

SPRING 2019 SYLLABUS

MENTAL HEALTH LAW (LAW 552-1 and 552-3 (Senior Writing))

Tuesdays & Thursdays 3:15-4:30pm (Room 164)

INSTRUCTOR: J. Brobst (Room 244, jbrobst@siu.edu, 618-453-8702 or Dean's Suite)

COURSE DESCRIPTION: This three-credit seminar will provide students with an understanding of the legal, theoretical, and practical implications of mental health law in both civil and criminal contexts. Students will learn to identify and apply an array of legal approaches to interests in wellbeing, health, safety, and autonomy. Major substantive topics will focus primarily on current American state and federal matters, such as legal competency, civil commitment, insanity and diminished capacity defenses, use of expert witnesses, and rights and reasonable access to mental health services.

LEARNING OBJECTIVES: Students who successfully complete the course will be able to legally interpret complex factual scenarios involving clients with mental health concerns; recognize and/or draft common legal documents addressing mental health; and identify systemic methods of ensuring equitable access to needed care.

OFFICE HOURS: Please feel free to email, stop in, or make an appointment at any time.

ATTENDANCE: Attendance will vary depending on whether the course is taken as a Senior Writing course. For non-Senior Writing course students, in accordance with the [SIU School of Law Rules](#), students may miss up to a maximum of three (3) classes. There is no excused or unexcused absence policy at SIU. Late arrival and early departure may be counted as an absence. For Senior Writing course students, students may miss up to six (6) classes in order to conduct individual research and writing.

WORKLOAD EXPECTATIONS: A student can expect to study 3 hours per each 1.5 hour class.

INTERNET & LAPTOP POLICY: Laptops and other electronic devices are permitted if used for academic purposes.

CLASS EMAIL AND TWEN: Per the law school regulations, students must regularly check and be responsive to email communications with faculty. Students are expected to regularly check the TWEN course page for assignment changes.

CLASS RECORDINGS: This course will not be recorded, and unauthorized recordings are not permitted.

ACADEMIC INTEGRITY: Students must adhere to the SIU Student Conduct Code policies prohibiting plagiarism and other forms of dishonesty in academic performance. Use of Academic Support services is generally permitted, but not on take-home examinations.

GRADED ASSIGNMENTS:

- Non-Senior Writing assignments
 - 20% - Class participation, students are expected to contribute substantively to discussion in every class attended
 - 30% - In-class group presentation (10%) with individual written analysis (20%)
 - Required in-class MPT exercise (ungraded)
 - 50% - Take-home examination (open book MPT and short answer essay)
 - Assignments will not be graded anonymously

- Senior Writing assignments
 - 10% - Class participation, students are expected to contribute substantively to discussion in every class attended
 - Optional in-class MPT exercise (ungraded)
 - 10% - Panel presentations explaining research and writing product
 - 80% - One major writing product on topic and format of choice compliant with the Senior Writing requirement: “requires substantial legal research and an advanced legal writing project involving significant, sophisticated legal analysis and legal research” of a final minimum of 7,500 words in length (including footnotes or endnotes)
 - Periodic required drafts (pass/fail only); if insufficient quality professor may require immediate rewrite to be turned in by next class; failure to reach satisfactory quality within two attempts may result in failure in the course or requested withdrawal [note that this is more about good faith effort and demonstration of progress]
 - Students will be required to meet in person at least once with the professor to discuss their writing progress
 - Late submission of final paper is subject to 1/3 grade off for each day late (or any part of first or last day)
 - Examples of writing assignment formats:
 - Psychiatric advance directive, guardianship, and power of attorney documents
 - Involuntary commitment hearing documents
 - Motion to assert insanity defense motion and response in criminal case
 - Motion to exclude mental health expert witness and response in civil or criminal case
 - Legal research memorandum to a supervisor
 - White paper or other lobbying report
 - Amicus appellate brief
 - Law review article
 - Assignments will not be graded anonymously

Reading assignments are subject to revision depending on course progress. Full Syllabus made available on TWEN and in class.

DATE	SUBJECT	READING ASSIGNMENTS	ASSIGNMENTS DUE
PART ONE			
PATIENT/CLIENT AUTONOMY			
Week #1 Tu 1/14	Lawyer's Role	Torres v. State, 771 S.E.2d 894 (Ga. 2015) RPC Rule 1.14 - https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_14_client_with_diminished_capacity/ CJC Canon 2 – https://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct/model_code_of_judicial_conduct_canon_2/rule2_14disabilityandimpairment/	
Th 1/16	Civil Commitment & Constitutional Rights	In re Invol Commit of Elizabeth S.W., 2013 WL 12185258 (Wis. Ct. App. 2013) In re B.B., 826 N.W. 2d 425 (Iowa 2013) Ill. Stat. 5/3-403 (discharge from voluntary commitment)	
Week #2 Tu 1/21	Decisional Competency and Right to Refuse		Sr Writing Topic Due
Th 1/23	Guardianship Proceedings		
Week #3 Tu 1/28	Key Legal & Mental Health Professional Ethics		Sr Writing Sample Format Due
Th 1/30	Involuntary Commitment & the Second Amendment	GROUP PRESENTATION #1 (1-3)	
PART TWO			
MENTAL HEALTH IN THE CRIMINAL JUSTICE SYSTEM			

DATE	SUBJECT	READING ASSIGNMENTS	ASSIGNMENTS DUE
Week #4 Tu 2/4	Competency to Proceed in Criminal Cases		GP #1 written analysis due
Th 2/6	Insanity Defense		
Week #5 Tu 2/11	Diminished Capacity & Guilty But Mentally Ill		Sr. Writing Research Outline due
Th 2/13	Sentencing & Crime Victim Rights		
Week #6 Tu 2/18	Mental Health Courts & Therapeutic Jurisprudence		
Th 2/20	Prisoner's Rights & Solitary Confinement	GROUP PRESENTATION #2 (4-6)	
PART THREE	DEFINING WELLBEING		
Week #7 Tu 2/25	Court-Ordered Treatment		
Th 2/27	NO CLASS	[Prof. Brobst at West Virginia U conference]	
Week #8 Tu 3/3	Expert and Lay Opinion Testimony		
Th 3/5	Privacy and Public Safety		Sr. Writing 1 st Draft due
Week #9	No class – Spring Break		

DATE	SUBJECT	READING ASSIGNMENTS	ASSIGNMENTS DUE
Week #10 Tu 3/17	Mental Health of Litigators		
Th 3/19	Defining Best Interests and the Pursuit of Happiness	GROUP PRESENTATION #3 (7-9)	
PART FOUR	FAIR ACCESS TO MENTAL HEALTH SERVICES		
Week #11 Tu 3/24	Public Benefits - Education		GP #3 written analysis due
Th 3/26	Public Benefits – SSI		
Week #12 Tu 3/31	Public Benefits – VA		Sr. Writing 2 nd Draft due
Th 4/2	Public Benefits – Housing		
Week #13 Tu 4/7	Insurance Coverage		
Th 4/9	Community Integration	GROUP PRESENTATION #4 (10-12)	
PART FIVE	EXAM PREP AND FINAL PRESENTATIONS		
Week #14 Tu 4/14		In-Class MPT Exercise	GP #4 written analysis due
Th 4/16		Advanced Editing Practice	
Week #15 Tu 4/21		SENIOR WRITING PANELS (1-3) (4-6)	
Th 4/23		SENIOR WRITING PANELS (7-9) (10-12)	
5/8/20			Take-Home Exam and Final Paper Due

ADDITIONAL NOTES:

Wellness and Disability Disclosure Statement: SIU has multiple resources for students with personal needs for support, including legal, mental health, medical, disability, anti-discrimination, and other services (see <http://www.law.siu.edu/about/student-experience/support-services.html>). Students with disabilities are entitled to reasonable accommodations and academic adjustments (see <http://disabilityservices.siu.edu>). Any student requiring official accommodation because of a disability should contact the Associate Dean's Office at the law school. All students are welcome to discuss any course-related needs or strengths with the professor and other administrative staff, and to seek referrals to resources off campus. Please feel free to use the Center for Health Law & Policy reading room if you would like a quiet study space. Printed wellness resources are available there as well, such as those promoting support for stress, anxiety, depression, and substance abuse.

Emergency Procedures: Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety's website www.dps.siu.edu (disaster drop down) and in the Emergency Response Guideline pamphlet. Know how to respond to each type of emergency. Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

HELPFUL RESOURCES:

<http://www.nami.org/> (National Alliance on Mental Illness, with state chapters)
<http://www.nimh.nih.gov/index.shtml> (National Institute of Mental Health, National Institutes of Health (US DHHS))
<http://www.bazon.org/> (The Bazelon Center for Mental Health Law, Washington DC)
<http://www.ndrn.org/> (National Disability Rights Network)
<http://www.nrc-pad.org/> (National Resource Center on Psychiatric Advance Directives)
<http://www.narpa.org/> (National Association for Rights Protection and Advocacy)
<http://www.apa.org/helpcenter/parity-law-resources.aspx> (American Psychological Association)
<http://www.psychiatry.org/> (American Psychiatric Association)
<http://www.naswdc.org/> (National Association of Social Workers)
<http://www.dsm5.org/Pages/Default.aspx> (American Psychiatric Association Diagnostics and Statistical Manual of Mental Disorders, 5th ed., 2013)