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PUBLIC HEALTH LAW SYLLABUS

SPRING 2005

The readings for our course are gathered from a variety of sources, including materials compiled by Professors Lawrence Gostin of Georgetown University School of Law and Leslie Gielow Jacobs of McGeorge School of Law at the University of the Pacific. Most cases and some articles are available through TWEN. Others will be provided as printed materials available in the Campus Bookstore. You are encouraged to email or otherwise provide additional materials to supplement our class discussions.

January 19

INTRODUCTION TO GOVERNMENT POWER TO INTERVENE TO PROTECT THE HEALTH OF INDIVIDUALS AND THE COMMUNITY:

Ropeik and Holmes, "Never Bitten, Twice Shy: The Real Dangers of Summer," N.Y. Times, August 9, 2003 at A11;
Satcher, "Our Commitment to Eliminate Racial and Ethnic Health Disparities," 1 Yale J. Health Policy, Law & Ethics 1 (2001);
"On Health Report Card, the 'F' Stands for Fat," N.Y. Times Feb. 1, 2000, p. F8;
Larry Gostin, "Public Health Law in a New Century, Part I," JAMA 2000?;
"For Good Health, It Helps to be Rich and Important," N.Y. Times June 1, 1999 p. F1;
Jacobson v. Massachusetts, 197 U.S. 11 (1905);
"The Last Smallpox Epidemic in Boston and the Vaccination Controversy, 1901-1903," 344 N.E. J. Med. 375 (Feb. 1, 2001);
New York City Friends of Ferrets v. N.Y.C. Dept. of Health, 876 F. Supp. 529 (S.D. N.Y. 1995).

January 24

FEDERALISM AND PUBLIC HEALTH POLICY: Tobacco as a Case Study

"Genetic Damage in Young Smokers is Linked to Lung Cancer," N.Y. Times Apr. 7, 1999, p. A17;
Cipollone v. Ligett Group, Inc., 505 U.S. 504 (1992);
"Acute Effects of Passive Smoking on the Coronary Circulation in Healthy Young Adults," 286 JAMA 436 (2001);
N.Y. Public Health Law Article 13-E (go to <http://public.leginfo.state.ny.us>, and search for S3292 (read especially Status, bill provisions (in green), Summary of

Specific Provisions, and Justification; read N.Y. Pub. Health L. 1399-n-1399-x;
Beattie v. City of New York, 123 F.3d 707 (2d Cir. 1997); *Dutchess/Putnam Restaurant & Tavern Association, Inc., v. Putnam County Dept. of Health*, 178 F.Supp.2d 396 (S.D.N.Y. 2001).

January 26

HEALTH LAW RESEARCH APPROACHES (HELD IN LIBRARY COMPUTER LAB)

Guest Lecturer – Margaret Moreland

January 31

FREEDOM OF EXPRESSION AND PUBLIC HEALTH POLICY:

Commercial Speech, Vices, and State Parentalism

44 Liquormart, Inc. v. Rhode Island, 517 U.S. 484 (1996);
Larry Gostin et al., "FDA Regulation of Tobacco Advertising and Youth Smoking: Historical, Social, and Constitutional Perspectives," 277 JAMA 410 (1997);
Lorillard Tobacco C. v. Reilly, 533 U.S. 525 (2001).

February 2

**RISK ASSESSMENT AND RISK MANAGEMENT:
Lead Poisoning as a Case Study**

Corvello and Mumpower, "Risk Analysis and Risk Management: An Historical Perspective, 1985 Society for Risk Analysis (**SKIM** 103-109, **READ** 110-117);

Percival, Miller, Schroeder & Leape, ENVIRONMENTAL REGULATION: LAW, SCIENCE, AND POLICY (4th ed. 2003) excerpt; New York City Coalition to End Lead Poisoning, Inc. v. Vallone, 100 N.Y.2d 337 (2003); **Go to**

<http://www.council.nyc.ny.us/pdffiles/newswire/leadpaint.pdf>

(recognizing that this is the website of the defendants in the preceding case) and download press release; **Go to**

<http://www.nmic.org/nyccepl/2002-lead-law.htm> (recognizing that this is the website of the plaintiffs in the preceding case) and download:

- a) History of lead paint issue in New York City, <http://www.nmic.org/nyccepl/laws/Briefing-paper-on-lead.htm>;
- b) 1 page summary of Intro 101A;
- c) Long Version of a Comparison of Intro 101A with former Local Law 38; and Lawrence O. Gostin, "Public Health Law in a New Century, Part III: Public Health Regulation: A Systematic Evaluation," 283 JAMA 3118 (2000).

February 7

**DRUG SAFETY:
Intersection of Food and Drug Administration
Regulation and Products Liability Suits**

Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993);

Zuchowicz v. U.S., 140 F.3d 381 (1998); *Chambers v. Exxon*, 81 F.Supp.2d 661 (2000)

February 9

ENSURING A SAFE BLOOD SUPPLY

Rosenthal, "Blood and Tears: A Chinese Family's Ordeal in a Nation in Denial of AIDS," N.Y. Times Sept. 16, 2001 p A25;
Klein, "Will Blood Transfusion Ever Be Safe Enough?" 284 JAMA 238 (2000);
Glynn et al., "Trends in Incidence and Prevalence of Major Transfusion-Transmissible Viral Infections in US Blood Donors, 1991 to 1996," 284 JAMA 229 (2000);
Goodnough, et al., "Transfusion Medicine", 340 N.E.J. Med. 438 (1999); *United Blood Services v. Quintana*, 827 P.2d 509 (Col. 1992) and *American Dental Association v. Martin*, 984 F.2d 823 (1993).

February 14

MANDATORY TESTING OF PUBLIC SAFETY WORKERS:

Fourth and Fourteenth Amendment Issues

Skinner v. Railway Labor Executives' Association, 489 U.S. 602 (1989);
Anonymous Fireman v. City of Willoughby, 779 F. Supp. 402 (N.D. Ohio 1991);
People v. Adams, 597 N.E.2d 574

February 16

PUBLIC HEALTH RESPONSES TO INFECTIOUS DISEASES:

Tuberculosis as a Paradigm Plus Quarantine and Isolation on a Local, National, and International Level, Focusing on Equal Protection Issues

Miller, "Study Says New TB Strains Need an Intensive Strategy," N.Y. Times Oct. 28, 1999, p. A6;
Zuger, "Russia Has Few Weapons as Infectious Diseases Surge," N.Y. Times Dec. 5, 2000, p. F1;
Small et. Al, "Management of Tuberculosis in the United States," 345 N. E. J. Med. 189 (2001);
Acevedo-Garcia, "Zip Code-Level Risk Factors for Tuberculosis: Neighborhood Environment and Residential Segregation in New Jersey 1985-1992," 91 Am. J. Pub. Health 734 (2001);
U.S. Constitution, Amendment XIV (equal protection clause);
Shevory, "Disease, Criminality and State Power: Evolving Legal Rhetoric and Cultural Constructions," excerpt;
"Bubonic Plague Hits San Francisco 1909-1909," excerpt;
Wong Wai v. Williamson, 103 Fed. 1 (C.C.N.D. Cal. 1900);
Jew Ho v. Williamson, 103 F. 10 (C.C.N.D. Cal. 1900);
Parmet, "AIDS and Quarantine: The Revival of an Archaic Doctrine," 14 Hofstra L. Rev. 53 (1985) excerpt;
Korematsu v. United States, 323 U.S. 214 (1944);
Chung; "Asian Americans Fight SARS Rumors," The Oregonian, May 8, 2003 at p. C03;
Varner, "The Culture of Fear," Seattle Times May 13, 2003 at p. B4;
Newman et al., "Fear, Not SARS, Infects South Jersey School, N.Y. Times May 10, 2003 at p. A65.
Swarns, "More than 13,000 Face Deportation," N.Y. Times June 7, 2003

Monday, February 21 thru Sunday, February 27 Winter Recess

February 28

THE PUBLIC HEALTH RESPONSE TO TUBERCULOSIS AND OTHER INFECTIOUS DISEASES:

Contact Tracing, Directly Observed Therapy, and Isolation, Due Process and Privacy Issues

Gasner et al., "The Use of Legal Action in New York City to Ensure Treatment of Tuberculosis," 340 N. E. J. Med. 359 (1999);
N.Y.C. Health Dept., "Commissioner's Orders for Adherence to Anti-TB Treatment," March 1999;
Newark v. J.S., 652 A. 2d 265 (N.J. Super. 1993);
Jones et al., "Transmission of Tuberculosis in a Jail," 131 Ann. Int. Med. 557 (1999);
U.S. Constitution, Amendment XIV (Due Process Clause);
Kurtenbach, "Hong Kong Toughens its SARS Quarantine," Sacramento Bee Apr. 12, 2003;
Shevory, "Disease, Criminality and State Power: Evolving Legal Rhetoric and Cultural Constructions," excerpt;
Gostin, Public Health Law, Power, Duty, and Restraint 209 (2000) excerpt;
Kirk v. Wyman, 83 S.C. 372 (1909);
Ex parte Company, 106 Ohio St. 50 (1922);
Mathews v. Eldridge, 424 U.S. 319 (1976);
Addington v. Texas, 441 U.S. 418 (1979);
Altman, "Citing Concerns About Public Health, Officials Detain Foreign Tourist," Apr. 8, 2003 at p. A9.

March 2

THE PUBLIC HEALTH RESPONSE TO HIV/AIDS: Contact Tracing and Partner Notification – Good Public Health Policy and/or Violation of the Right to Privacy?

N.Y. Public Health Law §§ 2130 and 2133
Brandt, "The Syphilis Epidemic and Its Relation to AIDS," 239 Science 375 (1988);
Stephenson, "HIV risk from Oral Sex Higher than Many Realize," 283 JAMA 1279 (2000);
Petersen, "Overshadowed by AIDS, Herpes Spreads Alarming," Wall St. J., Dec. 10, 1997, p. B1;
Altman, "Focusing on Prevention in Fight Against AIDS," N.Y. Times Aug. 31, 1999 p. F 5;
Altman, "AIDS Surges in Black and Hispanic Men," N.Y. Times Jan. 14, 2000 p A16;
Perez-Pena, "Tracking a Deadly Secret," N.Y. Times Nov. 13, 1997, p. B1;
Karon et al., "HIV in the U.S. at the Turn of the Century: An Epidemic in Transition," 91 Am. J. Pub. Health 1060 (2001);
Bayer et al., "HIV Prevention and the Two Faces of Partner

Notification," 82 Am. J. Pub. Health 1158 (1992);
N.Y. Pub. Health Law. Sections 2130, 2133

March 7

**THE PUBLIC HEALTH RESPONSE TO HIV/AIDS:
Mandatory Testing and Screening of Health Care
Workers and Patients**

School Bd. of Nassau County v. Arline, 480 U.S. 273 (1987);
Arline v. School Bd. 692 F. Supp. 1286 (M.D. Fla. 1988);
Bragdon v. Abbott, 524 U.S. 624 (1998);
Leckelt v. Bd. of Commissioners of Hosp. Dist. No. 1, 909 F.2d
820 (5th Cir. 1990);
Doe v. University of Maryland Medical System Corp., 50 F.3d
1261 (4th Cir. 1995);
Glover v. Eastern Nebraska Com. Office of Retardation, 867
F.2d 461 (8th Cir. 1989).

March 9

PRESENTATIONS OF RESEARCH WORK

March 14

**THE PUBLIC HEALTH RESPONSE TO
BIOTERRORISM:**

Flanders, "In the Shadow of AIDS, a World of Other Problems,"
N.Y. Times June 24, 2001, p. A3;
Broad et al., "Assessing Risks, Chemical, Biological, Even
Nuclear," N.Y. Times November 1, 2001, p. A1;
The Model Public Health Emergency Powers Act (check name);
Annas, "Bioterrorism, Public Health, and Civil Liberties," 346 N.
Eng. J. Med. 1337 (2002);
"The Case for Voluntary Smallpox Vaccination," 346 N. E. J.
Med. 1323 (2002);
Breman et al., "Diagnosis and Management of Smallpox," 346
N. E. J. Med. 1300 (2002);
Bradsher and Altman, "A Dying Disease, the Race to Keep it
that Way," International Herald Tribune, June 23, 2003, p. 2
Pear, "Panel Urges U.S. to Broaden Role in Vaccination," N.Y.
Times August 5, 2003 p. 1
Gostin, Lawrence, "Public Health Law in an Age of Terrorism:
Rethinking Individual Rights and Common Goods," Health
Affairs, Vol. 21, No. 6, page 79

March 16

Monday, March 21 thru Sunday, March 17 Spring Break

March 28

March 30

April 4

April 6

April 11

April 13

April 18

April 20

April 25

April 27

May 2

May 4

May 9

Last Day of Class