against a number of holidays—we will not have class on:September 2, October 1, October 9, November 11th and November 27th .

We will have at least two make-up classes BUT in-person or live attendance will not be mandatory. Instead, I will be recording the classes for your use and will be distributing some on-line public health learning material

## What is Your Policy on Social Media?

Social Media is a moving target—and standards of appropriate use change all the time! As of August 2019, Twitter is an important source of information about public health developments. Therefore, I will be asking you to follow some of the most active and reliable participants. However, please remember that the reason you are following these individuals is because they have access to important information and share it quickly. You do not have to agree with opinions they express about public health, law, or anything else!

Moreover, I respect your privacy and it is my policy not to seek or accept social media requests from students currently enrolled at the law school. Of course, I would love to hear from you on LinkedIn (or similar professional social networks) after our class is over.

## What is Your Policy on Academic Misconduct and the Honor Code?

This Course follows all the rules and procedures set out in the Levin College of Law Handbook. In particular, please refer to the Honor Code for issues of academic misconduct. Unless you have specific instructions to work together, I expect all work you submit for a grade to be your own.

All students who enter the Levin College of Law are governed by its Honor Code, found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

They must also comply with the University of Florida’s Student Conduct and Honor Codes, found here: <https://sccr.dso.ufl.edu/students/student-conduct-code/>.

## What is your Policy on Assigned Seats

 You may choose any open seat you like. After the first class, this will be your assigned seat for the rest of the semester.  I reserve the right to re-seat any student at any time. If for any reason you are uncomfortable about where you’re sitting, please let me know.

##

## What are your Policies and Preferences for the use of Electronic Devices in Class?

Please use the time we have for class to be present and available to learn and engage with me and with your classmates. In specific, it means that I am asking you to electronic devices in class with the same sense of dignity and decorum you expected when you enter practice.

 That means:

In general, for most people, most of the time, all electronic devices must be muted and put into airplane mode before class begins. You are welcome to take notes use any device you like. But I’m asking you to imagine our classroom as an airplane without wifi and to shut off the outside world while we are together.

I know that social conventions are tilting against this. But as of fall semester 2019, it is still considered rude in a legal professional setting to be engaged in a conversation, whether or online or in person, while in class. On my end, I will try to make class interesting enough and provide enough opportunities to engage in different kinds of learning that you will not find it this rule overly burdensome. Since this is a long class, we will also have a brief “catch up” break for anything you need to respond to or can’t wait.

## Can I Use an Electronic Device for Note Taking?

Yes. As noted above, you are welcome to use any method you want to take notes during class, but please be careful not to distract others. Depending on where you sit, the following activities are likely to be distracting to others: watching streaming or downloaded content, playing games, shopping, accessing any social media site, or using any chat program. Violations of this policy may affect your final grade.

## What if I have personal responsibilities that require me to be available to others while I am in class?

I appreciate that some of you will have occasions where you feel you must be available to others even if you are in class. If you feel you must answer or reply to a message or a call, please get up quietly, leave the class quietly, and conduct your conversation outside of the room.

### What if I want to look up something that’s relevant to the class material?

The advantage to learning in a group, as opposed to alone, is lost when everyone gets online and goes in different directions. We will be stopping regularly to discuss the material, raise questions, and go online. But unless we are doing a group activity, it is distracting and unnecessary to engage in searches during in class.

##   What is Your Policy Regarding Respect for Others?

 We will, of course, comply with all university and law school anti-discrimination policies and all applicable laws [summarized here](https://www.law.ufl.edu/why-uf-law/diversity-at-uf-law) on the Law School’s website.  You will also find the full text on our Class Canvas Page. In addition to that, I require that students treat each other with the respect and courtesy appropriate for colleagues.  Since discussion will be an important part of this class, it is inevitable that you will have different points of view.

 If you wish to say something, raise your hand and I will call on you.  For these purposes, please consider yourself as in a court room.  Unless we have broken into small groups for discussion, it is not appropriate to directly respond to another student without raising your hand.  It is also not acceptable for more than one person to be speaking at once.  Regardless of what you may see on TV, the key to being a successful lawyer is to be able to disagree without being disagreeable or (worse) disrespectful.

## What if Something We Are Covering Makes Me Uncomfortable?

Public Health Law raises all the difficult social and political issues of classes like Con Law & Criminal Law with the added layer of our own personal experiences with illness, injury, disability, and death. Everyone, including experienced health professionals, research scientists, law professors, and practicing attorneys, have issues to which they are more sensitive because of their life experience. We all share the challenge of discussing these issues with openness and rigor without causing inadvertent pain to others. It is also likely that some of the health conditions that come up as we discuss legal issues are ones with which many of you are unfamiliar. Although the story of medical students and hypochondria is probably a [myth](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4012647/), everyone can find it distressing to hear about threats to their health before they develop a sense of relative risk. We will be talking in class about what are (and are not) reliable sources of information about the topics we discuss.

The best approach to potentially uncomfortable or even distressing is to remain aware of your feelings and respectful of other people’s feelings. Sometimes it is helpful if you prepare yourself to be uncomfortable about something we will be covering without sharing that with anyone else. Equally, if there is anything you would like me to know in advance about your previous experiences that may affect your perception of our class, please let me know either in the information sheet I distribute or anytime you think its relevant. If you find a discussion too painful to sit through, you are welcome to leave the class for a few minutes and discuss the issue with me afterwards. If you are concerned with anything involving the class—in the reading, during class, or otherwise, let me know.

# Where Can I find Resources to Learn More About Public Health and Public Health Law?

The generally accepted reliable source of information about conditions that could affect human health in the United States is the website run by the Centers for Disease Control. There is a lot of bad health information on the web—including quackery and fear mongering—so one of the things we will be discussing is how to evaluate information.

<https://www.cdc.gov/phlp/index.html>

This Center are Harvard’s Kennedy School fo Government provides resources for journalists on a number of the topics related to public health- [https://journalistsresource.org/](https://journalistsresource.org/studies/environment/)

Every state has its own health department. Here is Florida’s. http://www.floridahealth.gov/index.html

The World Health Organization is a good source of information about global health issues. <https://www.who.int/>

WHO also collects information about public health law. <https://www.who.int/bulletin/volumes/94/7/15-164749/en/>

The Network for Public Health Law, a national resource funded by the Robert Wood Johnson Foundation puts out a lot of good information about public health law. <https://www.networkforphl.org/>. It also keeps a list of public health law job and fellowship opportunities.

<https://www.networkforphl.org/_asset/zjk2ng/Public-Health-Law-Career-Paths-FINAL.pdf>

The American Public Health Association has regular updated information on law, policy, and ethics issues.

 <https://www.apha.org/-/media/files/pdf/factsheets/what_is_public_health_law_factsheet.ashx?la=en&hash=7BCB29295AD654F171D55D4F9CF1A3D9DCF79400>

It also offers the opportunity for student membership.    <https://www.apha.org/membership/student-membership>

Your first stop for research help should certainly be our library for individualized help. Here are some resources other libraries have put together. <https://libguides.law.gsu.edu/PublicHealthLaw>

#

## Detailed Assignments for First Month and Outline of Course. Please consult Canvas on Fridays before class.

**Public Health Law**

Mondays and Wednesdays

Book: Lawrence O. Gostin and Wiley and Lindsay Wiley, Public Health Law: Power, Duty, Restraint (University of California Press 2016)

Any additional reading assignments will be posted on Canvas Fridays

|  |
| --- |
| Week 1 |
| Monday, August 26th | Assignments to be Completed for First DayGetting in an overview of Public Health and Public Health Law 1. Watch the American Public Health Association Video  [“What is Public Health?”](https://www.apha.org/what-is-public-health) (3.08) (Don’t forget to turn on captions). Is there anything mentioned that surprises you?
2. Read the Network for Public Health Law’s introduction to Public Health Law <https://www.apha.org/-/media/files/pdf/factsheets/what_is_public_health_law_factsheet.ashx?la=en&hash=7BCB29295AD654F171D55D4F9CF1A3D9DCF79400>
3. Read Chapter 1 in our book, Larry Gostin and Wiley and Lindsay Wiley, Public Health Law: Power, Duty, Restraint (Third Edition) (Gostin and Wiley) and consider how you would explain what they identify as the difference between “public health law” and “health law.” Consider the title of the book-and begin thinking about what you see as the federal and state government’s responsibilities to the public in the area of promoting and protecting health.
4. Subscribe to CDC Public Health Law News <https://www.cdc.gov/phlp/index.html>

And find a news item in CDC Public Health Law News of interest to you and consider what areas of law it involves. |
| Wednesday, August 28th | The clash between the public’s health and individual rights—how do we measure the risks?Question: How should the government assess the extent of a risk to the public as a whole before imposing restrictions on an individual?**Read**: Gostin and Wiley Chapter 2 and consider the justifications governments use to take action to protect public health. Also consider the role of risk assessment in drafting statutes.What do you think of the “Precautionary Principle”—where would you draw the line between individual liberty and public safety**Watch** CDC Video-Public Health Law: A Tool to Address Emerging Health Concerns. <https://www.youtube.com/watch?v=kfavqthww1s> (12.36) Begin making a list of areas of law-whether discussed in the reading or video- involved in protecting and promoting the public’s health. What is Legal Epidemiology?**Watch**: This new story about nurse Kaci Hickox who was put in mandatory quarantine after returning from Sierra Leone. <https://www.wsj.com/video/does-nurse-kaci-hickox-have-a-case-against-maine/17A49CB5-4234-46E8-9724-6BFF34331858.html> (3.54). We will be learning a lot more about Ms. Hickox over the semester-do you think she acted reasonably?What legal rights is Ms. Hickox asserting?Who is asserting jurisdiction over her freedom of movement?How did the state governments (New Jersey and Maine) balance the risk to the public versus Ms. Hickox’ liberty? |
| Week 2 |
| Monday, September 2nd | NO CLASS – Labor Day |
| Wednesday, September 4th | What is the Constitutional Basis for the Laws Governments Pass to Protect the Public’s Health? We will spend the next several classes discussing the extent and limits of federal power.**Watch** the following videos to refresh your memory on the Constitutional “balance of power” issues involved when the government acts to protect or promote the public’s health.Pay particular attention to the difference between the powers of the federal government and that of individual states.Federalism Overview <https://www.youtube.com/watch?v=y6tljCXVSdc> (6.03)Article I Powers<https://www.youtube.com/watch?v=CIFBjZU55so> (13.33)**Read:**Gostin and Wiley, **Chapter 3: Public Health Law in the Constitutional Design:****Public Health Powers and Duties—The U.S. Constitution****73-99***Public Health Strategy and the Police Powers of the State*[**https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2569983/**](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2569983/) |
| Week 3 |
| Monday, September 9th | What are the limits of the Commerce Clause in allowing the federal government to regulate state activity?Watch Overview of the Commerce Clause (9.32)[**https://www.youtube.com/watch?v=UvemEXqINIc**](https://www.youtube.com/watch?v=UvemEXqINIc)Watch Overview of **United States v. Lopez, 515 U.S. 2, 32-33 (1995)** <https://www.youtube.com/watch?v=hDk9Qx8Po3M>**Quiz yourself on the vocabulary of Con Law—**What is the difference between the Negative Constitution and the Dormant Commerce Clause?**Read:** Gostin and Wiley, pp. 99-112*NFIB v. Sebalius Part I The Commerce Clause*—please read the edited version in Canvas (and of course also feel free to read the case in its original format.This is the Supreme Court’s most recent and complete explanation of the limits of the Commerce Power and the Spending Power.  |
| Wednesday, September 11th | **What are the limits of the Spending Clause in allowing the federal government to regulate state activity?****Read:** Gostin and Wiley, 99-112**https://blog.oup.com/2012/07/spending-power-bargaining-after-obamacare/***NFIB v. Sebalius Part II: The Spending Clause—please read the edited version in Canvas*  |
| Week 4 |
| Monday, September 16th | Gostin and Wiley, **Chapter 4, Constitutional Limits on the Exercise of Public Health Powers: Safeguarding Individual Rights and Freedoms****115-130** *Jacobson v. Massachusetts* (as edited by Prof. Bard)**Watch and Review-****Federal v. State Powers**[**https://www.youtube.com/watch?v=QvrD-BmMU4A**](https://www.youtube.com/watch?v=QvrD-BmMU4A) |
| Wednesday, September 18th | Gostin and Wiley, **Chapter 4, Constitutional Limits on the Exercise of Public Health Powers: Safeguarding Individual Rights and Freedoms**What are today’s limits on State Action that infringe on individual liberties?**The Big Three:**Procedural Due ProcessSubstantive Due ProcessEqual Protection**Read:** *Obergefell v. Hodges* (edited on Canvas)Why do legislatures pass laws that they know are unconstitutional?[*https://verdict.justia.com/2019/05/20/when-if-ever-should-a-legislature-be-able-to-enact-a-law-that-it-knows-or-should-know-that-courts-today-would-invalidate*](https://verdict.justia.com/2019/05/20/when-if-ever-should-a-legislature-be-able-to-enact-a-law-that-it-knows-or-should-know-that-courts-today-would-invalidate) |
| Week 5 |
| Monday, September 23rd | ***What are the limits of federal agency authority?****Read:****Gostin & Wiley, Chapter 5, 153-178-****Congressional Research Service (CRS) Drug Price Disclosure to Consumers: Current Legal Authority and Considerations for Congress* [*https://fas.org/sgp/crs/misc/LSB10323.pdf*](https://fas.org/sgp/crs/misc/LSB10323.pdf)*Merck & Co V. United States Department of Health And Human Services, 2019 WL 2931591* |
|  | **Conflicts Between States and Local Governments—What are the Rules?****Read:** Overview of Preemption[***https://www.cdc.gov/phlp/docs/preemption-issue-brief.pdf***](https://www.cdc.gov/phlp/docs/preemption-issue-brief.pdf)**94th Street Grocery v. NYC Bd of Health (On Canvas)** |
| Week 6 |
| Monday, September 30th | Gostin and Wiley, **Chapter 7 Tort Law and the Public’s Health Tobacco, Product Liability, E-Cigarettes** |
| Wednesday, October 2nd | **NO CLASS** |
| Week 7 |
| Monday, October 7th | **Part 4: Public Health Law in Context****Gostin and Wiley, Chapter 9 Surveillance and Public Health Research: Privacy, Security, and Confidentiality of Personal Health, pp.305 -322,** **Case Study pp. 335-338****Opioid Prescription Legislation**Oliva, Jennifer, *Prescription Drug Policing: The Right to Protected Health Information Privacy Pre- and Post-Carpenter* (February 1, 2019). 69 Duke Law Journal (2020 Forthcoming). Available at SSRN: [https://ssrn.com/abstract=3225000](https://ssrn.com/abstract%3D3225000) or [http://dx.doi.org/10.2139/ssrn.3225000](https://dx.doi.org/10.2139/ssrn.3225000)  |
| Wednesday, October 9th | **No Class** |
| Week 8 |
| Monday, October 14th   | ***Read:* Chapter Eleven-Public Health Emergency Preparedness pp 391-434****Anthrax** <https://www.courant.com/news/connecticut/hc-xpm-2001-03-23-0103231252-story.html><https://www.salon.com/2003/12/10/anthrax_20/>**http://www.mainelawreview.org/volume-68-no-1-2016/mayhew-v-hickox/**<https://www.youtube.com/watch?v=FG95QvnReNA><https://southeastproduceweekly.com/2019/06/10/thinking-again-about-the-unthinkable-agricultural-biological-warfare-revisited/> <https://warontherocks.com/2019/01/death-in-the-air-revisiting-the-2001-anthrax-mailings-and-the-amerithrax-investigation/> <https://www.pbs.org/video/pbs-newshour-frontline-evidence-questioned-in-2001-anthrax-case/><https://www.smithsonianmag.com/smithsonian-institution/anthrax-letters-terrorized-nation-now-decontaminated-public-view-180960407/> |
| Wednesday, October, 16th | Oral ReportsTBA |
| Week 9 |
| Monday, October, 21st | **Watch:****https://www.youtube.com/watch?v=FG95QvnReNA****Read:** **Gostin and Wiley, Chapter 11 Public Health Emergency Preparedness: Terrorism, Pandemics, and Disasters** |
| Wednesday,October 23rd | ***Oral Reports TBA*** |
| Week 10 |
| Monday, October 28th | **Chapter 12. Noncommunicable Disease Prevention: Promoting Healthier Lifestyles** |
| Wednesday, October 30th | Oral Reports TBA |
| Week 11 |
| Monday, November 4th | **Chapter 13 Injury and Violence Prevention from a Public Health Perspective: Promoting Safer Lifestyles****(Harm Reduction)** |
| Wednesday, November 6th | Oral Reports TBA |
| **Week 12** |
| Monday, November 11th | **No Class, Veteran’s Day. Thank you for your service.** |
| Wednesday, November 13th | **Veteran’s Health Issue Oral Reports****TBA** |
| Week 13 |
| Monday, November 18th | **Chapter 13 Injury and Violence Prevention from a Public Health Perspective: Promoting Safer Lifestyles****(Harm Reduction)** |
| Wednesday, November 20th | **Focus on pp. 396-402**[**http://www.astho.org/Programs/Preparedness/Public-Health-Emergency-Law/Emergency-Authority-and-Immunity-Toolkit/Public-Health-Service-Act,-Section-319-Fact-Sheet/**](http://www.astho.org/Programs/Preparedness/Public-Health-Emergency-Law/Emergency-Authority-and-Immunity-Toolkit/Public-Health-Service-Act%2C-Section-319-Fact-Sheet/)**Tribal Sovereignty and Emergency Preparedness**[**https://digitalcommons.law.msu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1182&context=ilr**](https://digitalcommons.law.msu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1182&context=ilr)**Florida, Public Health Emergencies** |
| Week 14 |
| Monday, November 25th | **TBA** |
| Wednesday, November 27th | **NO CLASS** |
| Week 15 |
| Monday, December 2nd | **LAST CLASS** |

## Detailed Instructions for Client Letter, Oral Report based on the Client Letter, and the Final Exam will all be posted on Canvas.

THIS DOCUMENT IS TO INFORM YOU OF MY POLICIES. BY REGISTERING FOR THIS CLASS, YOU ARE AGREEING TO ITS TERMS.   IT IS NOT A CONTRACT. PLEASE DETACH, SIGN AND TURN IN THE LAST PAGE.

Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_