

LAW 343 S05: PUBLIC HEALTH LAW

COURSE DESCRIPTION

January – April 2010

Wednesday, 3:30-6:20 PM, Library 265

Professor: Nola Ries
Email: nmries@uvic.ca
Office: 234 (I am located in Professor Borrows' office while he is on leave.)
Office hours: My office hours are somewhat irregular as I also do work off campus. If I'm in my office, I have an open-door policy, so please feel free to drop in. Alternately, please email me and we can set up an appointment at a mutually convenient time.

Course Content

Public health law has been comprehensively defined as:

the study of the legal powers and duties of the state, in collaboration with its partners (e.g., health care, business, the community, the media, and academe), to assure the conditions for people to be healthy (to identify, prevent, and ameliorate risks to health in the population) and the limitations on the power of the state to constrain the autonomy, privacy, liberty, proprietary, or other legally protected interests of individuals for the common good. The prime objective of public health law is to pursue the highest possible level of physical and mental health in the population, consistent with the values of social justice.¹

In this course, students will explore the role of law in influencing conditions that shape the health of populations in Canada. Legal tools in their various forms – including legislation, action by administrative officials, and litigation - can be used to promote healthier behaviour and deter activity that creates health risks. Legal interventions are, however, often controversial as critics express concern about the slippery slope of government interference into personal choices. Individuals should take responsibility for their own health, the argument goes, and the state should not impose unnecessary regulatory burdens. Others counter that legal interventions are necessary public health tools, especially to protect vulnerable or disadvantaged populations and to regulate determinants of health that are beyond individual control.

The overall aim of the course is to consider fundamental questions about the role of law in public health. When and how should law (i.e. the exercise of governmental authority) be used to intervene in society, the market and individual choices in an attempt to maximise population health? To what extent do governments have obligations to protect and promote the health of citizens? What challenges – legal, philosophical and ethical -- may be raised against government intervention? How do legal strategies interact with other approaches to public health promotion and protection, such as education? These foundational questions will be explored through analysis of specific public health topic areas.

¹ Lawrence O. Gostin, *Public Health Law: Power, Duty, Restraint*, 2nd ed. (University of California Press/Milbank Memorial Fund, 2008) at xxiii.

Key topics will include:

- legal foundations of public health in Canada
- ethical dimensions of public health activities
- perception, assessment and management of public health risks
- HIV/AIDS and public health law
- tobacco control
- public health and environmental protection
- food safety
- obesity and the law

The course will draw on current issues in public health law and policy to illustrate key topics.

The course text is *Public Health Law & Policy in Canada*, 2nd ed., edited by T. Bailey, T. Caulfield & N. Ries (LexisNexis Canada Inc., 2008). Available at the bookstore and on law library reserve.

Course Objectives

The primary objectives of this course are to provide students with an opportunity to learn fundamental principles of public health law, apply those principles in a variety of contexts, discuss and analyse current issues in public health law and policy, and enhance their research, writing and oral presentation skills by preparing and presenting a paper on a public health law topic of their choice.

Teaching Methods

Teaching methods will include interactive lecture, case studies, class discussion and student presentations. Guest lecturers may be invited to the class.

Evaluation

The method of evaluation will be:

Research paper:	65%
Class presentation:	15%
Case study analysis:	20%

Research paper (65%)

A research paper, due on the last class (**Wednesday, April 7**) is the primary method of evaluation. The paper must be between 20-25 double-spaced pages (a “page” is 8.5 x 11 inch paper, 1 inch margins, 12 point font, Times New Roman). This is approximately 5500 to 6250 words, excluding footnotes. Please ensure that you adhere to the page limit as I will stop reading at 25 pages.

The field of public health law offers a vast range of possible paper topics, so students have an opportunity to choose a subject that is of most interest to them. Students are encouraged to consult with the instructor to discuss paper ideas and must confirm their topic with the instructor by **Wednesday, January 27**. Papers that include policy and/or ethical issues are

welcome, but please note that legal content (e.g. analysis of case law, legislation, comparative legal analysis, discussion of unsettled legal questions) should comprise at least 50% of your paper.

Students who would like to fulfil their Major Paper requirement through this course should contact the instructor as soon as possible to discuss this option. A Major Paper form, available from the Office of the Associate Dean, must be submitted early in the term. For students writing a Major Paper, the word length must be a minimum of 7500 words, excluding footnotes. The maximum length for a Major Paper is 10,000 words.

Please submit a hard copy of your paper in class and also send an electronic copy to me by email at nmries@uvic.ca. Please indicate the word count on the first page of your paper.

Class presentation (15%)

Near the end of term, each student will present their paper in class. The presentation will be a **maximum of 15 minutes** in length, with 5 minutes for questions and answers. I recommend that you practice your presentation before class to ensure that you will not exceed the 15-minute time limit. Audio-visual aids, such as a PowerPoint presentation or handout, are welcome, but not required. If you prepare a visual presentation, please limit the number of slides to ensure you can cover all your material within the time limit. As a general rule of thumb, you should have no more than 10 slides for a 15-minute presentation. We will discuss additional details regarding the presentation in class.

Case Study Analysis (20%)

Throughout the course, we will examine current issues related to topics covered in the class. Case study problems will periodically be distributed in class and students will work in small groups to analyse the problem, then share their analysis with the rest of the class. Students will choose one of these case studies and prepare a written analysis that: (1) describes the public health problem at issue; (2) identifies relevant legal issues; (3) summarises the class discussion; and (4) presents personal reflections on some of the issues raised. Reflections may draw connections between the problem under review and previous class discussions, explore implications of arguments made in readings or class discussion, and/or recommend appropriate legal strategies to address the public health problem. Please note that the case study is not intended to require substantial additional research. Further instructions regarding this assignment will be distributed in class. The case study analysis must not exceed 5 pages in length (aim for approximately 1000 - 1200 words) and is due in class no later than **Wednesday, March 24.**

Penalties for Failure to Meet Deadlines

The Faculty policy concerning deadlines for assignments is as follows:

The Faculty expects assignments to be submitted on time; students who are unable to meet a deadline are expected to discuss the matter with their professor. Whether or not an extension of time is granted is within the discretion of the professor and conditional upon the student providing a reasonable excuse. Students who fail, without reasonable excuse, to meet deadlines for written assignments may

be penalized in accordance with the grading and penalty assessment policy set by the particular professor, filed with the Dean and communicated to the class at the beginning of the class term. Appeals against rejection of a student request for additional time to complete the paper, or appeals against an allegedly unfair penalty assessment scheme may be made to the Studies Committee.

Late Submission Penalty for Public Health Law

A student who fails to meet a deadline without prior approval from the course instructor will be penalized by reducing that student's grade for the assignment by one letter grade for every day, or part of a day, that the assignment is late. Students experiencing difficulty in meeting due dates should discuss the problem with me or with the Associate Dean as soon as reasonably possible and, in any event, before the date on which the assignment is due.

Grading

The assignment, paper and presentation will be graded by numerical percentage. The final grade for this course will be calculated by adding the weighted numerical grades of all evaluation components and determining the equivalent letter grade for the total of those weighted components.

The relevant equivalencies between numerical and letter grades are as follows:

A+	A	A-	B+	B	B-	C+	C	D	Fail
90+	85-89	80-84	75-79	70-74	65-69	60-64	55-59	50-54	0-49

Letter Grade	Grade Point Value	Percentage Value	Narrative Description
A+	9	90-100%	Exceptional, outstanding, and excellent performance, normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
A	8	85-89%	
A-	7	80-84%	
B+	6	75-79%	Very good, good, and solid performance, normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
B	5	70-74%	
B-	4	65-69%	
C+	3	60-64%	Satisfactory or minimally satisfactory performance. These grades indicate a satisfactory performance and knowledge of subject matter.
C	2	55-59%	
D	1	50-54%	Marginal performance. A student receiving this grade

			demonstrates a superficial grasp of subject matter.
F	0	49 and below	Unsatisfactory performance.

Other Important Notes

Regulations: Students should obtain and review all regulations and policies contained in the current University of Victoria Calendar, both generally and specifically for the Faculty of Law. The Undergraduate Academic Regulations set out the University's expectations about attendance and assignments.

Classroom Climate: An inclusive, respectful, and diverse classroom environment is crucial to our work in this course. To ensure that all class members feel welcomed and equally able to contribute to class discussions, both I as instructor and you as students must endeavor to be respectful in our language, our examples, and the manner in which we conduct our discussions. We have both an ethical and legal obligation to support this kind of environment. For your reference, you may wish to consult the University's Discrimination and Harassment Policy (<http://web.uvic.ca/uvic-policies/pol-1000/1150HPP.html>). The University of Victoria and the Faculty of Law are committed to promoting, providing and protecting a positive, supportive and safe learning and working environment for all its members. I expect all aspects of this class to be conducted with this commitment firmly in mind. If you have any concerns about the climate of the class, please feel free to contact me.

Academic Integrity: As part of the academic community of both the Faculty of Law and the University as a whole, academic integrity is centrally important in the work of faculty and students. Please consult the University Calendar for policies respecting paraphrasing, plagiarism, and cheating. If you have any concerns or questions, or require clarification, please contact me. The policy on academic integrity can be found on the web at the following address: <http://web.uvic.ca/calendar2006/FACS/UnIn/UARe/PoAcI.html>

Students with a Disability: If you have any type of disability, there are support systems, resources, and accommodation actions available to you. If you wish to access any of these supports, resources or accommodations, please contact the Associate Dean or the Resource Centre for Students with a Disability (<http://rcsd.uvic.ca/home.ihtml>) and I would be more than happy to work with you to ensure your success in this course.

Accommodation of Religious Observances: The University of Victoria and the Faculty of Law have policies guaranteeing accommodation for those students who are unable to participate in a class or an aspect of the course owing to a religious holiday. If you will be missing a class, know that you will be unable to complete an assignment or exam, or otherwise require accommodation on account of a religious holiday, please speak with me so that we can work out some satisfactory form of accommodation.