

Course Syllabus

Marijuana Law and Policy
Fall, 2019
Course 15952
Room 285B

Tara L. Tedrow

August 19, 20 and 21, 2019

8/19: 9am-11:50am; 1pm-3:50pm

8/20: 9am-11:50am; 1pm-2:50pm

8/21: 9am-11:50am

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CLASS SYLLABUS AND POLICIES:

Required Course Materials: Materials will be provided or you in PDF format. 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 compressed 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 assigned 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>

Academic honesty: Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

Class Schedule: This is a compressed course. We will meet from noon-5pm on August 19, 20 and 21. Please bring any food or snacks needed to get you through these long class periods. We will discuss the due dates for your papers in class.

Online 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/>.

GRADING POLICIES

Grading: This class is graded. In addition to expectations for class participation, you will be asked to prepare a final paper of a minimum of 12 pages (12 point, double spaced with ½ inch margins). 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.

The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that lowest 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

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	August 19	Background on marijuana regulations & distinctions with hemp	<ul style="list-style-type: none"> • PBS History Timeline • Memorandum to the Secretary of Agriculture, dated May 28, 2019 • Curaleaf FDA Warning Letter, dated July 22, 2019 • SB 1020 	Reading
		Federal illegality under The Controlled Substances Act	<ul style="list-style-type: none"> • Title 21: United States Code (USC) Controlled Substances Act 	Reading
		Examples of Criminal Liability for Involvement in the Industry	<ul style="list-style-type: none"> • 18 U.S. Code §1956 • 18 U.S. Code §1957 	Reading
		The Cole Memorandum	<ul style="list-style-type: none"> • Memorandum for All United States Attorneys, dated August 29, 2013 (the “Cole Memo”) 	Reading
		The Sessions Memorandum	<ul style="list-style-type: none"> • Memorandum for All United States Attorneys, dated January 4, 2018 (the “Sessions Memo”) 	Reading
		Federal Discrepancies	<ul style="list-style-type: none"> • SBA Policy Noticed, effective April 3, 2018 • SBA Information Notice, effective February 15, 2019 • Small Business Administration Standard Operating Procedure, effective April 1, 2019 • FINCEN’s BSA Expectations Regarding Marijuana-Related Businesses, dated February 14, 2014 • Office of Chief Counsel Internal Revenue Service Memorandum, dated January 23, 2015 	Reading
			<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) • <i>Conant v. Walters</i>, 309 F.3d 629 (9th Cir. 2002) 	Reading
Day 2	August 20	Guest Speaker	<ul style="list-style-type: none"> • Origin of Medial Marijuana Laws in Florida 	
		Overview of FL Regulations	<ul style="list-style-type: none"> • 2014 Compassion Use Act (SB 1030) • 2015 Right to Try Act (SB 1052) • SB8A 	Reading

		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 	Reading
		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 	Reading
Day 3	August 21	Guest Speaker	<ul style="list-style-type: none"> • <i>Nature's Way Nursery of Miami, Inc., v. FDOH</i>, 2018 WL 3084645 • <i>DOH v. Florigrown, LLC.</i>, 2019 WL 2943329 (1st DCA July 9, 2019) 	
		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>DOH v. Redner</i>, 2019 WL 1466883 (1st DCA April 3, 2019) • <i>DOH v. People United for Medical Marijuana</i>, 250 So. 3d 825 (1st DCA 2018) • <i>Up in Smoke or Down in Flames? A Florida Lawyer's Legal and Ethical Risks in Advising a Marijuana Industry Client.</i> • <i>The Florida Bar v. Christensen</i>, 233 So. 3d 1019 (Fla. 2018) 	Reading
		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) • <i>Johnson v. State</i>, 2019 WL 2943331 (Fla. 1st DCA July 9, 2019) • <i>Patrick Jones v. Grace Health Center</i>, 2019 WL 1594488 (Fla. Off. Judge Comp. Cl. April 9, 2019) 	Reading

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.