

INTRODUCTION TO THE SEVENTH EDITION

I wrote the first edition of this book in 1974 as an introductory text for law and law-related courses in schools of public health and medicine. Since that time, I have found that it also has been used in schools of nursing and pharmacy, as supplemental reading in law school courses, and even as a reference book for practitioners in both the health and legal fields. Notwithstanding these other uses of this book, the primary audience for this seventh edition remains the same as it was for the first edition: students and others with some expertise in the delivery and financing of health care but little or no background in law. For more than 30 years, I have used some variation of these materials to teach a basic introductory “health law” class to health administration and health policy students, students from the whole range of other public health and related disciplines, and, on occasion, students from urban planning, public policy, and other graduate departments. The principal objective—of these classes and of this book—is to describe the law and the legal system in a manner that is tailored to the needs of these students and will help them understand the legal constraints within which they will pursue their various endeavors and the legal controversies in which they are likely to become involved. These materials are first and foremost teaching materials, and this is a textbook, whatever other purposes it also may serve.

Accordingly, this is not a treatise on “health law” or any attempt to catalogue comprehensively the principles of law that affect the delivery or financing of health care. Many other works attempt to do so, and these and other resources are referenced throughout the book, particularly in the notes at the end of each chapter. A number of other “health law” textbooks are also available, although most have been written for use in law school courses. (In fact, I am a coauthor of one of them.) I believe this book is still the only text primarily designed for health administration and health policy curricula.

There is one important change in this edition: I have been joined in this effort by Ben Gilbert, a good friend and colleague, someone who has been teaching from this textbook for a number of years and who has experience as a practicing lawyer as well as a health law teacher. It has been invigorating to view health law teaching and the materials needed to do so with the help of a new set of eyes. Even apart from the substantive changes in the content of the book, the book has benefited from this broadened perspective.

This textbook has not, however, changed much in its basic philosophy.

Both of us agree on this basic premise: The principal need of students enrolled in the kind of course for which this textbook is designed is an introduction to the law and the legal system, and to both the theoretical and practical determinants of legal decision making. In writing and editing these materials, we have followed an approach that outlines the general principles of law applicable to the delivery and financing of health care and analyzes specific applications of those principles that represent important matters in their own right but, most importantly, represent good illustrations of the manner in which American law is defined, interpreted, and applied. That underlying philosophy is also reflected in our approach to teaching these materials. We each make efforts to periodically assess the progress of our classes against what we consider to be the specific skills and aptitudes that students need to achieve the requisite understanding of the law and the legal system:

- A thorough and realistic understanding of the structure and function of the various legal decision-making processes
- A familiarity with the substance of American law, including a basic understanding of important legal principles
- The ability to define relevant and critical legal issues in the application of these principles
- The ability to understand how those issues are likely to be resolved
- The ability to seek out, communicate with, and evaluate legal counsel

There are, of course, a variety of ways to teach these skills and aptitudes. We have outlined our own ways of doing so in a teacher's manual for this textbook (available to instructors free of charge from Health Administration Press by e-mailing hapl@ache.org). We also have tried to indicate in the notes at the end of each chapter some of the issues and problems on which we focus classroom attention. Beyond these observations, as any experienced teacher will testify, teaching methodology and technique depends in large part on the particular students and setting of a course. The methodology and technique also reflect the experience, interests, and, perhaps, eccentricities of the instructor as well.

One important, explanatory caveat: However a particular course is designed or taught, we are convinced that a book or a course designed to explain the law and the legal system in a manner that is useful to future health professionals is in large part an explanation of American law and the American legal system, not something severable called "health law." In that regard, we begin the book with a general "civics lesson" and, in fact, we both spend a considerable amount of time in our courses discussing the materials covered in Chapter 1. The checks and balances among the various branches of government deserve particular attention. They define, after all, the distribution of power among the components of government and shape the outcome of

many health-related legal controversies. Even the basic structure and workings of those branches generally need considerable classroom attention. We often supplement both the reading material and our classroom activities with visits to legislative and judicial bodies, discussion of current political events, and the like. We highly recommend that other teachers do so as well.

We have prepared a compendium of edited cases, supplementing the text and illustrating many of the legal principles and problems discussed in this textbook. (This also is available free of charge, at ache.org/LawCases[**ED: Correct?**]). We think a good “health law” course could be taught from the text alone, but we typically assign additional readings in our classes and rely heavily on the case method in our teaching. The supplemental cases should be both useful and convenient for others teaching from our textbook.

We view this textbook as a work in progress and, hopefully, we will be revising it again in the future. We welcome your questions, recommendations, and criticism, and hope that you will feel free to communicate them to either one of us through the publisher or by directly contacting authors Ken Wing at kwing@seattleu.edu or Ben Gilbert at BGilbert@unch.unc.edu.

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