

List of Courses to be considered for joint degree, JD/MD, program: (all taught within the past two years)

ADMINISTRATIVE LAW: 200

Administrative law deals with three issues: (1) what powers may be delegated to administrative agencies; (2) the manner in which agencies use their delegated power, e.g., through rulemaking or adjudication; and (3) the ways in which administrative agencies are disciplined by the political branches, the courts and private parties. The first issue raises questions largely related to the status of administrative agencies in the constitutional framework—i.e., whether and to what extent Congress may delegate to substantive decision-making authority to administrative agencies. The second issue deals almost exclusively with the procedural requirements imposed on administrative agencies when engaged in their “law creation” function. Finally, the third issue addresses questions of the availability and scope of judicial review, and the formal and informal ways that the political branches attempt to constrain agency discretion. The primary focus of this class, as an introductory class, will be to develop a working knowledge of the key doctrinal components of this area of the law. However, we will also think broadly about the justifications for the administrative state, which has been with us since the very first days of the Republic, and test those against our substantive ideals about democracy, deliberation, accountability, and effective governance.

ALTERNATE DISPUTE RESOLUTION: 223

An exploration of how individuals and groups resolve disputes without judges through Alternative Dispute Resolution (ADR). The class will focus predominantly on negotiation and mediations using role-playing techniques. You will read about negotiation and other forms of ADR, perform simulated negotiations, analyze your participation in such negotiations orally and in writing, and investigate how others use ADR.

BIO-MEDICAL ETHICS: 273

This course will examine some of the most important ethical and policy issues arising from the rapid development of genomic sciences. The emphasis will be on the application of genome science-based technologies to human beings. The course will begin with a critical examination of the eugenics movements of the late 19th and early-to-mid- 20th Century, with an eye to seeing what lessons we can learn from its errors and wrongs. Next, the course will focus on two overlapping issues: the arguments for and against germline modification of human beings and the ethics of biomedical enhancement (with special emphasis on cognitive enhancement drugs). Special attention will be paid to the role that lack of scientific knowledge, and in particular knowledge of evolutionary biology, has played in mistaken framings of the ethical and policy issues. This, in turn, will lead us to ponder fundamental questions about the role of science in public policy in a democracy.

BUSINESS ASSOCIATIONS: 100

This course is an introduction to agency, partnerships, LLCs and corporations, with a principal focus on the powers, rights, duties and liabilities of corporate directors, officers and shareholders. Topics will include the formation and financing of corporations, internal structure, corporate governance, the allocation of power among the various participants in the enterprise, basic fiduciary law, shareholder voting, and control transactions. Partnership and LLC law will be addressed principally in comparison to corporate law. In addition to the state corporation laws of several jurisdictions - principally Delaware and Florida - the course will address selected

federal securities law issues (such as proxy regulation) and the relationship between state and federal law regarding corporations, particularly in light of Sarbanes-Oxley requirements.

CHILDREN & YOUTH LAW W/S: 738

This workshop is an introduction to the theory and practice of representing children in the state foster care, juvenile delinquency, mental health, educational disability, and immigration cases. Students enrolled in the workshop will assist in the representation of clients of the Children & Youth Law Clinic while gaining exposure to doctrine and policy of children and the law. Interested students may also have opportunities to assist in federal court class action litigation, appellate, administrative or legislative advocacy for clients, or to engage in client community education. Class sessions will focus on substantive law, ethical issues involved in representing children in these contexts, interviewing, counseling and other lawyering skills, case discussions, and issues relating to the status, rights, and obligations of children in our legal system.

ELDER LAW: 265

By 2020, one fifth of the population will be of retirement age and many more will be doing legal planning for their retirement futures. This course explores the legal and social importance of an aging population. Topics include age discrimination, retirement income, health care and long term care finance, retirement housing with services, substitute decision making, and elder abuse.

FAMILY LAW: 136

This class will cover substantive issues which include: entry into marriage, legal treatment of same sex couples, divorce, alimony, custody, visitation, child support etc. Throughout the semester, there will be a series of guest speakers (practitioners, guardian ad litem attorneys and family mediators) who will address the real life practical issues within family law.

The goals of the class are to help students:

1. Apply doctrine to new factual situations
2. Develop oral advocacy skills
3. Develop a critical perspective about the difference between “law on the books” and “law in operation”
4. Collaborate with colleagues on legal problem

FEDERAL INCOME TAX: 105

This course considers four fundamental issues of income taxation: base, timing, unit and rate. Although focusing on legal doctrine, the course also spends considerable time discussing tax and business planning, the time value of money, and tax policy analysis.

FINANCE AND REGULATION OF HEALTH CARE: 521

Health care expenditures will soon constitute 20% of the Gross Domestic Product making the health care industry the single largest component of the American economy. This course is designed to provide students with the foundation for a career in Health Law. It examines the development and function of the American health insurance system including Medicare, Medicaid, and commercial health insurance addressing issues such as cost reimbursement, pay for performance, the prospective payment system, the multiple forms of HMO’s and PPO’s and the role of ERISA. From a regulatory standpoint relative to payment, we will examine and discuss the Federal and Florida regulatory restrictions on payment and related enforcement activities including the Anti-kickback Rules, Stark, Florida Board of Medicine initiatives, corporate

Integrity Agreements, qui tam actions and the especial circumstances applicable to tax exempt entities including IRS Closing Agreements and enforcement activities. Other regulatory components of the American Health Care System will be addressed including accreditation of hospitals and the accreditation process involving the Joint Commission on the Accreditation of Healthcare Organizations, the Certificate of Need process, the regulation of Protected Health Information under the Health Insurance Portability and Accountability Act, access to care under the emergency Transfer and Care Quality Improvement Act and the role of antitrust law. No prerequisites are required although corporate law and administrative law would be helpful.

HEALTH CARE AND THE CONSTITUTION: 276

Health care has been a matter of constitutional controversy long before the current constitutional challenges to elements of the Affordable Care Act ("ACA"). This course will examine constitutional controversies involving the ACA as well as constitutional controversies over such issues as immunization for communicable diseases, involuntary treatment for conditions characterized as mental illness, and the rules for clinical trials of new medications and procedures. These issues raise constitutional issues of individual rights as well as issues of the scope and nature of government authority. The course will examine "constitutional law beyond the courts" in the sense that it will examine the constitutional elements of the choices made by Congress, state legislatures, federal and state regulatory agencies, as well as decisions by federal and state courts.

HEALTH LAW POLICY & PRACTICE PRACTICUM: 874

This is an extern "clinic" in which students work in various public and private sector field placements that maintain a health law practice. The goal of the practicum is to offer students a practical opportunity to deepen their understanding of legal issues confronting health care organizations and other public, private and non-profit organizations whose mission include health care delivery, access to care, public health or broader policy concerns and to provide some exposure to the range of health care-related legal jobs. The list of potential placements can be found at http://faculty.law.miami.edu/mcoombs/placementlist_000.htm. Students will work under close supervision at the placement site. Each student is responsible for producing substantive work products as directed by the placement supervisor. The nature of the work product will differ from site to site. The work maybe litigation-oriented, advisory, transactional or policy development in nature. No matter where they are placed, students should be prepared to do substantive research and writing. Students will receive 3 credits which will be graded Pass-Fail-Honors. Students must devote 10-12 hours per week to the placement and attend a biweekly two-hour seminar. The seminar will explore issues related to health care. It will include discussion of some current legal issues regarding health care, the opportunity to meet with attorneys involved in a variety of health care-related practices, and a space to reflect on, and discuss with other students, the health care and lawyering issues raised by your practicum experiences.

THE IDEA OF THE HOSPITAL; An Interdisciplinary Inquiry: 255

(This course is co-listed in numerous Schools/Departments, and is offered as an elective through the School of Medicine. It is expected that JD/MD students will enroll through the School of Medicine.)

Spanning eight distinct disciplines across the University of Miami, this truly interdisciplinary course gives students an exclusive opportunity to study the multiple perspectives within which we view, think, and work in hospitals.

INSURANCE LAW AND POLICY: 119

This course will examine critically the theory, legal rules, and institutions of insurance. It will draw on economic theory to predict the market characteristics of insurance contracts and to establish normative assessment of insurance markets. In addition to familiarizing students with conventional legal insurance issues, the course will analyze the impact of insurance on legal practice.

LAW AND MEDICINE: 239

This course will examine the ways in which law governs the practice of medicine. A primary focus will be the legal issues related to medical malpractice claims; we will also examine issue of licensing (by the state) and credentialing (by hospitals) as limits on who may practice medicine and the legal rules surrounding the inception, management and conclusion of a physician-patient relationship. A major theme of the course will be to consider how these various rules enhance or impeded the provision of high quality, safe health care to patients.

MEDICAL-LEGAL CLINIC: 785

(This course is also offered as a 2-credit or 4-credit course in the School of Medicine. It is expected that JD/MD students will complete this course through the School of Medicine.)

The Health and Elder Law Clinic is a clinical course in which students assist low-income elderly and health-impaired clients under the supervision of a professor and clinical instructors. Clients are referred by health care providers at the University of Miami Miller School of Medicine and other community-based organizations. Students function as the client's primary advocate in all aspects of the client's case, including interviewing and counseling, fact investigation, drafting and briefing, negotiations and hearings. Students represent clients in the following fora:

- In Social Security disability hearings before Federal Administrative Law Judges,
- In immigration status adjustment proceedings before USCIS Officers and Immigration Judges,
- In public benefits and housing hearings before state agency hearing officers.

Students also prepare wills, guardianships and advance healthcare directives and represent clients in Probate Court and engage in policy and impact advocacy on such topics as HIV and confidentiality, immigrant benefit eligibility, and healthcare reform.

This population-based clinic uses a "teaching hospital" and social justice model providing student advocates with a dynamic, high-intensity and high-volume practice. The seminar component of this course provides substantive instruction to students in the clinic's primary practice areas and skills training. The seminar also includes clinical "case rounds" designed to reinforce substantive training, emphasize real-world profession responsibility issues.

NEW DIRECTIONS IN LAWYERING: INTERVIEWING, COUNSELING AND ATTORNEY/CLIENT RELATIONAL SKILLS: 361

Increasing concern about lawyer dissatisfaction has given rise to a number of new approaches to lawyering. There is increasing concern with lawyer de-professionalism, the transformation of law from a profession into a business, low public esteem for the legal profession, professional burnout, high rates of alcoholism and substance abuse within the profession, and higher rates of depression, anxiety, and suicide for lawyers than for other professions. In response, a number of new ways of viewing the lawyering role have emerged that use non-adversarial, psychologically beneficial and humanistic ways to solve legal problems, resolve legal disputes, and prevent legal difficulties. These include therapeutic jurisprudence, preventive law, restorative justice,

collaborative law, holistic law, creative problem solving and a variety of newly emerging problem-solving courts. These approaches seek to broaden traditional conceptions of the legal profession by adding an interdisciplinary psychologically oriented paradigm that concerns itself with client needs and emotional well-being as well as rights. This course will explore these new approaches and the skills they bring to the lawyering process. Particular emphasis will be placed upon an exploration of ethical issues in the newly defined role. In addition, particular emphasis will be placed on developing ways of bringing increased personal satisfaction, professionalism, and lawyer well-being to law practice, and increasing creative problem solving, preventive lawyering, interpersonal relations, interviewing, counseling, and negotiation skills. Students will be required to participate in a number of interviewing and counseling exercises and to write a short paper exploring application of one or more of these new approaches to dealing with a particular legal problem or problems. They also will engage in drafting, negotiation, and mediation exercises. The course is designed to teach lawyering skills in a non-litigation context, emphasizing the attorney/client relationship. In addition to participating in simulated exercises, students may engage in live-client interviewing and counseling exercises, e.g., interview and counsel juveniles in the Juvenile Detention Center in Miami-Dade County.

PROFESSIONAL LIABILITY AND LEGAL MALPRACTICE: 407

Professional Liability and Legal Malpractice will introduce students to lawyer malpractice exposure and litigation, and the role of malpractice education and risk management. The course will survey theories of lawyer and law firm liability, including negligence and breach of fiduciary duty, remedies and defenses to recovery, vicarious liability, prevention and insurance.

SCIENTIFIC EVIDENCE: IN THEORY AND IN COURT SEMINAR: 632

One of the numerous ways in which science and the law interact is with the legal system's handling of scientific testimony. Courts rely increasingly on the testimony of expert witnesses; and where scientific experts are concerned, jurors' and judges' difficulties in understanding proffered testimony, and in discriminating decent scientific work from "junk science" can be especially severe. What are the problems with the legal system's handling of scientific evidence? How might it be improved?

We will look at the history of expert testimony generally, and of scientific evidence specifically; at the theories of scientific evidence and method – inductivist, deductivist, and social-constructivist – which have informed legal decisions and writings on scientific evidence; and at the conceptions (or misconceptions) of scientific evidence and method built into the Frye rule, into the Federal Rules of Evidence, into Supreme Court rulings in *Daubert* (1993), *GE v. Joiner* (1997), and *Kumho* (1999), and into Rule-706 court-appointed scientific panels such as Judge Pointer's on silicone breast implants.