

eHEALTH LAW

COURSE SYLLABUS

UNIVERSITY OF HOUSTON LAW CENTER
SPRING 2022

Course #5297

Julian Rivera
Adjunct Professor
Julian.Rivera@HuschBlackwell.com
M: 512-415-3376

SCHEDULED CLASSES

- Mondays 4:00-6:00 pm
- Synchronous Online
- Zoom:
- Please notify professor by email of any educational or other accommodations needed to succeed.
- Office hours by request.
- Email subject line for student-professor communications: “UH eHealth Course _____”

COURSE OUTLINE

Virtual Health, Telehealth, Artificial-Intelligence-Driven-Care, Healthcare Data Analytics Systems, are all descriptors of healthcare technology delivery systems and platforms: together, eHealth. This course will arm students with the knowledge, skills, and resources needed to approach legal solutions to eHealth challenges.

READINGS AND RESOURCES

American Bar Association, Health Law Section, Health Lawyer articles. One article assigned for each class. Articles listed below by date of class. While the articles will be provided in a single, bookmarked PDF, obtaining a student membership in the ABA Health Law Section will be most helpful for students to access each article and related materials. Current syllabus and course articles will be attached to class calendar invitations.

CLASS ASSIGNMENTS, FINAL MEMO, AND GRADING

Class Assignments:

For each class, read assigned articles including footnote links as needed to understand the material and engage in small group discussion. Questions to ask yourself before each class:

1. What else do I need to look at to better understand the subject matter as if I was going into an interview with a vendor or inhouse counsel working in the space of the subject? No need to look up anything else, necessarily, just think about it from the interview perspective.
2. Who is the authors' audience and how did they write to that audience, or perhaps miss the mark? It might be helpful to look up the bios of each author to guess at their motivations.
3. While each article is terrific, what subject in each article could use a more focused fleshing out for folks working on the frontlines of healthcare operations? What would be the scope of a project geared to flesh the subject out for a healthcare vendor or provider?

Draft Client Question and Final Memo:

By Monday, **February 14, 2022**, each student will submit their client question and rough factual scenario for the final memo, include any questions or needed guidance from the professor and available times when the student is available to discuss for 30 minutes.

In addition to client questions and relevant facts, Final Memo will include an articulation of the applicable and relevant law. The memo ends with an analysis which answers the client's question in practical terms that non-lawyer clients can easily digest. Most importantly, the memo should serve as a single and complete resource (including facts, footnotes, and links) of explanation for why and how the client will be compliant if the advice is taken. The client should be able to confidently circulate the memo within its organization and in response to any future regulatory or civil compliance inquiry. Fundamentally, the memo should be written so inhouse counsel can simply forward it to their operational and compliance team without additional explanation or guidance. The memo must be simple, cogent, and written for an audience seeking specific and implementable guidance. The memo will reference prominently the selected Health Law Section article.

The course is designed to simulate the workflow of inhouse and outside law firm practice. It is also designed to leave each student with practical resources for use in the future. Each student will decide whether their final memo will be shared with class colleagues. The articles and shared memos will be collected in a single PDF at the end of the course and shared among classmates. There will be class discussion about how the combined materials can be used with third parties like employers or future clients. There will also be discussion about how students can potentially publish their work or use it as a platform for a professional webinar.

Final Memos are due by Wednesday, **April 27, 2022**.

There will be no final exam.

Grades will be calculated based 50% on class attendance and engagement, and 50% final memo.

Class #1 — January 24, 2022

Subject: Healthcare Data Management, Fraud, and Abuse

Assigned Articles (2):

[Digital Contact Tracing in the European Union - Best Practices for United States Legislators and Regulators?](#)

[Big Data as a Big Source of Healthcare Fraud Prosecutions – and Defenses](#)

Class #2 — January 31, 2022

Subject: Digital Healthcare Disparities

Assigned Articles/Resources (2):

[Digital health startups join HHS accelerator to tackle COVID health inequities](#)

[Request for Information \(RFI\) on Strengthening Community Health Through Technology AGENCY: White House Office of Science and Technology Policy \(OSTP\)](#)

Class #3 — February 7, 2022

Subject: Privacy and Security

Assigned Articles (2):

[Time for a Compliance Check Up: Upcoming Modifications to the HIPAA Privacy Rule](#)

[HIPAA's Patient Right of Access: A Rule Whose Time Has Come](#)

Deadline (no class) – February 14, 2022

No class, walk

Deadline: Submit draft Final Memo proposal and proposed dates in following 10 days for 30-minute consultation with professor.

Class #4 — February 21, 2022

Subject: Information Blocking and Patient Access

Assigned Articles (2):

[The Road So Far: The Scope of OCR's HIPAA Right of Access Initiative](#)

[The Role of Information Blocking in Providing Patients Their Protected Health Information](#)

Class #5 — February 28, 2022

Subject: Corporate Practice of Medicine

Assigned Articles (2):

[What Is . . . the Corporate Practice of Medicine and Fee-Splitting?: Fee-Splitting Prohibitions](#)

[What Is . . . the Corporate Practice of Medicine and Fee-Splitting? The Corporate Practice of Medicine Prohibition](#)

Class #6 — March 7, 2022

Subject: Scope of Practice

Assigned Articles (3):

[Is the Future of Behavioral Health Digital?](#)

[Prescription Privileges for Psychologists: The State of Play](#)

[The Expanding Role of Nurse Practitioners: Challenges and Patient Care Impacts](#)

No Class — March 14, 2022
Spring Break 2022!!

Class #7 — March 21, 2022

Subject: Telemedicine

Assigned Articles (3):

[Physician Law Evolving Trends and Hot Topics: Telehealth](#)

[Medicare's Expanded Telemedicine Horizons](#)

[Post COVID-19 Rollbacks in Telehealth Laws and Regulations Makes Compliance Difficult Across All Fifty States](#)

Class #8 — March 28, 2022

Subject: Remote Patient Monitoring

Assigned Article:

[COVID-19's Spotlight on Remote Patient Monitoring – How Virtual Medicine has Quickly Changed How Patients Think about Medicine](#)

Class #9 — April 4, 2022

Subject: Artificial Intelligence and Digital Medical Devices

Assigned Articles (2):

[Bringing Medical Devices to Market: Artificial Intelligence and Products Liability](#)

[Top 10 Legal Considerations for the Development and Use of Artificial Intelligence in Healthcare](#)

Class #10 — April 11, 2022

Subject: Managing Digital Health Compliance Risks for Non-Healthcare Providers

Assigned Articles (2):

[False Claims Act Risk to Private Equity Healthcare Investors](#)

[Both DOJ and OIG Announce Record-Breaking Year for Healthcare Fraud and Abuse Enforcement](#)

Class #11 — April 18, 2022

Subject: Ransomware

Assigned Articles (2):

[Ransomware – The Legal Impacts](#)

[Ransomware in the Healthcare Industry](#)

Class #12 — April 25, 2022

Last day of class

Subject: Electronic Health Records

Assigned Article (1):

[Regulating Electronic Health Records Through the "Nuclear" Threat and Other Enforcement Options: Federal Government Actions to Compel EHR Industry Changes](#)

Resource Article (1) (reading of referenced cases before class not required):

[Federal Action against EHR Vendors Continues](#)

Deadline – April 27, 2022
Deadline to submit Final Memo