WURZWEILER SCHOOL OF SOCIAL WORK
YESHIVA UNIVERSITY
Ph.D. PROGRAM IN SOCIAL WELFARE

LEGAL FOUNDATIONS OF SOCIAL WORK
SWK 8809
SPRING 2017

I. COURSE DESCRIPTION

Social work practice is guided by developments in the arenas of law, governmental policy, and ethics. Whether framed by court decisions, duly passed legislation, or government agency regulations, laws shape the activities of social work organizations and practitioners. Practice is also shaped by ethical standards of care, formulated by professionals and their professional associations, and often incorporated into law. It is therefore incumbent upon social work scholars to understand how to analyze legal, policy, and ethical developments and innovations, and how to conduct independent research using these analytic skills.

The focus of this course is the application of legal and policy research skills to social work practice. This course builds upon Social Policy and Ideology, which among other courses introduced first-year students to law, policy, and ethical dilemmas in social work practice. To ensure focus and depth in this course, the instructor will select a main topic or theme for investigation throughout the semester, with wider applications to students’ areas of interests as they think about their dissertation topics. During the current semester, legal, policy, and ethical analysis will be applied to legal and ethical dilemmas in health care, enabling students to appreciate the application of these arenas to a particular substantive area. Students will be able to apply acquired skills in legal, policy, and ethical reasoning to social work issues – for example, in health care, mental health, education, child welfare, elder services, disability concerns, or civil rights – related to practice, policy development, and advance research. In addition, the course will serve as a general introduction to the many substantive issues and dilemmas confronting health-care providers, including health care social workers, and patients today.

II. EDUCATIONAL OBJECTIVES

A. Knowledge Objectives: General Applicability

At the end of the semester, students will have acquired a basic understanding of:

- the principles of legal analysis
- the principles of ethical analysis, including autonomy
- key constitutional rights, including due process, equal protection, and privacy
- the roles of professional codes of ethics

B. Knowledge Objectives: Health Care

At the end of the semester, students will have acquired an understanding of:

- informed consent and the role of capacity
- confidentiality and truth-telling
- right to refuse care
- surrogate decision-making and advance care planning
- assisted suicide
- reproductive rights, including contraception and abortion
- special issues of children and youths
- clinical research, including roles and responsibilities of institutional review boards (IRBs)

B. Skill Objectives

At the end of the semester, students will be able to:

- Identify legal case materials for analyzing social problems.
- Analyze legal case materials for analyzing social problems.
- Apply legal principles to social problems
- Analyze situations using from an ethics perspective
- Apply ethical principles to social problems

III. COURSE REQUIREMENTS

A. Texts and Readings

Required Texts

List: $39.95 ISBN-10: 0878408398

List: $90.00 ISBN-10: 0231126484

Assigned readings from sources other than the required texts will be on reserve at the Pollack Library or available online.

Recommended Texts

List: $99.95 ISBN-10: 0199739110

List: $57.73 ISBN-10: 0199924589

ISBN-10: 0199974551 List: $39.95


B. Course Assignments

It is expected that all reading assignments listed as “required” in the course outline will be read prior to the class at which they will be discussed.

**Final Assignment: Legal and Ethical Analysis of Health Issues**

**Due Date: Class 12**

Students are to select an issue or problem in health or mental health practice or policy for ethical and legal analysis. While class discussion or materials may cover the issue or problem selected, the paper should go into much greater depth on a particular aspect of this issue, and analyze new professional literature and cases.

The paper should be developed as follows:
1. **Problem / Issue Identification.** Explain the issue or question to be examined by the paper. What is the problem? How did it first develop? What are the legal questions raised by this issue? What are the ethical questions raised by this issue? Explain the scientific or clinical background implicated by this issue. Whom does this issue impact? Students should incorporate at least 3 seminal articles from peer-reviewed ethics literature to support problem analysis.

2. **Ethical Analysis.** Analyze your topic from the perspective of ethical principles and reasoning. Consider the application of professional codes of conduct, such as those issued by the American Medical Association and NASW. Incorporate 3-5 seminal or leading articles from the peer-reviewed literature.

3. **Legal Analysis.** Analyze and synthesize 3-5 key cases in which your problem is at issue. Analysis of legal cases should incorporate the fact pattern, the legal issue presented for resolution, legal principles used to resolve the dispute, the case holding (decision), and implications for future cases. Preference should be given to U.S. or State Supreme Court decisions, or leading appellate court decisions. Also, if applicable, integrate the reasoning of dissenting opinions. (Note: The court decisions should be read and cited in the paper, not analyses of those decisions by other authors.)

4. **Resolution.** Explain your resolution of the legal/ethical issue following the application of legal and ethical perspectives. Does this resolution comport with applicable professional codes of conduct? Are there ethical, legal, or policy questions left unresolved? Why are you satisfied, or not satisfied, with the resolution?

**Length:** 18-20 pages, not including references.

Adherence to APA style of sectioning, referencing and margins is required. It is expected that students will evidence communication skills consistent with doctoral education standards. It is expected that written work is carefully proofread and edited before submission. It is expected that assignments will be handed in on the due date. Grades may be reduced for late papers.

**Class Presentation:**

Final papers will be briefly and concisely presented and discussed, using Power Point slides, during classes 13 and 14. The class presentation format may be modified depending upon class size.

**C. Class Format**

It is assumed that each student will have read the assigned readings prior to each class session. The background material will be used as the point of departure for class discussion.

The course is conducted in seminar format. Students are encouraged to draw upon their experiences and the literature to think analytically about current issues, problems and alternative solutions regarding legal and ethical analysis, health care and social work policy and practice, and qualitative research. Each student is expected to actively participate in class discussions, contributing knowledge, experience and ideas.
D. **Grading**

The University grading system will be applied. The grade will be based upon the extent to which the student meets the course objectives, as demonstrated in the form, content, and promptness of written assignments as well as class attendance and meaningful class participation.

Criteria for final grades are:

1. Final Paper 70%
2. Class Presentation 10%
3. Meaningful Participation & Attendance 20%

The policy of WSSW is that absences beyond two in a semester may be cause for failure.

E. **Evaluation**

Students are provided opportunity to evaluate doctoral courses. An evaluation form pertaining to the course and instructor will be conducted on-line. There will also be oral discussion of students' perspectives about the course. Evaluation is ongoing and students are encouraged to provide feedback about their learning needs throughout the semester.

**COURSE SCHEDULE**

**Class 1  INTRODUCTION & OVERVIEW OF THE COURSE**

- Overview of course
- Understanding the legal process
- Using legal documents
- Basic legal principles
- Social worker – attorney collaboration

Required readings:


**Class 2  INTRODUCTION TO LEGAL RESEARCH**

- Basic skills for conducting legal research
- Researching caselaw
- Researching legislation
- Researching law review journals
- Using electronic databases
Using the law library
- Introduction to legal citations

Stein, Chapter 4, “Legal Research,” pages 74-95.

Class 2 will take place at Cardozo Law School, 55 Fifth Avenue at 12th Street, New York, on a date to be determined.

Class 3-4 CONSTITUTIONAL LAW: THE RIGHT TO PRIVACY

- Understanding the justice system
- Concept of legal precedent
- Understanding due process
- Understanding equal protection
- Understanding right to privacy
- Application to reproductive rights and sexual privacy

Stein, Chapter 3, pages 43-57


Roe v. Wade, in Menikoff, pages 53-63

Planned Parenthood of Southeastern Pennsylvania v. Casey, in Menikoff, pages 68-74

Lawrence v. Texas (e-res)

Class 5 UNDERSTANDING ETHICAL PRINCIPLES IN HEALTH CARE

- Principle of autonomy
- Informed consent doctrine
- Capacity to make medical decisions
- Professional codes of ethics

Required readings:


The Hippocratic Oath (distributed in class).

Code of medical ethics: Current opinions with annotations  (Distributed in class)

National Association of Social Workers, Code of Ethics

Suggested readings:


Class 6  RELATIONSHIPS WITH HEALTH CARE PROFESSIONALS

- The role of confidentiality
- Informed consent to care
- Relationship of culture to truth-telling
- Parents and children: parameters to consent in special situations

Required readings:


Tarasoff v. Regents of the University of California, in Menikoff, pages 176-181.


Class 7  RIGHT TO REFUSE CARE

- Legal right to refuse medical care
- Surrogate decision-making
- Understand advance care planning
- Disagreements between patient and provider

Required readings:


In re Quinlan, in Menikoff, pages 242-252.
Bouvia v. Superior Court, in Menikoff, pages 256-262.

“Making decisions for incompetent patients,” in Menikoff, pages 268-274

In re Conroy, in Menikoff, pages 284-292.


CLASS 8-9 RIGHT TO DIE

- Doing your own directives
- Is there a constitutional right to assisted suicide?
- Distinguishing assisted suicide from euthanasia
- Appropriate role for health care professionals when asked for aid to die
- Disorders of consciousness

Required readings and exercise:

Complete state-specific advance directives:

New York State Advance Directive, download from:

New Jersey Advance Directive, download from:

Other state advance directives, download from:
http://www.caringinfo.org/stateaddownload

Medical Orders for Life-Sustaining Treatment (MOLST). Downloaded from:


- Cruzan v. Director, Missouri Department of Health, in Menikoff, pages 304-313.
- “Physician-assisted suicide,” in Menikoff, pages 327-329
- Vacco v. Quill, in Menikoff, pages 346-349.
- Oregon Death with Dignity Act, in Menikoff, pages 351-353.


**CLASS 10 CHILDREN AND YOUTH**

- Parental rights of decision-making
- Rights of adolescents to make decisions
- Emancipated minors
- Religious vs. secular values in protecting minors with treatable illnesses

Required readings:


Minors consenting to medical care: legislative approaches (distributed in class).
CLASS 11 CLINICAL RESEARCH

- Understanding clinical research
- Distinction between experimental health care and treatment
- Necessity for informed consent
- From Nuremberg to Tuskegee to current case: Protecting the public
- The Federal regulatory approach
- Institutional review boards
- Special guidelines for research involving children

Required readings:


CLASS 12 RIGHTS OF MENTAL HEALTH PATIENTS

- Involuntary hospitalization
- Mandatory outpatient treatment
- Right to treatment
- Least restrictive environment
- Right to community care

Required readings:

Stein, Chapter 14, “Mental health and the law,” pages 337-363.


**CLASSES 13 & 14 PRESENTATIONS OF STUDENT RESEARCH**

Students will present their research papers briefly and concisely, using Power Point slides. Presentations shall last 20 minutes each, with 5 minutes for class discussion.