

# **SYLLABUS**

## **HEALTH CARE CONTRACTS**

Fall Semester, 2008

Professor: Jeff Atkinson

### **Scope of Course; Topics Covered**

Health Care Contracts covers a variety subjects related to contracts and quasi-contracts entered into by health care providers or their patients. Subjects which will be covered in this course include:

1. Agreements not to compete;
2. Denial and revocation of staff privileges;
3. Termination of employees by health care employers and removal of physicians from preferred provider lists;
4. Disputes concerning fees from patients and allegations of breach of contract resulting from treatment with which patient was unsatisfied;
5. Consent to treatment;
6. Agreements to release service provider from liability for the provider`s own future negligence;
7. The degree to which health care providers may limit liability by use of independent contractors; liability of health maintenance organizations (HMOs) and health care payors;

8. HIPAA confidentiality regulations regarding dealings between “covered entities” and “business associates”;
9. Validity of agreements to arbitrate claims arising from medical treatment;
10. Restrictions on financial arrangements of health care providers; fraud and abuse provisions of Medicare and state health care programs; Safe Harbor Regulations; joint ventures;
11. Price-fixing
12. Validity of contracts for exclusive services;
13. Merger of hospitals -- antitrust issues;
14. Validity of preferential fee structures for certain insurers;
15. Group purchasing arrangements and contract management;
16. Medical school scholarship contracts and other miscellaneous topics;
17. Advance directives pertaining to life-sustaining treatment and organ donations; and
18. Legal-ethical issues in a health care setting.

In addition to covering the substantive areas of law, this course also will seek to develop skills in contract negotiation and general problem-solving related to health care issues. Among the techniques to serve the latter goals will be a contract negotiation exercise and small-group discussions of problems.

### **Method of instruction**

The method of instruction will be class discussion and lecture (a relaxed Socratic method). If the class is small, we also may use additional methods. As indicated in the “Scope of Course,” there will be periodic small-group exercises in contract negotiation and problem-solving.

## **Class time and duration**

The class will meet Tuesdays from 2:30 p.m. to 5:10 p.m., beginning August 26.

## **Course materials**

For this class, I have assembled more than 750 pages of photocopied course materials. The materials consist of cases, statutes, regulations, and a few articles from health care publications.

## **Assignments**

Assignments generally will be chronological through the set of course materials, although some departure from chronological order may occur. In addition to the set of course materials available through the book store, there will be some additional materials for which you are responsible. Those materials will be handed out in class or placed on reserve.

The assignment for the first class (Tuesday, August 26) is to read the cases in the first section of the photocopied "Course Materials." The section is entitled "Agreements not to Compete," pages 1 - 69-D. For the first class, please also be ready to discuss the attached problem.

## **Criteria for grading**

The grade will be based on a final examination (60% of grade) and two written assignments (40% – 20 % of grade for each of the two assignments). The written assignments could take different forms – e.g., a single long-essay question, similar to that given on a final exam, or a letter to a client. The final exam will be given Friday, December 12, 1:30 p.m. - 4:40 p.m.. (Verify exam time closer to the exam date.) I will determine the nature of the exam closer to the time of the exam, but for your information, it has been my practice to give an exam which combines multiple choice questions, short essays, and long essays. (In past years, multiple choice questions made up 10% of the grade for the course; in no event will multiple choice questions make up more than 20% of the grade.)

Students are expected to participate in class discussions. Class participation will be a factor in selecting the most outstanding student in class.

**Address, telephone, and e-mail of professor**

My address, telephone number, fax number, and e-mail are:

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### **Problem for In-Class Discussion**

#### **Agreements not to Compete**

Dr. S., a urologist, entered into an employment agreement with Urology Associates, that provided he would not compete with Urology Associates following termination of his employment for a 12-month period within a 50-mile radius of the Bloomington, Illinois office of Urology Associates.

After Dr. S. resigned from Urology Associates, Urology Associates filed a complaint against Dr. S. for violation of the covenant. In October, 1996, the parties settled the dispute and entered an agreed order which provided that Dr. S. “shall not be involved in the business of providing urological medicine services within a 50-mile radius of Bloomington, Illinois from this date until June 30, 1997.”

One month after the agreement was signed and entered by the court, Urology Associates filed a motion for an order to show cause why Dr. S. should not be held in contempt of court and to reinstate Urology Associate’s cause of action.

The following facts are not in dispute:

- ▶ Dr. S. saw patients in an office in Ottawa, which is more than 50 miles from Bloomington.
- ▶ Dr. S. maintained an office in his home in Bloomington, and two nurses work out of his home office. Dr. S. does not see patients at his home office, but at his home office Dr. S. and his staff organize and prepare patients charts, check on patients status and laboratory work, send out bills, call in prescriptions, and handle telephone calls from patients, including calls which are forwarded to Dr. S from his Ottawa office.
- ▶ Dr. S. has listings in the Bloomington telephone directory -- “Dr. S., M.D.” and “Urologic Surgery Associates.”

On these facts, did Dr. S. violate the agreed order?