

MEDICAL MALPRACTICE LAW – Law 597 §001

Spring Semester 2023

Southern Illinois University School of Law, Room 206

Wednesday 4:00 pm-6:30 pm

Marsha G. Ryan, M.D., J.D.

Dean Camille Davidson, J.D.

Course Materials:

➤ ***Casebook***

Law and Health Care, Quality, Patient Safety, and Liability, 8th Edition, Furrow, et al. (2018).

➤ ***Additional Required Materials***

Additional materials that students are responsible for will be posted on TWEN for the course from time to time. All students are expected to regularly check TWEN for additional assignments, additional reading material, and announcements.

Course Description and Objectives:

Students who successfully complete this course will:

- Understand the fundamentals of medical malpractice law, including:
the nature of the patient professional relationship, informed consent, confidentiality, standards of care, defenses to malpractice actions, novel theories of liability, and institutional liability.
- Appreciate the policy issues underlying medical malpractice law, including individual physician versus health care institutional liability.

Course Outline:

An outline of dates and assignments for the course can be found with this Syllabus. This outline, while generally accurate, is subject to change as circumstances may require.

Grading

➤ ***Midterm Examination – 25% – Due March 8, 2023***

The midterm exam is a 2-page, take-home writing assignment. 80% of the mid-term grade will be based on subject-matter knowledge and the ability to analyze the problem and then apply the law to the problem presented. The remaining 20% will be based on grammar, punctuation, and other style elements. The mid-term assignment will constitute 25% of the final grade. Please take this as an opportunity to polish your analyzing and writing skills, as they will stand you in good stead in the practice of law (or anywhere else, as a matter of fact). The mid-term exam must be turned in to Professors Davidson and Ryan on TWEN no later than 4:00 p.m. on Wednesday, March 8, 2023.

- ***Final Examination – 75% – Due at the regularly scheduled final exam period for this class, established by the Associate Dean and the Registrar.***

The final exam will be a 2.5-hour, closed-book, closed-notes essay exam to be written in a formal final examination environment, as specified by the Registrar’s Office. 90% of the exam grade will be based on demonstrated knowledge, analysis, and application of the relevant legal principles, and on public policies underpinning medical malpractice law – applied to a given fact pattern and related questions provided on the exam. The remaining 10% will be based on grammar, punctuation, and other style elements. In total, the final exam will make up 75% of the class grade.

Attendance

This course meets on Wednesdays from 4:00 pm to 6:30 pm in Lesar 206. Class starts *promptly.*, so please be on time and ready to go. As specified in the *Rules of the Southern Illinois University School of Law*, “[r]egular attendance to class meetings in all courses is expected and required of all students.... Attendance will be taken in class and attendance records will be kept. Violation of this rule shall subject the student to penalties....” Roll will be taken at the beginning of each class.

- Students may have no more than a maximum of three (3) unexcused absences. Students with more than three (3) absences will be referred to the Associate Dean and may be given a failing grade for the course.
- Furthermore, students will be called on in class and are expected to be prepared. Being “prepared” means being ready and able to intelligently discuss all facets of the assigned materials. Students found to be unprepared by the Professors will be marked absent for the day. If for some good, verifiable reason (in the view of the instructor) you are unprepared for class, please let us know by noon the day of class. You may still be counted as absent, depending on your excuse, but you will not be called on and humiliated.
- Students may **NOT** “Note Out” of this class.

Faculty Availability Outside of Class

- ***Professors Davidson and Ryan:*** Professor Ryan is available by email and telephone for brief questions, or you may make an in-person, Zoom, or telephone appointment to discuss matters related to the class. You may email Dr. Ryan at marshagryan@siu.edu, or you may call her at 618.528.4897. Similarly, Dean Davidson is available using the same modalities at camille.davidson@siu.edu, or you may call her office at 618.453.8761.

Class Schedule and Assignments for Medical Malpractice, Spring 2023

Week	Date	Subject Matter and Assignment
1	1/18/2023	Patient-Provider Relationships, Furrow 113-132 Miscellaneous Materials on TWEN
2	1/25/2023	Patient-Provider Relationships, continued Informed Consent, Furrow 132-161 Miscellaneous Materials on TWEN
3	2/1/2023	Informed Consent, Furrow, continued Confidentiality, Furrow 161-202 (Skim 172-194)
4	2/8/2023	Confidentiality, continued Drug Detailing, Furrow 202-206
5	2/15/2023	Standard of Care, Furrow 207-247 Miscellaneous Materials on TWEN Midterm assigned
6	2/22/2023	Standard of Care, continued
7	3/1/2023	Defenses, Furrow 247-270 Miscellaneous Materials on TWEN
8	3/8/2023	Defenses, continued Midterms due NOTE: 3/15 is Spring Break
9	3/22/2023	Damage Innovations, Novel Theories, Duties to 3d Parties, Furrow 270-281 Miscellaneous Materials on TWEN
10	3/29/2023	Damage Innovations, etc., continued Hospital Vicarious Liability, Furrow 281-295
11	4/5/2023	Hospital Vicarious Liability, continued Hospital Direct Liability, Furrow 295-324 Miscellaneous Materials on TWEN
12	4/12/2023	Hospital Direct Liability, continued Miscellaneous Drugs, Devices
13	4/19/2023	Miscellaneous Drugs, Devices, continued Health Care Enterprises, Furrow 463-488 Note: This class will be held on Zoom
14	4/26/2023	Review, Catch-up as needed NOTE: This class will be held on Zoom

Emergency Procedures

We ask that you become familiar with Emergency Preparedness @ SIU. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness @ SIU website, and through text and email alerts. To register for alerts, visit: <http://emergency.siu.edu/>.

Disability Policy

SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval, please contact DSS immediately at 618-453-5738 or disabilityservices.siu.edu. You may request accommodations at any time, but timely requests help to insure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreements for each course to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations. Accommodation request and renewal forms can be found here: <https://law.siu.edu/academics/>.

Saluki Cares

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-2461, or siucares@siu.edu, <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618- 453-3135.

COVID-19

As a condition of on-campus enrollment, all SIUC students are required to engage in safe behaviors to avoid the spread of COVID-19, including the requirement that all students wear a mask in campus buildings, including classrooms, laboratories, and studios when others are present, regardless of social distancing. Students are expected to follow physical or social distancing guidelines by keeping at least 6 feet from others, and practicing good hand hygiene. Failure to comply with this policy may result in dismissal from the current class session. If the student refuses to leave the classroom after being dismissed, the student may be referred to the Office of Student Rights and Responsibilities. SIUC will follow federal, state and county public health recommendations and mandates in all decisions relating to university operation. Students should regularly review the link for the SIUC COVID-19 response.

Notice of Recording Policy

Classes and lectures may *not* be recorded. Given this prohibition on recording, any student who “accesses, creates or disseminates audio or visual recording of a class session or assigned course-related activity[,] ... when the instructor has prohibited such recording[,]” “shall be guilty of an Honor Code violation.”