Syllabus

Economic Analysis of Health Care Law

Professor Kathy Zeiler
Georgetown University Law Center
Spring 2013

Class sessions: T, Th 1:55-3:20
Hotung Hall, Room 160

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Course Description:

This course is designed to provide a broad overview of health care law from an economic perspective. The main goal of the course is to build a solid understanding of the different ways in which economic theory and empirical findings can inform health care policy. The course will begin with a discussion of economic rationales behind industry regulation. The main focus will be on analyzing the impacts of legal rules and proposed rules on health care markets using the tools of economics. Topics will include health care financing, access to care, quality of care, the role of information, and various features of the recent health care reform act. Familiarity with the fields of economics and health care law is not required.

Course Objectives:

At the end of this course, students should:

1. be familiar with a set of concepts, theories and empirical findings economists use to analyze the production, consumption and distribution of health care and health insurance,

2. have developed their own, integrated framework for thinking critically like lawyers and economists about topical issues related to health and health technology,
3. understand and be able to construct legal and policy arguments using an economics framework, and

4. be proficient at critiquing the structure of health care regulations and predicting economic consequences that might result from implementation of legal rules and regulations.

**Expectations of Students:**

Each student will be required to participate regularly during class sessions and take a final exam. Students are expected to listen well to others and to be open to new ideas and the perspectives of others who do not share their own specialty training or experiences. Course grades will be based 80% on the final exam and 20% on participation.

**Course Requirements and Grading:**

1. **Class Participation**

We will adhere to the attendance policy in the student handbook (p. 32):

**Attendance and Participation**

The Law Center must be satisfied at all times of the serious purpose of each student. Any student will be withdrawn from a course if it is found that the student is not giving proper time and attention to his or her studies.

Regular and punctual attendance at all class sessions is required of each student. Student participation is expected in all courses. A student who, even though registered for a course, has not regularly attended, participated, or otherwise met class requirements may, at the professor’s option, be withdrawn, excluded from attending subsequent course sessions, excluded from sitting for a final examination or submitting a final paper (with the same consequences as a voluntary failure to appear for a final examination or to submit a final paper), or receive a lowered grade in the course. Even if a student has passed all examinations, credit will not be awarded and no student will be advanced, nor will his or her degree be conferred, if attendance or participation is unsatisfactory.

The following outlines the policy for access to class recordings following absences (http://www.law.georgetown.edu/campus-services/Registrar/bulletin/recording.cfm):

All students are expected to attend class regularly and to miss class only in exceptional circumstances. Therefore, the Law Center will make class recordings available for individual students only for the reasons set forth below and only with the approval of the appropriate Law Center administrator. Recording for individual students will be authorized only in the following situations: (1) serious medical situation or family emergency; (2) religious observance; (3) to provide reasonable accommodation for a student with a disability, after consultation with the Office of Disability Services; (4) sanctioned participation in a Law Center approved moot court event held out of town; (5) appearance in court in connection with a clinic in which the student is enrolled; (6)
rescheduled class; (7) other comparably urgent reasons, and not including job interviews, vacation plans, minor illness, or work conflicts. Students submit requests for the audio-recording of classes through the online request form located at http://apps.law.georgetown.edu/class-recordings/.

Class participation includes attending each class on time, listening and contributing in class and preparing to answer questions posed. To this end, each student will be “on-call” for some number of class sessions during the semester. Participation in class will determine 20% of the course grade.

2. Final Exam

The final exam will be administered as a take-home exam. It will be open book and will determine 80% of the course grade. You will have eight hours to complete the exam. You may pick it up on any feasible day during the exam period.

To summarize, the grade breakdown is as follows:

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Component</th>
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<tbody>
<tr>
<td>80%</td>
<td>Final exam</td>
</tr>
<tr>
<td>20%</td>
<td>In-class participation</td>
</tr>
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</table>

TWEN:

We will use TWEN for administrative purposes during the course. Announcements will be posted to the site periodically. You should make a habit of checking the site on a regular basis. In addition, the course syllabus, power point slides (posted after class sessions) and all required readings will be posted to the site.

Course Materials:

No text or casebook will be assigned. Instead we will read from a collection of materials taken from a variety of sources.

Those without a background in economics might find the following helpful:

Jackson et al. 2003. ANALYTICAL METHODS FOR LAWYERS. Foundation Press.

The following contain surveys of health care law:

Havighurst, Blumstein, and Brennen. 1998. HEALTH CARE LAW AND POLICY, 2d (much of the material has an economics bent)

Furrow, et al. Hornbook on HEALTH LAW, 2d (a bit detailed but thorough)
Introduction

1. What is Economics?

Excerpt from Stiglitz (pp. 10-12, 19-24)

2. Why Regulate the Health Care Industry?

(1) Excerpt from Stiglitz (pp. 84-105 and 381-389)

Product Uncertainty: Asymmetric Information and Agency

3. Supplier-Induced Demand


4. Pay for Performance


5. The Role of Non-Profits

(1) Excerpt from Furrow Hornbook (pp. 38-49)
6. The Economics of Health Care Insurance: Risk Pooling and Adverse Selection

(1) Excerpt from Santerre and Neun, HEALTH ECONOMICS: THEORY, INSIGHTS AND INDUSTRY STUDIES, pp. 143-151 (stop reading at the end of the last full paragraph on p. 151)
(2) Excerpt from Folland (pp. 199-206) on adverse selection and the lemons problem

7. Adverse Selection in Insurance Markets: A Deeper Look


8. Employer-Sponsored Health Care Insurance and Moral Hazard

(1) Folland, Chapter 11 (pp. 218-224)
   • skip section on spousal coverage
   • pp. 29-34 might help with understanding Fig. 11-3

9. Managed Care

(1) Folland, Chapter 12 (pp. 241-251)
(2) Excerpts from Havighurst casebook: note 2 (pp. 215-217) and notes 1-3 (pp. 1267-1269)
(3) Excerpt from Furrow casebook (pp. 625-631)

10. Employee Retirement Income Security Act: Back to Agency

(1) Excerpt from Baker, INSURANCE LAW AND POLICY (pp. 202-211)
(2) Excerpt from Havighurst casebook (pp. 1196-1203)
11. General Antitrust Issues

(1) Excerpt from Folland (pp. 451-457)
(2) Excerpt from Furrow hornbook (pp. 671-687, skip Section 14-3 on private antitrust litigation)

12. Barriers to Entry: Licensing of Physicians

(1) Excerpt from Folland (pp. 344-352)
(3) optional: for those who are unfamiliar with regression analysis (or need a refresher), please skim though Jackson et. al, “Multivariate Statistics,” in ANALYTICAL METHODS FOR LAWYERS (2011, 2d ed.)

13. Unionization of Physicians

(1) Excerpt from Furrow casebook (pp. 1101-1104)

14. Encouraging Innovation: Pharmaceutical Development

(1) Folland, Chapter 17 (skip sections on The Production of Health and Substitutability and R&D and Innovation)
(2) Rubin. An Uncertain Diagnosis. Regulation, Summer 2005

15. National Health Insurance: The Canadian Model

(1) Excerpt from Commonwealth Fund, International Profiles of Health Care Systems, June 2010
(2) Excerpt from Mark V. Pauly. 1998. Managed Care, Market Power, and Monopsony, Health Services Research 33:5
(3) Excerpt from Choulli v. Quebec (Attorney General), 2005 SCC 35
16. Market Based Solution I: Contracts and Consumer Choice

Excerpt from Havighurst. 1995. HEALTH CARE CHOICES: PRIVATE CONTRACTS AS INSTRUMENTS OF HEALTH REFORM

17. Market Based Solution II: Health Status Insurance


Quality and Cost Control

19. Does Organizational Form Impact Quality of Care?

(1) Excerpt from Folland (pp. 256-259)
(4) optional: for those who are unfamiliar with statistics (or need a refresher), please skim though Jackson et. al, “Statistical Analysis,” in ANALYTICAL METHODS FOR LAWYERS (2011, 2d ed.)

20. Accountable Care Organizations

(1) HHS Fact Sheet: ACOs: Improving Care Coordination for People with Medicare (March 31, 2011)
(2) Havighurst and Richman. 2011. The Provider Monopoly Problem in Health Care, Oregon LR 89:847
21. Defensive Medicine and Tort Reform


22. Efficient Delivery: Cost Effectiveness Research

(1) John Donnelly. 2010. Health Policy Brief on Comparative Effectiveness Research. Health Affairs

23. Coverage Mandates


24. Regulations of Obesity


25. The Tension between Rationing and Ethics