

Health Law and Mental Health Law Courses in US Medical Schools

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Results of a recent survey of all 127 medical schools in the United States indicate that about two fifths of medical schools offer a separate course that focuses on topics in medicine and law and a number of medical schools integrate health law topics into other courses. Presumably reflecting concern over temporary medical malpractice litigation, most health law courses include informed consent, medical malpractice, privileged/confidential information, and patients' rights.

In contrast, schools that offer a course on psychiatry and law are clearly in a minority. It is elective at all but two of the 13 schools with such a course. Although the hours allotted and the format of these courses vary greatly, courses typically cover most of the topics listed on the questionnaire. Most of the courses are led or co-led by a member of the American Academy of Psychiatry and the Law.

Information from two additional surveys suggests two related factors that may influence a medical school to present a separate course on health law. Medical licensing boards were surveyed to determine which states require physicians to be examined on health law. In two states that require physicians to pass a separate medical jurisprudence examination for licensure, all four-year medical schools offer a course on health law for medical students. Medical malpractice companies providing coverage in all 50 states and the District of Columbia were surveyed to determine which states have the highest claim rates. The claim rate per 1,000 physicians insured per year was significantly greater in states with health law courses than was the rate in states without such courses.

Thirty years ago medical schools in the United States provided little in the way of education on health law and mental health law. Since then medical and psychiatric consultation to the courts has increased, especially through amicus

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briefs to appellate and supreme courts. Medical and psychiatric lobbying efforts to state legislatures have gathered strength, particularly on the issue of medical malpractice tort reform. On the other side of the medicolegal interface, the legal regulation of medical practice has increased as a result of more regulatory laws, more comprehensive and complicated health care statutes, and developments in case law. Whatever the risks and benefits, the legal involvement in medical practice will in all likelihood continue to expand in the foreseeable future. Input from physicians should in-

creasingly contribute to shaping the law to meet social and health care needs.

Given the significant changes in recent years, one would expect medical schools to be teaching more on health law and mental health law today in comparison with 30 years ago. However, available information is scant.

In the early 1930s, Levinson and Muehlberger¹ reviewed catalogues of 77 US medical schools and found that 6.5 percent of these schools offered a course on forensic or legal medicine. Fifty-eight percent of the schools listed lectures on medical jurisprudence, apparently integrated into other courses, and 35 percent of schools registered no instruction on medicine and the law.

The Committee on Medico-Legal Problems, American Medical Association, conducted a survey of 72 US medical schools which was published in 1952.² Of the 68 schools that returned the questionnaire, 16 (23.5% of respondents) provided undergraduate instruction on medicine and the law that was judged adequate by the surveyors.

Dornette³ surveyed 85 approved and nine developing US medical schools in 1970. With the help of follow-up letters and telephone inquiries, the return rate was 100 percent. Thirty-six schools (44.7%) had a separate course on medicine and law. The course was required at 27 schools. Eight schools integrated legal medicine into other basic or clinical science courses. Thirty-eight schools offered no instruction on health law. Although the instrument for this survey addressed both extent and content of medicolegal courses, the article made

recommendations for course content without reporting the frequency with which various topics were included in established courses.

A separate survey was conducted by Beresford⁴ during that same year. Seventy-nine responses were received from 96 four-year medical schools. Of the responding schools, 42 offered some type of course in health law. The course was required at 15 schools and elective at 27. The following topics were most frequently included in health law courses: professional liability (39 schools), physician testimony in court (38 schools), informed consent (31 schools), forensic pathology (29 schools), psychiatry and the law (24 schools), legal aspects of organ transplants (24 schools), and medical ethics (24 schools).

Grumet⁵ conducted a fairly comprehensive survey of medical schools in 1978. With two mailings, the response rate from the then 118 medical schools was 86 percent. Forty (39.6%) of the responding schools required students to complete a course in legal medicine, 33 (32.7%) offered an elective in legal medicine, and 28 (27.8%) indicated no offerings in legal medicine. Of the 44 topics on legal medicine listed on the questionnaire, those most consistently included in courses included informed consent (66 schools), malpractice (64 schools), introduction to the legal system (57 schools), physician-patient relationship (57 schools), confidentiality (55 schools), emergency treatment (53 schools), nature of informed consent (52 schools), right to refuse treatment (51 schools), medical records (51 schools), and ob-

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taining consent from minors and incompetents (48 schools). From the range of hours (two to 80) allotted for courses in legal medicine, Grumet inferred that medical schools were confused or inconsistent in the way that they scheduled these courses. The Grumet survey apparently did not attempt to identify separate courses in legal medicine in contrast to lectures incorporated into more encompassing courses.

A few years ago the American Society of Law and Medicine (ASLM) began developing a national directory of health law teachers and programs. By means of a survey, ASLM compiled a list of health law courses offered in US law schools, medical schools, schools of public health, health administration programs, nursing schools, and joint degree programs. This unpublished list was updated periodically with changes reported from individual schools. Of the 37 medical schools included in the 1981 directory, 36 offered a course with a title denoting medicine and the law (e.g., "Law and Medicine," "Health Law," "Medical Jurisprudence").

Only four of the listed medical schools had a course for medical students on psychiatry and the law: (1) Rutgers University Piscataway, New Jersey, "Legal Aspects of Psychiatric Practice"; (2) University of Iowa, Iowa City, "Forensic Psychiatry"; (3) University of Pennsylvania, Jenkintown, "Seminar in Forensic Psychiatry"; and (4) Wayne State University, Detroit, Michigan, "Law and Psychiatry." Although the ASLM list is the only previous survey that identifies these courses by title, it does not

include information on course content and whether the course was elective or required.

The 1984–1985 American Association of Medical Colleges (AAMC) Curriculum Directory⁶ lists required and elective courses offered at US medical schools. This directory listed 64 schools that offered a course on medical jurisprudence, and the course was required at nine schools. Forensic psychiatry and psychiatry and the law were not listed under any of the schools. Like the ASLM directory, the AAMC directory did not describe course content.

None of the surveys and directories included concurrent surveys to test possible factors that might affect whether schools have separate health law courses. Is an increase in medical malpractice litigation causing schools to develop courses on medical jurisprudence? Are medical licensing boards requiring physicians to demonstrate knowledge in health law? If so, are medical schools offering courses in health law to prepare medical students to satisfy such licensing requirements?

A systematic, current survey of medical schools was needed to help determine what medical schools in the 50 United States and the District of Columbia are teaching on health law and mental health law. How many schools in the 1985–1986 academic year provided courses that explicitly focused on medicine and the law? What medicolegal topics were most consistently addressed in these courses? How many schools had courses on mental health law and what topics were usually covered?

Such information should be useful to anyone with an interest in medicolegal education, but especially to instructors who are developing new programs. Presently one can only guess what topics are typically included in courses on health law and mental health law.

Because obtaining useful and accurate information was of highest priority in the present survey, we eschewed, to the extent practical, personal, professional, and theoretical bias. The close-ended questionnaire was deemed the best instrument for gathering data systematically, and this required prioritizing the topics and questions to be included on the questionnaire. Nonetheless, we endeavored to assess what is being taught without presupposing or suggesting what ought to be taught, lest judging affect data collection.

Methods

Letters of explanation and questionnaires were mailed to directors of education of each of the 127 medical schools in the United States. A second mailing was sent to each director who did not respond to the first mailing after several months. Self-addressed stamped return envelopes were included in each of the two mailings. Schools that went unregistered after two mailings were contacted by telephone. Either the director of education or someone identified at the school as even more familiar with the curriculum or the particular course(s) of interest was interviewed over the telephone. Telephone respondents were simply asked questions from the survey instrument. These three phases of data

collection made possible inclusion of all US medical schools.

The two-page questionnaire was designed to be simple, easy to complete, and short to ensure maximal return rate. Aside from identifying information, provided by filling in blanks, most questions were answerable with a single check mark. Under courses of medicine and the law, 12 topics were inquired about; under psychiatry and the law, seven topics.

To qualify as a health law course, the title of the course must include health law, medical jurisprudence, medicine and law, legal medicine, or some other term that clearly refers to the law. If the course included topics on health law but the course title did not reflect this, the course was classified as "other" and not as a focused course on health law. Also, a medicolegal course of very narrow or specialized focus, such as forensic pathology, was not classified as a health law course, even though some of those courses may in fact have had broader content than their titles denoted.

Although we attempted to correct for this error whenever possible, some lecture series could have been misrepresented as separate courses. A possible source of incomplete information might have been respondents who were unaware of existing courses at their institutions.

To investigate possible effects of state licensure requirements on the provision of courses in medical jurisprudence, questionnaires were sent to medical licensing boards in all 50 states plus the District of Columbia from a list pro-

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vided by the Federation of State Medical Boards. Nonrespondents to the initial survey were sent a follow-up letter, and those who did not respond to the two letters were contacted by telephone. This process resulted in a response rate of 100 percent.

Respondents were asked whether they administered any written test involving knowledge of medical jurisprudence, whether they regularly asked specific questions concerning medical jurisprudence during oral interviews, and whether they included any evidence of knowledge or experience in legal areas in their requirements for licensure. Those states that acknowledged having such requirements were contacted by telephone for more detailed information.

State medical boards were contacted for the name(s) of companies providing medical malpractice insurance coverage in their states. Those companies were then contacted by telephone to determine the number of malpractice claims filed per 100 physicians insured for 1985. The intent of this survey was to determine whether the rate of claims correlated with presence of health law courses in medical schools within the same state.

Results

Seventy-seven questionnaires were returned from the first mailing and 28 from the second mailing. All remaining schools (22) were included in the survey by means of telephone interviews. Because of incomplete or ambiguous entries on questionnaires, several schools

that had responded to the first or second mailing were telephoned. As mentioned above, all states and the District of Columbia participated in the survey of medical licensing boards to determine which states require physicians to pass an examination on health law for licensure. All 50 states and the District of Columbia were represented in the survey of malpractice claims.

Health Law Courses

Of the 127 US medical schools surveyed, 54 (42.5%) offer a focused course on medicine and the law (Table 1). The course is required at one half of these schools (28 schools or 51.8%). At least four schools have two or three courses on medicine and the law, each with its own focus. Clearly the 54 schools with a separate course on health law do not represent all of the teaching in this area in medical schools today. Another 39 schools (30.7%) integrate health law topics into other courses such as medical

Table 1
Number and Percentage of Medical Schools Offering Health Law Courses*

	No. of Schools	% of Schools
Course on health law	54	42.5
Health law topics integrated into other courses	39	30.7
No course on health law	34	26.8
Total	127	100.0

* About two fifths of the US medical schools offer a separate course on health law and another 30.7% integrate health law topics into other courses. At one half of the schools with a focused health law course (28), the course is a requirement for all medical students. One quarter of US medical schools do not have a health law course.

ethics. Because data on other courses were offered gratuitously without a separate question, this figure is likely underrepresentative. Only one quarter of schools reported that they had no course on medicine and the law (34 schools or 26.8%).

The format for courses on medicine and the law is typically a series of lectures or discussions on selected topics. Two courses are full-time practicums. Of the courses taught as series of lectures, total number of hours range from two to 52, but most are between four and 20 hours with a peak between five and 12 hours.

Of the 33 schools that offer a health law course during one year only, about two fifths (14 schools or 42.4 percent) schedule the course during the senior year. This would be consistent with preparing young physicians for medical practice in the community rather than preparing them to learn health law *pari passu* as they are learning principles of clinical medicine.

Every course on medicine and the law addresses the topics of informed consent and medical malpractice (Table 2). In addition to informed consent and medical malpractice, most courses also address privileged and confidential communication (52 schools or 96.3%), patients' rights (48 schools or 92.3%), legal aspects of birth and death (42 schools or 77.8%), legal regulation of medical practice (40 schools or 74.1%), affirmative duties to report (37 schools or 68.5%) and mental health law (28 schools or 51.9%). Exactly one half of the courses address hospital law (27 schools or

Table 2
Topics Covered in Courses on Medical Jurisprudence

Topics	Number of Schools	Percentage of Schools
Informed consent	54	100.0
Medical malpractice	54	100.0
Confidentiality	52	96.3
Patients' rights	48	92.3
Legal aspects of birth and death	42	77.8
Regulation of medical practice	40	74.1
Affirmative duties to report	37	68.5
Mental health law	28	51.9
Hospital law	27	50.0
Drug control laws	18	33.3
Workers' compensation	17	31.5
Legal regulation of a business	12	22.2

50.0%). Topics reported by less than half of the schools with a health law course included drug control laws (18 schools or 33.3%), workers' compensation (17 schools or 31.5%) and regulation of business organizations (12 schools or 22.2%).

Some schools reported that certain topics are addressed in separate courses and therefore are not included in the health law course. For example, drug control laws are sometimes incorporated into clinical pharmacology and civil commitment law is taught during the psychiatry clerkship.

Mental Health Law

Psycholegal issues are integrated to various degrees in psychiatric clerkships. At many schools education on mental health law appears to be spotty. At oth-

ers, evidently a small minority, the material is comprehensive and well organized. It was neither the purpose nor the result of this survey to quantify and compare material incorporated into other courses and clerkships. Hence, this survey of separate courses on mental health law does not reflect teaching done outside of separate law and psychiatry courses.

Only a small minority of medical schools, 13, have a focused seminar or course on psychiatry and the law. Formats range widely from a one-hour lecture to an expanded series of lectures or discussions to a part- or full-time practicum. Only two schools require courses on mental health law for all medical students. Mandatory courses are presented as single lectures or as a short to moderate series of lectures. Full-time practicums, the most intensive learning experiences, are elective and typically limited to only a small number of students at a time.

Most courses on psychiatry and the law address all topics inquired about on the survey questionnaire. Civil commitment is included in all courses on law and psychiatry and, additionally, was most frequently mentioned as a topic covered in general courses and clerkships in psychiatry by respondents from schools that do not have a separate course on mental health law. Where descriptive material was provided, it appears that practicums stress forensic psychiatry, or psychiatric consultative involvement to the legal system, to a greater degree than the legal regulation of psychiatry.

Requirements for State Licensure

Are medical schools in the state more likely to have a separate course on health law if the state requires physicians to pass an examination in health law for medical licensure? Four states require physicians to pass an examination on health law for licensure: Kansas, Missouri, Nevada, and Texas. The relationship appears to stand for Kansas and Texas but not for Missouri and Nevada.

Kansas administers a test on medical jurisprudence, and its only four-year medical school in Kansas City, Kansas, requires all medical students to take a comprehensive 10-hour course on medical jurisprudence. Texas requires all physicians to pass a separate written examination on health law for licensure, and all seven medical schools in Texas offer a course on health law. The course is required at six of the seven medical schools. All courses are at least eight hours and cover at least half of the topics on the questionnaire. Further suggesting an association, the title of the course at each school is the same as the title of the special examination in Kansas and Texas: "Medical Jurisprudence."

In contrast, only one in four Missouri medical schools had a course on health law, and Nevada's single medical school did not have such a course.

Idaho and Wisconsin include health law questions in interviews for licensure. Neither of the two Wisconsin schools has a health law course. Massachusetts does not examine for health law knowledge, but requires a statement from the physician stating that he or she has re-

read the state's medical regulations. Two of the four medical schools in Massachusetts teach a course on health law.

Correlation with Medical Malpractice Experience

Information on the incidence of medical malpractice claims was obtained by contacting two large insurers, which between them insured 33 states plus the District of Columbia. Data from the remaining states were obtained by contacting state medical societies, asking which company provided the major malpractice coverage in the state, and contacting that carrier.

Analysis of these data was complicated by several factors. Some companies had been insuring in a state for only a short period of time, and their experience may not be representative of all claims filed. In addition, because most companies offer only occurrence policies, the data for 1984 and 1985 are not necessarily complete at this time. Some companies indicated that passage of recent legislation had significantly altered the number of claims filed.

Analysis by *t*-test revealed that the claim rate per 1,000 physicians insured per year was significantly greater in states with identifiable health law courses (16.92) than the claim rate in states without courses (11.23; $t = 2.04$, $df = 33$, $p = .05$).

Conclusions

A survey of this nature can be no more accurate and complete than the information provided by willing respondents. Fortunately we received much better cooperation from individual schools than

we anticipated; thus, all 127 medical schools in the United States were included in the survey. Medical licensing boards and malpractice carriers for all 50 states and the District of Columbia responded to our surveys. Information obtained on health law courses and mental health law courses was sufficient to provide comprehensive registry of these courses and to permit some observations.

About two fifths of all US medical schools now have a separate, focused course on medicine and the law, and at least one half of these schools require medical students to take the course. From available indications, this represents a substantially increased emphasis compared with 30 years ago, although this level may have stabilized within the past decade. Topics most consistently included in health law courses pertain more to the legal regulation of medicine (malpractice, informed consent, patients' rights) than to medicine's consultative role to courts and legislatures. Emphasis on the legal practice of medicine may be a function of rising medical malpractice litigation in recent years.

It is difficult to compare the present survey with the Grumet survey of 1978⁵ for several reasons, but especially because, unlike the Grumet survey, the present one attempted to identify only focused, separate courses on health law. The percentage of schools that do not offer material on health law has not changed significantly (26.8% today compared with 27.8% in 1978). Of the 73 schools of the Grumet survey with a course on health law, 51 were formally

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designated by titles such as "Legal Medicine." These latter courses probably corresponded to the separate health law courses identified in the present study. If this comparison is accurate, the number of schools with a separate, focused course on health law has remained stable over the last seven years (54 schools versus 51 schools). Also, the most commonly taught topics after seven years continue to be informed consent, medical malpractice, confidentiality, and patients' rights. Although the formats of these courses were diverse, topics covered were remarkably uniform from one course to another.

Mental health law courses are much less common. Only 13 schools offer a course on psychiatry and law for medical students and most of these courses are elective. In contradistinction to the emphasis on legal medical practice of health law courses, mental health law courses give more attention to the role of clinicians as consultants to the legal system.

It appears that a high number of medical malpractice claims filed in a state correlates with the probability that medical schools in the state will elect to offer courses in health law. Another possible

factor correlated with the offering of courses in health law or in mental health law is the presence or absence of faculty with experience and interest in these areas. As forensic medicine becomes a more recognized subspecialty, particularly in psychiatry, the number of formal courses can be expected to increase.⁷

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