

**Politics 372: Health Law and Politics  
Spring 2022**

Professor: Miranda Yaver  
Email: myaver@oberlin.edu  
Class Time: Tuesday 7-9pm  
Class Location:  
Office Hours: Thursday 12-2:30pm  
Office Location: Rice Hall 209

**Course Description:**

There is no set of legal issues more bound up with underlying social, cultural, and political currents than health law. A principal aim of the course is to give students an appreciation of how these dynamics have influenced law in the health care context. We will examine such topics as the Affordable Care Act, Medicare, Medicaid, abortion, and pandemics, with readings drawn from court cases and secondary analyses. What forces have coalesced to produce health care legislation, and what is the scope of the rights protected? How has the Supreme Court interpreted the right of Congress to regulate health care? What is the status of abortion rights as the Supreme Court prepares to overrule *Roe v. Wade*? How have Congress, courts, and administrative agencies interacted to shape not just national health policy programs, but also the government's intervention into pandemics? The course, which lies at the intersection of health politics, law, and policy, will culminate with the crafting of a health policy brief on a topic of the student's choosing, in consultation with the professor.

**Course Requirements:**

- 5 page policy memo based on a health policy report of students' choosing: 15%
- 5 page analytic paper: 20%
- 20 page health policy report: 40%
- Attendance and participation in class: 25%

**Final Course Grading:** The final grade for the course will be assigned based on the following scale:

A: 93+%	A-: 90-92%	B+: 87-89%
B: 83-86%	B-: 80-82%	C+: 77-79%
C: 73-76%	C-: 70-72%	D+: 67-69%
D: 63-66%	D-: 60-62%	F: > 60%

**Policy Regarding Late Assignments:** It is imperative that students turn in work at the specified deadlines. Failure to do so will result in a third letter grade reduction per day late unless

you have received an extension in advance. Work will not be accepted at all more than one week late unless said extension was granted in advance. If you have concerns regarding your ability to complete your work on time due to physical or mental health reasons, you are encouraged to seek appropriate treatment from campus services and to discuss with me *in advance* whether an extension is needed.

All members of the academic community should be able to engage fully in the academic opportunities and services provided, regardless of disability status, and to that end accommodations to this course can be made if necessary. Please feel free to discuss with me any concerns you may have.

***Statement on Academic Integrity:*** Oberlin College students are on their honor to uphold a high degree of academic integrity. All work that students submit is expected to be of their own creation and give proper credit to the ideas and work of others. Thus, plagiarism, cheating, and receiving unauthorized assistance with the work in this course will not be tolerated. Should a student violate academic integrity in this class, the matter will be reported to the college administration. If you have questions about citations of sources, ask prior to submitting the given assignment. Students are encouraged to consult Writing Center services for additional assistance on writing and citation so as to avoid plagiarism.

At the end of each academic project, students should write in full and sign the Honor Pledge: “I have adhered to the Honor Code in this assignment.”

## **Textbooks**

The following textbooks are required:

- Derthick, Martha. 2011. *Up in Smoke: From Legislation to Litigation in Tobacco Politics*
- Oberlander, Jonathan. 2003. *The Political Life of Medicare*
- Michener, Jamila. 2018. *Fragmented Democracy: Medicaid, Federalism, and Unequal Politics*
- Thompson, Frank. 2012. *Medicaid Politics: Federalism, Policy Durability, and Health Reform*
- Cohn, Jonathan. 2021. *The Ten Year War: Obamacare and the Unfinished Crusade for Universal Coverage*
- Emanuel, Zeke and Abbe Gluck. 2020. *The Trillion Dollar Revolution: How the Affordable Care Act Transformed Politics, Law, and Health Care in America*
- Allhoff, Fritz and Mark Hall, eds. 2014. *The Affordable Care Act Decision: Philosophical and Legal Implications*
- Shilts, Randy. 1987. *And the Band Played On: Politics, People, and the AIDS Epidemic*
- Ziegler, Mary. 2020. *Abortion and the Law in America: Roe v. Wade to the Present*
- VanSickle-Ward, Rachel. 2019. *The Politics of the Pill*
- Black, Bernard. 2021. *Medical Malpractice Litigation: How It Works, Why Tort Reform Hasn't Helped*

- Wilensky, Sara and Joel Teitelbaum. 2020. *Essentials of Health policy and Law, 4th ed.*

The following textbooks are recommended:

- Patashnik, Eric, Alan Gerber, and Conor Dowling. 2017. *Unhealthy Politics*
- Ziegler, Mary. 2015. *After Roe: The Lost History of the Abortion Debate*
- Reagan, Leslie. 1998. *When Abortion Was a Crime: Women, Medicine, and Law in the United States, 1867-1973*
- Beland, Daniel. 2012. *The Politics of Policy Change: Welfare, Medicare, and Social Security Reform in the United States*
- Weissert, William and Carol Weissert. 2019. *Governing Health: The Politics of Health Policy, 5th ed.*
- Rosenberg, Kenneth. 2019. *Bedlam: An Intimate Journey Into America's Mental Health Crisis*

**Journalists and organizations to follow on health care:**

- Dan Diamond (*Washington Post*), Sarah Kliff (*New York Times*), Jonathan Cohn (*Huffington Post*), Aaron Carroll (Indiana University/*New York Times*), *STAT News*, *Health Affairs*, *POLITICO Pulse*, *Journal of Health Politics, Policy, and Law*, The Incidental Economist, USC-Brookings Schaeffer Initiative for Health Policy, Kaiser Family Foundation, Center for American Progress, Commonwealth Fund

**Course Outline:**

**Tuesday, February 22: Medicare Politics**

- Oberlander, Jonathan. 2003. *The Political Life of Medicare*
- Hacker, Jacob. 2019. "Medicare Expansion as a Path as well as a Destination: Achieving Universal Insurance through a New Politics of Medicare." *The Annals of the American Academy of Political and Social Science*.
- Stoltzfus Jost, Timothy. 2006. "Health Care Courts and Malpractice Claims Adjudication Through Medicare: Some Questions." *Journal of Health Care Law and Policy*.

**Tuesday, March 1: Medicaid Politics**

- Thompson, Frank. 2012. *Medicaid Politics: Federalism, Policy Durability, and Health Reform*
- Stoltzfus Jost, Timothy and Sara Rosenbaum. 2012. "The Supreme Court and the Future of Medicaid." *The New England Journal of Medicine*.

**Tuesday, March 8: Medicaid Politics**

- Michener, Jamila. 2018. *Fragmented Democracy: Medicaid, Federalism, and Unequal Politics*
- Michener, Jamila. 2021. “Politics, Pandemic, and Racial Justice Through the Lens of Medicaid.” *American Journal of Public Health*.
- Rosenbaum, Sara. 2018. “Medicaid and the Role of Courts.” *The Commonwealth Fund Report*.
- Rosenbaum, Sara. 2017. “Can the Courts Stop the States From Excluding Planned Parenthood?” *New England Journal of Medicine*.
- Rosenbaum, Sara. 2012. “How the Supreme Court’s Medicaid Decision May Affect Health Centers: An Early Estimate.” *Geiger Gibson / RCHN Community Health Foundation Research Collaborative Policy Research Brief #30*.

**Tuesday, March 15: The Affordable Care Act**

- Cohn, Jonathan. 2021. *The Ten Year War: Obamacare and the Unfinished Crusade for Universal Coverage*
- *National Federation of Independent Business v. Sebelius* (2012)

**Tuesday, March 22: The Affordable Care Act**

- Moncrieff, Abigail R. 2013. “The Individual Mandate as Healthcare Regulation: What the Obama Administration Should Have Said in *NFIB v. Sebelius*.” *American Journal of Law & Medicine* 39(4).
- Patashnik, Eric and Jonathan Oberlander. 2018. “After Defeat: Conservative Postenactment Opposition to the ACA in Historical and Institutional Perspective.” *Journal of Health Politics, Policy, and Law*.
- *King v. Burwell* (2015)
- *Texas v. United States* (2018) (district court ruling)
- *California v. Texas* (2021)

**Tuesday, March 29: The Affordable Care Act**

- Allhoff, Fritz and Mark Hall, eds. 2014. *The Affordable Care Act Decision: Philosophical and Legal Implications*

SPRING BREAK

**Tuesday, April 12: The Affordable Care Act**

- Emanuel, Zeke and Abbe Gluck. 2020. *The Trillion Dollar Revolution: How the Affordable Care Act Transformed Politics, Law, and Health Care in America*
- Sommers, Benjamin and Jonathan Gruber. 2019. “The Affordable Care Act’s Effects on Patients, Providers and the Economy: What We’ve Learned So Far.” *NBER Working Paper*.

### **Tuesday, April 19: Contraception**

- VanSickle-Ward, Rachel. 2019. *The Politics of the Pill*
- *Griswold v. Connecticut* (1965)
- *Burwell v. Hobby* (2014)
- *Little Sisters of the Poor v. Pennsylvania* (2020)

### **Tuesday, April 26: Abortion Law and Politics**

- Ziegler, Mary. 2020. *Abortion and the Law in America: Roe v. Wade to the Present*
- *Roe v. Wade*
- *Whole Woman's Health v. Hellerstedt*

### **Tuesday, May 3: Tobacco Litigation**

- Derthick, Martha. 2011. *Up in Smoke: From Legislation to Litigation in Tobacco Politics*
- Mather, Lynn. 2006. "Theorizing about Trial Courts: Lawyers, Policymaking, and Tobacco Litigation." *Journal of Law & Social Inquiry*.
- *Food and Drug Administration v. Brown & Williamson Tobacco Corp.* (2000)

### **Tuesday, May 10: Medical Malpractice Litigation**

- Black, Bernard. 2021. *Medical Malpractice Litigation: How It Works, Why Tort Reform Hasn't Helped*
- Studdert, David et al. 2005. "Defensive Medicine Among High-Risk Specialist Physicians in a Volatile Malpractice Environment." *JAMA*.

### **Tuesday, May 17: AIDS Pandemic**

- Shilts, Randy. 1987. *And the Band Played On: Politics, People, and the AIDS Epidemic*, Parts I-IV
- Gostin, Lawrence and James Hodge. 2020. "US Emergency Legal Responses to Novel Coronavirus: Balancing Public Health and Civil Liberties." *JAMA*.

### **Tuesday, May 24: AIDS Pandemic**

- Shilts, Randy. 1987. *And the Band Played On: Politics, People, and the AIDS Epidemic*, Parts V-IX