Introduction

The field of medical practice is a constantly changing landscape. It is commonly thought that the study of the malpractice area only involves plaintiffs and defendants going head-to-head in the courtroom to determine the outcome of individual cases. Nothing could be further from the truth.

The health care system of the United States contains a multitude of conflicts of interest that impact medical malpractice. The passage of the Affordable Care Act and the concepts of state and federal tort reform have recently shaped this study. This course will examine the history of the medical profession in the United States, medical treatment relationships and how they fit in to the grand scheme of health care delivery in the United States.

The course will also focus on the practical practice of law. Medical malpractice cases have much in common with other civil tort cases but also depend heavily on certain distinctions that give medical malpractice its uniqueness. For example, the role of health insurance creates a whole set of new considerations into the equation in handling a medical malpractice case.
This will be a paper course and students will be given an assignment to be completed by the end of final exams. In the past, the final “paper” has taken the form of a motion to dismiss, a response to the motion to dismiss and a reply to such response. I hand out the fact pattern the last day of class and students are randomly assigned roles pertaining to the documents. No collaboration on papers will be allowed and the normal prohibitions against plagiarism and copyright infringement apply. More details about and discussion of the papers will be forthcoming.

Also, I take participation in class which will account for 20% of your grade.

My office hours will be on Tuesday from 1510 to 1700. My office number is ____

**Required Textbook:** “Medical Liability and Treatment Relationships”, Hall Bobinski and Orentlicher (4th Ed.) (hereinafter the “Textbook”); Supplemental materials to be provided by Professor Howell.

**CLASSES AND ASSIGNMENTS**

August 26, 2021

Introduction to the course, administrative matters and general questions; discussion of the health care financing and delivery system in the United States and the current COVID situation

Textbook 1-35; materials from Prof. Howell
September 2, 2021

The health care financing and delivery system in the United States, continued

Textbook 35-54

September 9, 2021

The treatment relationship
Textbook 55-95

September 16, 2021

The structure of the treatment relationship
Textbook 95-121

September 23, 2021

Regulating the treatment relationship
Textbook 122-162

September 30, 2021

Confidentiality of medical information, HIPAA, HITECH and privacy
Textbook 163-194

October 7, 2021

Informed consent
Textbook 194-220
October 14, 2021

The concept of medical malpractice; medical mistake and quality
Textbook 293-319

October 7, 2021

Alternative theories of liability
Textbook 401-428

October 21, 2021

The liability of physicians
Textbook 322-367

October 28, 2021

Causation and affirmative defenses
Textbook 428-461

November 4, 2021

Damages and settlement
Textbook 462-478

November 11, 2021

Institutional liability managed care liability and tort reform
Textbook 479-545
November 18, 2021

Class wrap up, discussion of final papers and luncheon in honor of Professor William R. Leslie of the University of Michigan (deceased) who taught me the history and nobility of the law.

* The topics covered on the assigned dates are subject to change. This is a preliminary syllabus and due to the constant changes in the health care industry, lectures may be changed from time to time.