

# **WILLAMETTE UNIVERSITY COLLEGE OF LAW**

## **FIRST SYLLABUS\* MEDICAL MALPRACTICE**

**Fall Semester 2021  
Course No. Law 270**

**Professor Bruce Frederick Howell, JD, MS  
bhowell@willamette.edu**

### **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 (4<sup>rd</sup> 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.