

“The American Health Care System: Insurance, Organization, and Law”

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Course Description

The United States' health care system has recently undergone dramatic changes. The Affordable Care Act, enacted in 2010 and taking full effect in 2014, fundamentally altered the structure of the American health insurance system. The consequences of the law, informally known as the ACA or simply Obamacare, have been profound.

The law's primary impact has been to expand insurance coverage to tens of millions of previously uninsured persons. It also had major effects on insurance benefits, the insurance marketplace, and costs. The ACA additionally played a key role in changing America's fiscal, legal, and political landscape.

Of particular importance for law students, the ACA reform of the U.S. health care system triggered an intense legal dispute. Multiple lawsuits lead to conflicting lower court rulings. The culminating event was a June 28, 2012, landmark decision by the U.S. Supreme Court that resolved two major constitutional questions.

This course, taught by one of the lawyers who submitted *amicus* briefs to the Supreme Court, will provide:

- An overview of the American health care system;
- A detailed account of the changes Congress required for the nation's health insurance system—in particular, the Medicaid program for the poor and the private health insurance market for individuals and small employers;
- A summary of the key features of the ACA;
- A review of the constitutional challenges to the ACA;
- A description and analysis of the U.S. Supreme Court's decision;
- A brief discussion of other important issues in American health law;
- Final reflections on what lies ahead for America's health care system.

Through the lens of ACA cases, this course will serve as a primer on some of the most difficult questions raised by the U.S. Constitution—questions that, at least for now, the U.S. Supreme Court has resolved.

Those questions include:

1. What is the relationship between Congress and the Courts—specifically, to what extent should the U.S. Supreme Court "bend over backwards" to uphold legislative decisions made by Congress even if there appear to be flaws in the legislation?
2. To what extent can the states be deprived of power by federal government under general principles of "federalism"?
3. What are the powers of Congress in three key areas:
 - A. The imposition of mandates on individuals?
 - B. The regulation of commerce?
 - C. The exercise of the taxing power?

Reading Materials

Several documents, relevant to this course, will be available online. They include:

- (1) A course outline, showing the topics to be discussed on each day.
- (2) A PowerPoint on "The American Health Care System," which will be used throughout the course.
- (3) The text of the ACA (technically: The Patient Protection and Affordable Care Act).
- (4) The *amicus* briefs, co-authored by the teacher, that were submitted to the U.S. Supreme Court in the ACA case.
- (5) The U.S. Supreme Court's final ruling on June 28, 2014.
- (6) The U.S. Constitution

Students will be required to:

- *Read #1 in advance.*
- *Become familiar with #2 by the 2nd day of class on 15 March 2016*
- *Read #5 by the beginning of the 4th class on 17 March 2016*
- *Become familiar with #6, Article I, Section 8, by 17 March 2016*

The other materials (#3 and #4) are for background only.