

MEDICINE AND HEALTH LAW IN MODERN AMERICA

History 378 & History 378-H

SPRING 2018 SYLLABUS

Prof. Stephen Pemberton

Federated Department of History
New Jersey Institute of Technology

Class Meetings

Central King Building (CKB) 215

2:30 – 3:55 p.m. Mondays & Thursdays

Office & Contact

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Office Hours

Thursdays, 10 – 11:20 a.m., and by appointment on Mondays, Wednesdays, and Thursdays.

This course examines the legal, social, and ethical aspects of medical and public health practice in the United States from 1900 to the present. Historical cases are the focus throughout the course, and will include discussions of immunization, drug and tobacco use, contraception and abortion, innovation and medical experimentation, end-of-life decision-making, and various controversies related to the ownership and commodification of human and non-human bodies. Course themes include the rights and responsibilities of physicians and patients, the roles of government in promoting health, the tensions between civil liberties and public health, the rise of health law and bioethics, as well as evolving notions of autonomy, privacy, harm, liability, uncertainty, and proof as they relate to the histories of medical and public health practice.

Learning Outcomes

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

- *Identify* and *correlate* key historical actors and events since 1900 in the U.S. and how they have shaped and influenced medicine, public health, and law in American society.
- *Identify* and *describe* various controversies in medicine and health law of the last century, and *explain* how medical, public health, and legal practitioners approach the issues for better and/or worse.
- *Write* effective essays that *describe* and critically *evaluate* the merits of a certain argument in a specific place and time.
- *Demonstrate* information literacy consistent with being an upper-level undergraduate: including (1) locating, retrieving and evaluating information relevant to the writing of a college-level argumentative essay; (2) organizing, synthesizing and communicating that information in clear, persuasive prose; and (3) producing a finished essay that employs principles consistent with the ethical and legal uses of information.

Prerequisites

Grade C or better in HUM 102 and a 200-level Humanities or History course or their equivalents. To receive honors credit for the course, the student must be enrolled in Albert Dorman Honors College and the Honors section.

Course Webpage. There is a Moodle webpage for this course that the professor and class will utilize throughout the semester. Please consult the website regularly, and familiarize yourself with its contents. It contains the syllabus, assignments, readings, and other features that will enhance your learning experience this semester. Login to the following web address using your UCID number: <http://njit2.mrooms.net>.

Readings

The required readings for this course include one book and a variety of shorter readings. Students should follow the semester schedule below to determine what readings to complete for each class period.

Short Readings: Short readings are newspaper or magazine articles, scholarly essays, articles, or book chapters. These will be posted on the course moodle page as pdfs. Full descriptions and proper citations of these readings appear in the course schedule below on the class day they are due to be read and discussed.

Book: The following book is required reading in this course. Copies are available at the NJIT Campus bookstore or through on-line booksellers.

- Lynne Curry, *The Human Body on Trial: A Handbook with Cases, Laws, and Documents* (Hackett Publishing Co., 2004). ISBN: 9780872207387

Assignments and Grading

The primary goal of this course is to promote critical thinking about medicine, society and law, both past and present. All students will be evaluated on their written and oral communication over the course of the semester. This requires that you do the reading and writing assignments dutifully. In addition to in-class participation, the student will participate in at least two online discussion forums, write one essay involving a significant reading, and complete a mid-term and final exam.

<u>Assignments</u>		<u>Grading Scale for Assignments</u>
Participation	10%	A = 89.5 to 100
Discussion Forum 1	15%	B+ = 86.5 to 89.4
Midterm Exam	15%	B = 79.5 to 86.4
Discussion Forum 2	20%	C+ = 76.5 to 79.4
Final Essay	25%	D = 59.5 to 69.4
Final Exam	15%	F = 59.4 to 0
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Course Grade	100%	

Assignments for Honors Section vs. Regular Section

This course is offered in an **honors format** as well as the **regular format**. Students taking the course for honors credit must be enrolled in the honors section.

The number of course readings and assignments are the same for the honors and regular students, however, many of the course assignments are modified to allow the honors student to demonstrate a higher level of competency.

The following four assignments are modified for honors students: Midterm Exam, Discussion Forum 2, Final Paper, and Final Exam.

Participation

Participation will count **10%** of your final grade. The class participation grade will reflect both the student's attendance record as well as the student's performance in classroom activities.

Attendance Policy. Missing even a single class is not recommended. However, each student is allowed to miss two full class periods without penalty to his or her participation grade. It is highly recommended that you consult with the professor about any missed class time beyond two classes. Any class time missed beyond the two "excused" classes will result in substantial reductions in the student's participation grade (as calculated as a percentage of formal contact hours in the classroom for the semester). The professor will consider excusing repeat absences under extraordinary circumstances that can be verified by the Dean of Students Office. Attendance accounts for 2/3rd of the participation grade.

If a student needs accommodation in the classroom for illness, disability, death in family, religious reasons, etc., University Policy dictates that the student must inform the Dean of Students Office. Instructors can only accommodate a student at the direction of the Dean's Office.

Classroom Performance. The student's verbal engagement with classroom activities accounts for 1/3rd of the participation grade. Each student should come to class promptly and regularly, actively listen to the lectures, and be prepared to discuss the readings assigned for the day. Students should respect the learning environment by arriving on time and staying the full term of the session. The student's comprehension of the assigned readings is graded in this course. The professor will evaluate reading comprehension, in part, by taking account of each student's contributions to in-class discussions. Students should promptly communicate any concerns about their ability to meet these requirements with the professor. Students who participate regularly in discussion, and do so constructively, will be rewarded with higher grades in their final participation grade. Merely coming to class does not constitute engagement (because attendance is considered a separate component of participation). The student must contribute to the learning environment to receive credit in this area.

The professor will also consider improvement and other factors in his assessment of each student's participation grade, and reserves the right to award extra credit to students who make substantial contributions to the learning environment. Students will receive their final participation grades at the final exam review session.

Discussion Forums

The student's ability to discuss the readings in written form is graded throughout this course. The professor will evaluate the student's competency at discussing the readings in writing, in part, by assessing each student's contributions to the written on-line discussion forums that will

be posted on the course Moodle page. Every student is expected to complete **two** written responses to the Professor's discussion forum questions during the semester. The guidelines for the on-line reader responses are detailed in a separate document that will be distributed on Moodle during the beginning of the semester. The first discussion forum essay is worth 15% of your final grade, and the second is worth 20% of your final grade. Total performance on the discussion forums will therefore count as **35%** of your final course grade.

Exams

The Midterm Exam will be given on **Thursday, February 22**. This mid-term will count **15%** of your final course grade. Details on the format of this in-class exam will be provided at least a week in advance and there will be a full day of class devoted to review.

The Final Exam will be given during the Final Exam period. The registrar will announce the final exam schedule later in the semester, which will determine the final exam date, time and location. This final exam will count **15%** of your final course grade. **There will be an in-class review session on Monday, April 30.**

Final Essay

This essay will address a major issue or theme in the course, and will involve significant reading on the part of the student. A choice of paper topics and guidelines for the writing assignment will be distributed to the class no later than November 9. Electronic copies of the essay are due on **Thursday, April 26**. This essay assignment counts for **25%** of your final course grade.

Academic Integrity and Plagiarism

Academic integrity is *enforced* in this course. Plagiarism involves using the written or oral work of others without acknowledgement, and/or representing that work as your own. Plagiarism or any other academic integrity violations will be reported to the Dean of Students. All instructors and students are responsible for upholding the integrity of NJIT by reporting any violation of academic to the [Office of the Dean of Students](#). The identity of the student filing the report always remains anonymous.

There are several web-based resources that you should consult if you have any questions about academic integrity, plagiarism or proper citation. First, NJIT's academic integrity policy is explained [here](#).

Tutorials that explain what is acceptable academic writing for this course are available at the Van Houghton library website, [here](#).

The Library also maintains another web page on how to cite sources in your academic writing, [here](#). Proper citation will help you avoid plagiarism. Students can use the APA, MLA or Chicago citation styles in their written work. One only need to pick one of these standard styles and apply it properly.

Tutorials on how to evaluate appropriate online source material can be found [here](#).

Tutorials appropriate to doing coursework in a history class, such as this one, can be found [here](#).

NJIT Librarian David Scharf is the expert to contact to field your questions about how the library's resources (highlighted on these webpages) can help you succeed in this class. Her contact information is [here](#).

Again, all students are expected to abide by the norms outlined in these websites, this syllabus as well as the Moodle course page for this class, and will be penalized for failure to do so. Please consult the professor if you have any concerns about academic integrity, academic reading, writing and citation, plagiarism or their meanings in actual practice.

Students will be required to submit their final essays to [Turnitin.com](#), an online service used by NJIT instructors to detect plagiarism and irregularities in sourcing and citation of the written word and claims. Details for using the service will be provided along with guidelines for the specific writing assignments.

Respect for Persons and the Learning Environment

In the interest of an open exchange of ideas and collegiality, everyone participating in the class should strive to respect their classmates as persons. The professor will make every effort to facilitate a respectful environment for learning, but students should keep in mind their own responsibilities in the classroom. Students are expected to limit cell phone and lap top use to class-related activities. Texting and social media in class are not allowed. The professor reserves the right to ask you to leave the classroom for any behaviors that do not meet the expectations of a proper, professional learning environment. Students who have special needs or concerns that might impact their learning experience should feel free to raise or discuss their situation with the professor. The professor will hold all individual communication in confidence.

Semester Schedule

Thurs, Jan 18. Introduction: Medicine and Health Law in Modern America

Read Syllabus by Jan 22.

Mon, Jan 22. "Typhoid Mary," Healthy Carriers, & the Tension Between Civil Liberties & Public Health

In-Class Film: *Typhoid Mary: The Most Dangerous Woman in America*

Book Chapter: (25 pages)

Judith Walzer Leavitt, "A Menace to the Community: Law and the Limits of Liberty," Chapter 3 of *Typhoid Mary: Captive to the Public's Health* (Boston: Beacon Press, 1996), pp. 70-95.

Thurs, Jan 25. Progressive Era Medicine and Public Health (Part I)

Book Chapter: (26 pages)

Alan Kraut, "A Plague of Nativism: The Cases of Chick Gin and 'Typhoid Mary'," in *Germes, Genes, and the 'Immigrant Menace'* (Basic Books, 1994), pp. 78-104

Mon, Jan 29. Progressive Era Medicine and Public Health (Part II)

Book: Curry, *The Human Body on Trial* (34 pages)

“Series Foreword, “Preface,” & “Introduction,” pp. v-xiv and 3-27.

Thurs, Feb 1. Compulsory Vaccination in the Early Twentieth Century

Book: Curry, *The Human Body on Trial* (32 pages)

“Historical Background,” pp. 29-34; “Cases [Regarding Compulsory Vaccination],” pp. 51-57; and “Documents [Regarding Compulsory Vaccination],” pp. 99-117.

Mon, Feb 5. Eugenics, Involuntary Sterilization, and the Law, I

Book Chapter: (27 pages)

Harry Bruinius, “A Forgotten Gravestone,” Chapter 4 of *Better for All the World: The Secret of Forced Sterilization and America’s Quest for Racial Purity* (New York: Vintage Press, 2006), pp. 50-77.

Thurs, Feb 8. Eugenics, Involuntary Sterilization, and the Law, II

Book: Curry, *The Human Body on Trial* (32 pages)

“Historical Background,” pp. 34-38; “Cases and Documents [Regarding Involuntary Sterilization, *Buck v. Bell* and *Skinner v. Oklahoma*],” pp. 58-65 and pp. 117-131.

Mon, Feb 12. MIDTERM EXAM REVIEW

Thurs, Feb 15. GUEST SPEAKER

Assignment: First Discussion Forum Due

Mon, Feb 19. GUEST SPEAKER

Thurs, Feb 22. MIDTERM EXAM

Mon, Feb 26. Smoking: The Rise of Big Tobacco and Changing Notions of Risk, I

Film: *Mad Men* (2007-08) and *Thank You For Smoking* (2005) [Excerpts]

Book Chapter: (34 pages)

Allan Brandt, “Engineering Consent,” in *The Cigarette Century: The Rise, Fall, and Deadly Persistence of a Product that Defined America* (Basic Books, 2007), pp. 68-101.

**Thurs, Mar 1. Smoking: The Rise of Big Tobacco and Changing Notions of Risk, II
Smoking: Problems of Proof and Uncertainty in Public Health**

Book Chapter: (43 pages)

Allan Brandt, “Constructing Controversy,” in *The Cigarette Century: The Rise, Fall, and Deadly Persistence of a Product that Defined America* (Basic Books, 2007), pp. 159-207.

Mon, Mar 5. Smoking: “This Product is Dangerous to Your Health”

The Insider (1999): In-class film (excerpts)

Book Chapter: (39 pages)

Allan Brandt, "Nicotine Is the Product," in *The Cigarette Century: The Rise, Fall, and Deadly Persistence of a Product that Defined America* (Basic Books, 2007), pp. 318-356.

Thurs, Mar 8. Smoking: Health and the Law

The Insider (1999): In-class film (excerpts) and discussion

Book Chapter: (43 pages)

Allan Brandt, "Mr. Butts Goes to Washington," in *The Cigarette Century: The Rise, Fall, and Deadly Persistence of a Product that Defined America* (Basic Books, 2007), pp. 357-400.

Spring Break

Mon, Mar 19. Discussion of Course Themes (Including "Right to Privacy")

***Assignment: Discussion Forum Due ***

Thurs, Mar 22. Contraception and Abortion in America: Changing Attitudes

Book: Curry, *The Human Body on Trial* (14 pages)

"Griswold v. Connecticut," pp. 65-69; and "Document [Regarding Contraception]," pp. 131-139.

Book Chapter: (30 pages)

Leslie Reagan, "Law Making and Law Breaking in an Epidemic," in *Dangerous Pregnancies: Mothers, Disabilities, and Abortion in Modern America* (University of California Press, 2010), pp. 139-179.

Mon, Mar 26. Abortion and the Law

Book: Curry, *The Human Body on Trial* (50 pages)

"Historical Background," pp. 43-47; "Cases [Regarding Abortion]," pp. 69-74; and "Documents [Regarding Contraception and Abortion]," pp. 139-148, 153-181

Thurs, Mar 29. Abortion and the Law in the Age of *Roe v Wade*

In-Class Discussion

Mon, Apr 2. Death with Dignity

Book Chapter: (35 pages)

Peter Filene, "Death on Trial," in *In the Arms of Others: A Cultural History of the Right-to-Die in America* (Ivan R. Dee Publishers, 1998), pp. 11-46.

Thurs, Apr 5. Death with Dignity

Book Chapter: (48 pages)

Peter Filene, “Modern Dying,” in *In the Arms of Others: A Cultural History of the Right-to-Die in America* (Ivan R. Dee Publishers, 1998), pp. 47-95

Mon, Apr 9. Death and the Law

Book: Curry, *The Human Body on Trial* (45 pages)

“Historical Background,” pp. 47-49; “Cases [Regarding End-of-Life],” pp. 74-79; “Legacy and Impact [of End-of-Life],” pp. 81-91; and “Documents [Regarding End-of-Life],” pp. 181-205.

Thurs, Apr 12. When Harm is Done I: Blood & the Law

Assignment: Final Essay Topic Assignment Due NO EXCEPTIONS!

In-Class Documentary: *Bad Blood: A Cautionary Tale*

Mon, Apr 16. When Harm is Done II: Blood & the Law

In-Class Documentary: *Bad Blood: A Cautionary Tale* (continued)

Thurs, Apr 19. When Harm is Done III: Blood & the Law

In-Class Documentary: *Bad Blood: A Cautionary Tale* (continued)

In-Class Discussion

Mon, Apr 23. When Doctors Make Mistakes: What Do You Really Know?

Book Chapter: (27 pages)

Atul Gawande, “When Doctors Make Mistakes,” in *Complications: A Surgeon’s Notes on an Imperfect Science* (New York: Picador, 2002), pp. 47-74.

Thurs, Apr 26. Final Essay Due

Final, revised essay due on or before this day

Mon. Apr 30. Review for Final Exam

FINAL EXAM (Scheduled by NJIT Registrar during Final Exam Week, May 4 – May 10)