

**LARC – LEGAL DRAFTING: HEALTH LAW**  
**SYLLABUS – FALL 2009**

Professor Sarah McBride  
(773) 330-5120  
SMCBRID1@depaul.edu

Office Hours:  
Call for Appointment

**Course Description**

The focus of this course is on drafting various documents frequently utilized in the field of health law, both by in-house counsel and transactional and medical malpractice attorneys. Students will learn to draft both litigation and transactional documents, and will examine the strategic and practical considerations for both.

**Class Attendance and Participation**

In order to understand and master legal research and drafting, you must actively engage with the subject matter. Thus, attendance at each class is mandatory. Students who miss more than one class will have their final grade reduced by at least half a letter grade. Students who miss four or more classes will receive a failing grade.

**Grading**

Grading is set on a 100 point scale. You will have six (6) written assignments from various perspectives, from in-house counsel to transactional attorney. Written work accounts for ninety (90) points of your grade. Ten (10) points are allocated to class attendance, preparation and participation. All students must turn in at least 35 pages of double spaced material in order to obtain credit for this course. The 35 pages consist of the total of pages turned in over the semester.

The six written assignments are:

- (1) **Policy on Advance Directives**: This assignment requires students to research wills, powers of attorney for health care, mental health treatment declarations, and do-not-resuscitate orders.
- (2) **Policy on Business Gifts and Courtesies, including conflict of interest waiver and release**: This assignment requires research regarding Stark Laws and the Anti-Kickback Statute.
- (3) **Physician Services Agreement**: This assignment requires students to be familiar with general contract principles.
- (4) **Letter to patient family, including covenant not to sue**: This assignment requires students to research covenants not to sue.
- (5) **Merger Agreement**: This assignment requires students to research the requirements of the FTC, CMS, and State of Illinois for health care mergers

- (6) **Draft Filings with Regulatory Agencies for Merger**: This assignment may require additional research into the requirements of the FTC, CMS, and State of Illinois for health care mergers.

### **Turning in Assignments**

In addition to the requirements listed in the LARC Manual, your assignments must conform to the format requirements found at the end of this syllabus. Failure to follow these format requirements will result in a 20% penalty each day until you submit an assignment that does comply. Please master these format requirements, so that you do not lose valuable points on assignments. Assignments are due at the BEGINNING of the class in which they are due. Late assignments incur a 20% penalty each day until you submit an assignment.

### **Late Assignments**

In the event that you turn in a late assignment, you must get the assignment time-stamped. Time-stamp machines are located at the security desks on the ground floors of both 25 E. Jackson and 1 E. Jackson. There is also a time-stamp machine located in the lobby to the Dean's office on the 9th floor (note: this location is not generally available after 5pm). You must put a time-stamp on both the first and last page of your assignment, on both copies. Without a time-stamp, I will not be able to determine when you dropped off your assignment and thus I will mark it as received when I find it. So if you were to drop it off an assignment without a time stamp on a Saturday morning, and I do not see it until Tuesday afternoon, I will mark it as turned in on Tuesday.

### **Collaboration Policy**

The Collaboration Policy of the Legal Analysis, Research & Communication Program is contained in the LARC Manual. Be sure to review the LARC Manual, as you are bound by these policies. As noted, you must attach a completed Integrity Pledge with each assignment.

### **Electronic Devices**

The use of cell phones, blackberries or any other electronic device during class time is prohibited. Please make sure all cell phones, pagers, PDAs, etc., are turned off before class begins. The use of any photographic device or recording device is also prohibited. Laptops may be used for the purpose of taking notes.

**Schedule of Topics and Assignments:**

<b><u>WEEK</u></b>	<b><u>TOPIC</u></b>	<b><u>WRITTEN ASSIGNMENT</u></b>	<b><u>DUE</u></b>
1 8/26/09	<b>Introduction to Legal Writing in the Health Law Context:</b> Knowing your audience; internal memos versus court documents.	Draft policy on Advance Directives for the hospital ethics committee. <b>(15 Points)</b>	
2 9/2/09	<b>Hospital Relationships.</b> Physicians, vendors, and staff; the concept of Agency in a healthcare setting.		
3 9/9/09	<b>Hospital Policies and Procedures.</b> Complying with the Anti-Kickback Statute, Medicare Conditions of Participation, Illinois Compiled Statutes, and other regulations.	Draft Policy on Business Gifts and Courtesies, including conflict of interest waiver and release. <b>(15 Points)</b>	Advance Directives Due.
4	<b>NO CLASS – Individual Conferences.</b>		
5 9/23/09	<b>Stark Law Analysis.</b>		Policy on Business Gifts and Courtesies, including conflict of interest waiver and release
6 9/30/09	<b>Case Study—Guest Speaker from Drinker, Biddle &amp; Reath.</b>	Draft a Physician Services Agreement. <b>(15 Points)</b>	
7 10/7/09	<b>Hospital Incidents.</b> Risk management and potential claims; liability considerations; forms of insurance.	.	
8	<b>NO CLASS – Individual Conferences.</b>		
9 10/21/09	<b>Medical Malpractice—Guest Speaker from Anderson Rasor &amp; Partners.</b>	Draft a letter to patient family, including covenant not to sue. <b>(15 Points)</b>	Physician Services Agreement
10 10/28/09	<b>Corporate Transactions.</b> Mergers, acquisitions.		
11 11/4/09	<b>Regulatory Considerations.</b> Certificates of Need, CMS Provider Numbers, FTC Approval.	Draft Merger Agreement. <b>(15 Points)</b>	Letter and Covenant
12 11/11/09	<b>Tax Exemption.</b> Charity care and community benefits.		
13 11/18/09	<b>Wrap-up, After an Agreement.</b> Overview of filings necessary to complete a merger transaction.	Draft Filings with Regulatory Agencies. <b>(15 Points)</b>	Merger Agreement
14	<b>NO CLASS – Individual Conferences.</b>	.	Filings (due 1 week after

**CHECKLIST FOR FORMAT OF LEGAL ANALYSIS PAPERS**

1. For each assignment, you are required to turn in two hard copies. Keep a third copy for yourself.
2. Do not put your name on the paper. Put your anonymous number on the **back, upper right hand corner** of the paper. This is essential to maintain blind grading.
3. Type on one side of the page only.
4. Double Space. Use “Times New Roman” font, 12 point. The font you are reading is the font you must use.
5. Include page numbers. Place a page number at the bottom of each page, beginning with page 2.
6. Use one inch margins on top, bottom, left side, and right side of paper.
7. Use two spaces between each sentence and between sentences and citations.
8. Full justify your work; set the Alignment to “justified”.
9. Bind papers together by using one staple in the upper left hand corner. No paper clips, rubber bands, etc. Improperly stapled papers often do not hold all the pages and you bear the burden of any missing pages.
10. Do not exceed mandated word limit, and attach and sign the Academic Integrity Pledge to *each* copy of the assignment. Misrepresenting your word count is grounds for an Honor Code violation.

**FOR court pleadings:**

11. Include a caption (when the assignment provides one).
12. Type a signature block and sign the document with a fictitious name (to preserve your anonymity).