

MEDICINE AND HEALTH LAW IN MODERN AMERICA

History 378-H

FALL 2011 SYLLABUS

Prof. Stephen Pemberton

Federated Department of History

New Jersey Institute of Technology and Rutgers University, Newark

Class Meetings

Kupfrian Hall 204, NJIT Campus

10:00 – 11:25 a.m. Mondays and 1:00 – 2:25 p.m. Thursdays

Office & Contact

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Office Hours

Mondays, 1:30-2:30 p.m., and by appointment on Mondays, Wednesdays, and Thursdays

This honors course examines the legal, social, and ethical aspects of medical and public health practice in the United States from 1900 to the present. Topics 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 harm, liability, uncertainty, and proof as they relate to the histories of medical and public health practice.

Prerequisites.

HUM 101 and two from among HUM 102, HUM 211, HUM 212 and HIST 213 or their equivalents. Student must be enrolled in the Albert Dorman Honors College or receive professor's permission to take this honors course.

Course Webpage.

There is a Moodle webpage for this course that the professor and class will utilize throughout the semester. Please consult the website as soon as possible, 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://moodle.njit.edu/>.

Readings.

The required readings for this course include 4 books 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 are referenced in the course schedule below on the class day they are due to be read and discussed.

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

- Allan Brandt, *The Cigarette Century: The Rise, Fall, and Deadly Persistence of a Product that Defined America* (Basic Books, 2007). ISBN: 9780465070473
- Lynne Curry, *The Human Body on Trial: A Handbook with Cases, Laws, and Documents* (Hackett Publishing Co., 2004). ISBN: 9780872207387
- Peter Filene, *In the Arms of Others: A Cultural History of the Right-to-Die in America* (Ivan R. Dee Publishers, 1998). ISBN: 9781566632683
- Rebecca Skloot, *The Immortal Life of Henrietta Lacks* (Crown Publishers, 2010). ISBN: 9781400052189

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 write one essay on a book-length reading, and complete mid-term and final exams.

Assignments and Due Dates

Participation	15%	
Discussion Forums	30%	Due Sept 29 & Nov 14
Midterm Exam	20%	Due Oct 17
Final Paper	25%	Due Dec 8
Final Exam	15%	Designated Exam Period, Dec 14-20
Course Grade	<hr/> 100%	

Participation.

Participation will count **15%** 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 three full class periods without penalty to his or her participation grade. No excuses are necessary for those three classes. Any class time missed beyond the first three 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. Any student who misses more than one class should consult with the professor to determine whether the absence is excusable or not. Attendance accounts for 2/3rds of the participation grade, the equivalent of 10% of the student's final grade.

Classroom Performance. The student's engagement with classroom activities accounts for 1/3rd of the participation grade, the equivalent of 5% of the final 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 on **December 12**.

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 by taking account of each student's contributions to in-class discussions (graded as "participation") as well as his or her contributions to the classes' on-line discussion forums that will be posted on the course Moodle page regularly. Every student is expected to post two written responses to the Professor's discussion forum questions over the course of the semester. The guidelines for the on-line reader responses are detailed in a separate document that will be distributed on moodle during the first week of class. Performance on the discussion forums will count as **20%** of your final course grade.

Exams.

The Midterm Exam will be given on **Monday, October 17**. This mid-term will address all material covered in the first half of the course, and will count **20%** of your final course grade. Details on the format of this in-class exam will be provided at least a week in advance.

The Final Exam will be given during the designated exam week, December 14-20. The registrar will announce the time and room number later in the semester. This final exam will emphasize readings, lectures and discussions since the mid-term exam, and will count **20%** of your final course grade. There will be an in-class review session on **Monday, December 12.**

Final Paper.

This essay will address an issue raised in Peter Filene's book, *In the Arms of Others* or Rebecca Skloot's book, *The Immortal Life of Henrietta Lacks*. A choice of paper topics and guidelines for the writing assignment will be distributed to the class no later than two weeks before the assignment is due. This essay assignment counts for **25%** of your final course grade, with electronic and paper copies of the essay due on **Thursday, December 8.**

The Honor Code and Plagiarism.

The honor code and academic integrity are 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 honor code violations will be reported to the Dean of Students.*

You will be required to submit your final essay to Turnitin.com, an online service used by NJIT instructors to detect plagiarism. Details for using the service will be provided along with guidelines for the writing assignments.

There are two other web-based resources that you should consult if you have any questions about plagiarism or proper citation. Van Houten Library maintains a web page that explains how to avoid plagiarism. There are links to NJIT's academic integrity website here as well as detailed tutorials there that explain what is and is not acceptable academic work. See <http://library.njit.edu/researchhelpdesk/howto/plagiarism.php>. The Library also maintains another web page on how to cite sources in your academic writing. See <http://library.njit.edu/researchhelpdesk/howto/cite.php>. Proper citation will help you avoid plagiarism. Again, all students are expected to abide by the norms outlined in these websites, and will be penalized for failure to do so. Please consult the professor if you have any concerns about plagiarism or its meaning.

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 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, Sept 1. Introduction: Medicine and Health Law in Modern America

Mon, Sept 5. No Class – Reading Day

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

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

Thurs, Sept 8. Progressive Era Medicine and Public Health

Articles: (15 pages)

*Elmer Borland, “Municipal Regulation of the Spitting Habit,” *Journal of the American Medical Association* 35 (1900): 999-1001.

*John E. Hunter, “Tuberculosis in the Negro: Causes and Treatment,” *Colorado Medical Journal* 7 (1905): 250-2, 254-257.

*Nancy Tomes, “Moralizing the Microbe: The Germ Theory and the Moral Construction of Behavior in the Late-Nineteenth Century Tuberculosis Movement,” in *Morality and Health*, ed. Allan Brandt and Paul Rozin (New York: Routledge, 1997), pp. 271-275, 278-289.

*You are reading abridged versions of these articles, as excerpted in John Harley Warner and Janet Tighe, ed. *Major Problems in the History of American Medicine and Public Health* (New York: Houghton Mifflin Co., 2001), pp. 237-239, 245-248, 257-264.

Mon, Sept 12. 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.

Thurs, Sept 15. : “Typhoid Mary,” Healthy Carriers, & the Tension Between Civil Liberties & Public Health, I

Book Chapter: (25 pages)

Judith Walzer Leavitt, “The Rigorous Spirit of Science: The Triumph of Bacteriology,” Chapter 1 of *Typhoid Mary: Captive to the Public’s Health* (Boston: Beacon Press, 1996), pp. 14-38.

Mon, Sept 19. “Typhoid Mary,” Healthy Carriers, & the Tension Between Civil Liberties & Public Health, II

Reading Day... NO CLASS MEETING TODAY – BUT YOU MUST READ

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.

The chapter can also be found online along with additional resources.

<http://www.learner.org/workshops/primarysources/disease/activities01.html>

Thurs, Sept 22. 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.

Mon, Sept 26. Eugenics, Involuntary Sterilization, and the Law, II

Tomorrow’s Children (1934): In-class film and discussion

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

“Historical Background,” pp. 34-38; “Cases [Regarding Involuntary Sterilization],” pp. 58-65; and “Documents [Regarding Involuntary Sterilization],” pp. 117-131.

Thurs, Sept 29. Eugenics, Involuntary Sterilization, and the Law, III

First Discussion Forum Due

Mon, Oct 3. Smoking: The Rise of Big Tobacco and Changing Notions of Risk

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, Oct 6. Smoking: Problems of Proof and Uncertainty in Public Health

Book: Brandt, *The Cigarette Century* (43 pages)

Chapter 6, “Constructing Controversy,” pp. 357-400

Mon, Oct 10. Smoking: “This Product is Dangerous to Your Health”

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

Book: Brandt, *The Cigarette Century* (39 pages)

Chapter 10, “Nicotine Is the Product,” pp. 318-356

Thurs, Oct 13. Smoking: Health and the Law

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

Book: Brandt, *The Cigarette Century* (43 pages)

Chapter 11, “Mr. Butts Goes to Washington,” pp. 357-400

Mon, Oct 17. Midterm Exam

Thurs, Oct 20. 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,” Chapter 4 of *Dangerous Pregnancies: Mothers, Disabilities, and Abortion in Modern America* (University of California Press, 2010), pp. 139-179.

Mon, Oct 24. 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, Oct 27. Abortion and the Law in the Age of *Roe v Wade*

Book: Filene, *In the Arms of Others* (44 pages)

Prologue to Chapter 1, pp. 3-46

Mon, Oct 31. Death with Dignity

Book: Filene, *In the Arms of Others* (48 pages)
Chapter 2 to Chapter 3, pp. 47-95

Thurs, Nov 3. 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.

Mon, Nov 7. Medical Decisions at the End-of-Life

Book: Filene, *In the Arms of Others* (44 pages)
Chapter 4 to Chapter 5, pp. 96-160

Thurs, Nov 10. Medical Decisions at the End-of-Life

Book: Filene, *In the Arms of Others* (61 pages)
Chapter 6 to Chapter 8, pp. 161-222

Mon, Nov 14. Revisiting the Body and the Law in Modern America

Second Discussion Forum Due

Article: (13 pages)
Atul Gawande, “Letting Go: Rethinking End-of-Life Treatment,” *The New Yorker* (Aug.
2, 2010), pp. 36-49.

Thurs, Nov 17. Hemophilia: The Promise and Perils of Medical Progress

Book: Skloot, *The Immortal Life of Henrietta Lacks* (62 pages)
Prologue through Ch. 7, pp. 1-62

Mon, Nov 21. When Harm is Done I: Blood and the Law

In-Class Documentary

Book: Skloot, *The Immortal Life of Henrietta Lacks* (47 pages)
Ch. 8 through Ch. 15, pp. 63-109

Wed., Nov 23. When Harm is Done II: Blood and the Law

Book: Skloot, *The Immortal Life of Henrietta Lacks* (60 pages)
Ch. 16 through Ch. 22, pp. 118-178

Thanksgiving Break

Mon, Nov 28. Henrietta Lacks, Part I

Book: Skloot, *The Immortal Life of Henrietta Lacks* (52 pages)
Ch. 23 through Ch. 28, pp. 179-231

Thurs, Dec 1. Henrietta Lacks, Part II

Book: Skloot, *The Immortal Life of Henrietta Lacks* (53 pages)
Ch. 29 through Ch. 34, pp. 232-285

Mon, Dec 5. Henrietta Lacks, Part II

Book: Skloot, *The Immortal Life of Henrietta Lacks* (43 pages)
Ch. 35 through Afterword, pp. 286-328

Thurs, Dec 8. Body, Self, and the Law in the Twenty-first Century

Final Paper Due

Mon, Dec 12. Final Exam Review

Dec 14-20. FINAL EXAM (Time & place to be announced)