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 The Case for a Health Law Curriculum for Residents

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 Disclosures

- Dr. Larriviere received an unrestricted educational grant from Allergan Pharmaceuticals

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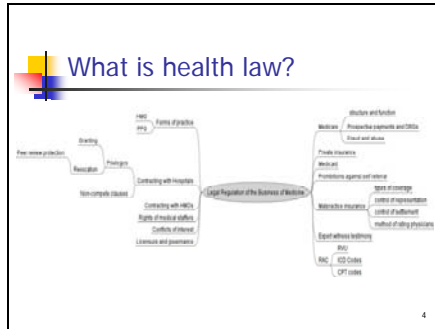
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 What is health law?



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Why teach health law?

- "It's ethical, but is it legal?"
- "It's legal, but is it ethical?"

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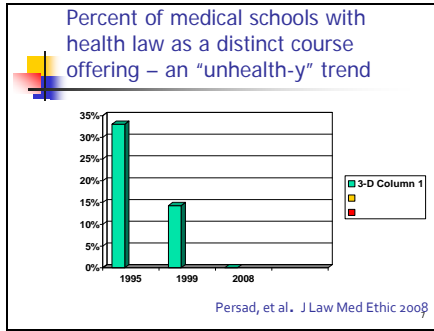
How is health law currently taught?

- 59% (N=62) of medical schools required health law coursework.
- Median of 5 hours [range 2-60; mean 10.3hrs] over 4 years
 - Less than 0.5% of all hours spent in medical education

Persad et al. J Law Med Ethics 36:89-94 (2008)

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- Limitations of current model
- Offered to students in their pre-clinical years
 - Insufficient amount of time in curriculum
 - Lack of qualified faculty
 - Different incentives/schedules for law faculty
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Solution:
Health Law for Residents

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Advantages of the teaching environment during residency

- Heavy involvement in patient care creates a desire to learn about legal issues

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Two models

- Resident-only
 - Higher volume
 - Possible cross-collaboration with other (similar) programs to reduce costs and maximize educational impact
- Residents and law students

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What might a curriculum look like?

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Objectives of a Health Law Curriculum for Residents

- Residents will understand the general goals of law in a civil society.
 - Protect from harm and hold people accountable for harms they have caused
 - Encourage people to live up to their promises
 - Prohibit certain types of behaviors
 - Establish procedures to resolve disputes

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Objectives of a Health Law Curriculum

- Residents will understand why clinical medicine is heavily-regulated
 - Potential for serious harm
 - We regularly engage in life and death decision-making
 - We have powerful tools at our disposal
 - We control large volumes of sensitive information
 - We must be responsible for the harms we cause
 - There must be a method to allocate responsibility for those harms
 - A good deal of public money is spent on us
 - ~15% of U.S. GDP

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Objectives of a Health Law Curriculum

- Residents will understand that the law, in general, does not prevent them from acting ethically.
- Exceptions, e.g.:
 - Desire to warn third party vs. patient confidentiality

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Objectives of a Health Law Curriculum

- Residents will understand that much of health law is consistent with professional medical norms...
 - E.g., end of life decision-making, informed consent, substitute decision making
- ...but is often a floor for behavior.

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Methods

- Clinical case studies in group sessions
- Facilitation
 - law school faculty
 - hospital or university counsel(?)
 - private practice attorney
 - Health care professional
- Focus on similarities and differences between legal and ethical approaches

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Sample topics

- Starting/stopping relationship
- Confidentiality
- Informed consent
- Duties in emergencies
- Right to refuse treatment
- Substitute decision making
- Abandonment
- Malpractice
- Special relationships, e.g., IME
- Neuroenhancement

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Limitations and Solutions

- Health law is generally a state law issue
 - Highlight majority/minority positions
- Lack of space in the curriculum
 - Satisfies core competencies of professionalism and systems based practice
 - Multi-programmatic presentations
- Duty hours and decline in didactic attendance
 - Podcasting/videotaping/simulcasting
 - Possible collaboration with other sites
- Faculty/staff support
 - Sympathetic law faculty
 - Medical school faculty w/legal experience/training
 - community lawyers, local ABA

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Sample Clinical case study

- Facts:
 - Patient diagnosed as being in a vegetative state 3 months after anoxic brain injury.
 - No advance directive, but wife and children are involved in his care.
 - Wife wishes to withdraw care based on prior express statements of the patient, but oldest of three children is opposed

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Sample Clinical case study

- Clinical considerations
 - Diagnosis and prognosis
- Ethical considerations
 - Respect for patient autonomy: prior wishes as expressed by his wife
 - Understand the son's position
 - Duty of beneficence and non-maleficence generally

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 **Sample Clinical case study**

- Legal issues:
 - State laws regarding end of life decision-making
 - Outline 'who decides' in absence of advance directive or guardian.
 - Many offer standards to use when making decisions and methods for resolving disputes
 - Artificial nutrition and hydration – Majority/minority opinions

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 **Sample Clinical case study**

- Points to make during discussion:
 - Interplay between nascent bioethical movement, medical technology and case law during the 1970s and 1980s.
 - Legal and professional ethical norms have become largely congruent in this area
 - Most of these decisions are now made without judicial involvement – by design!

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 **Resources**

- Lawyers and/or legally-trained physicians
 - Academic centers or the community
 - Local ABA as a source of legal teaching expertise
- Technologies to create asynchronous didactic capability
 - E.g., podcasting

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