

**Course Outline**

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<b>COURSE:</b>	<b>LAWS 4307B – Medical Criminal Law Issues</b>
<b>TERM:</b>	<b>WINTER 2019</b>
<b>PREREQUISITES:</b>	<b>LAWS 2908, LAWS 2301, LAWS 2302 and Fourth-Year Honours standing</b>
<b>CLASS:</b>	<b>Day &amp; Time: Wednesdays 8:25am – 11:25am</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Dr. Hembadoon I. Oguanobi</b>
<b>CONTACT:</b>	<b>Office: B442 Loeb Building (Contract Instructor’s Office)</b> <b>Office Hrs: By appointment only</b> <b>Email: Hemba.oguanobi@carleton.ca</b>

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**CALENDAR COURSE DESCRIPTION**

Legal-medical issues, conflicts and relationships in the field of social control. Topics include mental disorder and criminal liability, diversion of offenders to civil commitment in hospital, insanity, automatism, fitness to stand trial, prediction of dangerousness, regulation of psychoactive drugs.

**COURSE DESCRIPTION**

This course will unpack on the intersections between health/medicine and the criminal justice system. Some of the weekly topics to be covered include the criminalization of medical malpractice, HIV transmission, women’s bodies, euthanasia/medically assisted deaths, minority groups, indigenous people; cannabis laws, prison systems and sentencing.

**OBJECTIVES**

Upon completion of this course, students will develop:

- a socio-legal lens in analyzing text
- an ability to apply creative and persuasive solutions to current and impending problems
- an appreciation of the intersections between medical and criminal law issues
- an ability to critically examine and analyze scholarly text from a variety of sources
- an ability to work with fellow peers in collaborative ways

**REQUIRED TEXTS**

There are no required textbooks for this course. Readings will be posted online through cuLearn or the University library’s journal database.

**COURSE EXPECTATIONS**

- ❖ Students are expected to engage critically with course materials and to participate actively in all activities, namely, individual reading, research, in-class discussions and completion of individual and group assignments
- ❖ Students should carefully read and follow the instructions for assignments
- ❖ All deadlines for assignments should be adhered to, exceptions will be granted only in exceptional cases

**EVALUATION**

**(All components must be completed in order to get a passing grade)**

STANDING IN A COURSE IS DETERMINED BY THE COURSE INSTRUCTOR SUBJECT TO THE APPROVAL OF THE DEPARTMENT AND OF THE FACULTY DEAN. THIS MEANS THAT GRADES SUBMITTED BY THE INSTRUCTOR MAY BE SUBJECT TO REVISION. NO GRADES ARE FINAL UNTIL THEY HAVE BEEN APPROVED BY THE DEPARTMENT AND THE DEAN.

**SUMMARY OF ASSIGNMENTS.****ASSIGNMENT - DUE DATES - VALUE**

ASSIGNMENTS	DUE DATES	PERCENTAGE (%)
1. Classroom participation/ Journal entry	Ongoing	10%
2. Individual Assignment one	February 13	25%
3. Group Leadership Inquiry	Various dates Week 3 – 12	25%
4. Proposal and Final Paper		40%
Part 1                      Proposal due	March 20	(10%)
Part 2                      Final Paper due	April 3	(30%)

**1.CLASS PARTICIPATION & JOURNAL ENTRY 10%**

- ❖ Every week, students should come to class having done the weekly reading
- ❖ Students should be ready to respectfully express their opinions, discuss and ask questions
- ❖ Students are required to submit their journal entry on the weekly readings at the beginning of the class
- ❖ Issues raised in your journal entry will be interwoven into our classroom discussion
- ❖ The journal entry will consist of:
  - Your thoughts on the readings, how did it make you feel? what did you discover from the reading?
  - Questions on the topic you feel the readings could have discussed in their writing to enhance the discourse
  - What did you feel the authors could have done better in discussing the intersections between the criminal justice system and medicine?
  - Was there anything in the news that can add to our discourse in class?

Your journal entry will be used to facilitate classroom conversation. You do not need to e-mail your journal entry to me. Print it and bring it to class.

**2. INDIVIDUAL ASSIGNMENT (1) 25%**

(DUE February 13):

Individual assignment should include the following sections:

- a) An abstract of 150 words describing the main points in your essay. Your abstract should act as a summary of your research, giving the reader relevant information about all the sections of your paper
- b) An introduction that provides an overview of what your paper will address. You can begin your paper with an autobiographical narrative, an example from the media, a story, movie, etc. But at the end of this section, you should relate your narrative with the topic, indicating to the reader what the rest of your paper will address;
- c) A literature review section where you write and explain what is being written in the field in law around your topic.
- d) Consider analyzing and synthesizing the possibilities and limitations of the academic work in relation to your topic of interest.
- e) A statement in the introduction clearly pointing out the intersections between medical law/medicines/public health and the criminal justice system
- f) These intersections should be woven throughout your written work
- g) A literature review section that explains what is being written in the field in law around your topic
- h) Where relevant, support your arguments with case law and legislation

- i) Analyze and synthesize the possibilities and limitations of the final paper in relation to your topic of interest.
- j) Word limit: 2500 words (double-spaced, 12 point font) The word count must be written on the title page. The word count does not include the bibliography
- k) Your paper must contain a cover page
- l) Use your academic references, course readings, other articles or book chapters, and what you discussed in class to critically discuss your topic.
- m) Your paper is expected to have at least 6 academic sources, which must be books and/or peer-reviewed journal articles only
- n) News
- o) paper, documentaries, films, magazine articles, web resources, blogs, governmental websites etc. may be used if properly referenced, however, they do not count towards the 6 required sources
- p) Wikipedia and other online encyclopedias may be used but do not count toward the 6 required sources for bibliography
- q) Your paper should exhibit an understanding of a critical reflection and a distinctive approach to the theories, concepts and issues addressed
- r) Your paper should be well-written (i.e., coherent, logically arranged, grammatically correct and free of spelling errors) and should be supported with citations of the readings and other materials that are used in their development
- s) The formal evaluation of written assignments will be based upon demonstration of: Knowledge, understanding and application of laws, theories, concepts, practices, analytical and critical thinking, integration of course content, organization and distinctiveness of the presentation of ideas, insights, arguments
- t) Use APA style of referencing

### **3. GROUP LEADERSHIP INQUIRY 25%**

In groups of three (3), students will be required to divide up tasks to lead a class inquiry into the topic taken up in one of the weekly readings. This includes:

- (a) Preparation and leadership of a 50 minutes seminar session based on a close reading of the articles
- (b) Provide 2-3 key questions based on the articles
- (c) Discuss the implication for practice
- (d) Provide 5 related references.
- (e) Prepare 2-4 pages' summary of your inquiry to share with the class, this summary should include 5 related references to indicate that you have engaged in some research in performing your leadership inquiry
  - (i) You should share your group summary with the instructor NO LESS THAN 3 DAYS before your presentation
- (f) Your leadership inquiry should be interactive and include at least one class activity
- (g) In you may include a video that addresses the topic of discussion, the video should not be longer than 8 minutes.

- (h) You will present your leadership inquiry to the class  
(Please note that every student is required to present in front of the class)

Students will be assessed using the following criteria - Presentation, effort and collaboration and content.

I will provide a link to a google doc that will allow you sign up for this segment of the assignment.

#### **4. FINAL PAPER (40%)**

##### **Part 1- The Proposal (DUE March 20) 10%**

- a) State thesis and a brief explanation of your rationale for selecting it.
- b) Thesis should be selected from one of the topics in the course
- c) Write a brief description of your thesis using a social, medical/health, criminal justice lens. You are free to use more than one lens.
- d) Provide at least 3 academic references (you are welcome to cite course readings, but at least 2 articles should be ones you found through your independent research using the MAC Odrum library databases <https://library.carleton.ca/find/databases;>
- e) A short explanation (a few sentences) of why you chose each academic reference.

Word limit: 300 words

##### **Part 2- The Final Research Paper (DUE April 3) 30%**

Regardless of the chosen topic, the Final Research Paper should include the following:

- a) An introduction that provides an overview of what your paper will address
- b) A statement in the introduction clearly pointing out the intersections between medical law/medicines/public health and the criminal justice system
- c) These intersections should be woven throughout your written work
- d) A literature review section that explains what is being written in the field in law around your topic
- e) Where relevant, support your arguments with case law and legislation
- f) Analyze and synthesize the possibilities and limitations of the final paper in relation to your topic of interest.
- g) Word count 3500 words. The word count must be written on the title page. The word count does not include the bibliography
- h) Work should be double-space, 12 point font
- i) Your paper must contain a cover page
- j) Use your academic references, course readings, other articles or book chapters, and what you discussed in class to critically discuss your topic.
- k) Your paper is expected to have at least 10 academic sources, which must be books and/or peer-

- reviewed journal articles only
- l) Newspaper, documentaries, films, magazine articles, web resources, blogs, governmental websites etc. may be used if properly referenced, however, they do not count towards the 10 required sources
  - m) Wikipedia and other online encyclopedias may be used but do not count toward the 10 required sources for bibliography
  - n) Your paper should exhibit an understanding of a critical reflection and a distinctive approach to the theories, concepts and issues addressed
  - o) Your paper should be well-written (i.e., coherent, logically arranged, grammatically correct and free of spelling errors) and should be supported with citations of the readings and other materials that are used in their development
  - p) The formal evaluation of written assignments will be based upon demonstration of: Knowledge, understanding and application of laws, theories, concepts, practices, analytical and critical thinking, integration of course content, organization and distinctiveness of the presentation of ideas, insights, arguments
  - q) Use APA style of referencing

### **Evaluation Criteria for Individual Assignment and Final Research Project**

#### Quality of Content and Critical Thinking

- The finished research project responds directly to topic, and draws on the intersections between the criminal justice system and medicine/medical ethics to make a strong argument about a final position taken
- It is clear that the necessary thinking, research, reflection and exploration has taken place to enable the production of an insightful research paper
- The literature review is robust
- Arguments are supported with evidence
- APA conventions are followed for citation and in list of references
- The paper is logically structured and organized
- Ideas are expressed clearly and concisely

#### Quality of Expression

- Expert control of language (spelling, grammar, punctuation, voice, tone, etc).
- APA elements of style observed and/or codes and conventions of the presentation format.
- The ideas are presented clearly and concisely.
- The submission is logical, well-organized and does not exceed the length restriction.

#### SUBMISSION

All assignments must be submitted in BOTH hardcopy and electronically through cuLearn.  
Students must retain a copy of all assignments submitted.

**LATE ASSIGNMENT POLICY**

Assignments which are submitted after the due date without an agreed extension will be considered late assignments. The penalty on late assignment is a deduction of 5% per day up to a maximum of 10 days, after which time assignments will not be accepted.

**SCHEDULE**

*All readings are available on cuLearn through web-links provided or attached in cuLearn.*

**Wk 1 - January 9: Introduction**

**Wk 2 - January 16: The Intersections Between Criminal Law and Health**

1. Sarah Hean et al, "Using Social Innovation as a Theoretical Framework to Guide Future Thinking on Facilitating Collaboration Between Mental Health and Criminal Justice Services" (2015) 14:4 Int J Forensic Ment Health 280.
2. Andreas E. Tomaszewski et al, "Professional Misconduct by Registered Nurses: A Study of Regulatory Responses to White Collar Crimes in a Canadian Health Professional" (2016) 9:2 IJAS 403.

**Wk 3 - January 23: Criminal Responsibility**

1. Stephanie R. Penney, Andrew Morgan, & Alexander IF Simpson, "Motivational Influences in Persons Found not Criminally Responsible on Account of Mental Disorder: A Review of Legislation and Research" (2013) 31:4 Behav Sci 494.
2. Michael Gulayets, "Exploring Differences Between Successful and Unsuccessful Mental Disorder Defences" (2016) 58:2 Can J Crim & Corr 161.

**Wk 4 - January 30: Criminal Responsibility: An International Perspective**

1. Landy F. Sparr, "Personality Disorders and Criminal Law: an International Perspective" (2009) 37:2 J Am Acad Psychiatry Law 168.
2. EC Fistein et al, "Comparison of Mental Health Legislation from Diverse Commonwealth Jurisdictions" (2003) 32:3 J Am Acad Psychiatry Law 147.

3. Laura M. Grossi & Debbie Green "An international perspective on criminal responsibility and mental illness" (2017) 2:1 Practice Innovations 2.

**Wk 5 - February 6 Criminalizing Health Practitioners Errors**

1. Fiona McDonald, "The Criminalisation of Medical Mistakes in Canada: a Review" (2008) 16 Health LJ 1.
2. Brown R. Blake, "Canada's First Malpractice Crisis: Medical Negligence in the Late Nineteenth Century" (2016) 54 Osgoode Hall Law J 777.
3. Elizabeth Stuart-Cole, "Medical Manslaughter: The Effect of Lay Findings of (Criminal) Gross Negligence on Professional Tribunals: General Medical Council v Dr Bawa-Garba EWHC 76" (2018) 82: 3 J. Crim. L 197.

**Wk 6 - February 13 Sexual Crimes**

1. Adam Barry D et al. "Effects of the Criminalization of HIV Transmission in Cuernier on Men Reporting Unprotected Sex with Men" (2008) 23:1-2 CJS/Revue Canadienne Droit et Société 143.
2. Barry D. Adam et al. "Impacts of Criminalization on the Everyday Lives of People Living with HIV in Canada" (2014) 1:11 Sex Res Social Policy 39.
3. Krüsi, Andrea, et al. "Positive sexuality: HIV disclosure, gender, violence and the law—A qualitative study" (2018) 13.8: *PloS one* e0202776.

**Optional reading**

4. Veronica Birga et al. "Criminal law and the risk of harm: a commentary on the impact of criminal laws on sexual and reproductive health, sexual conduct and key populations" (2018) 26:52 Reproductive Health Matters 33.

**Wk 7 - Reading week**

**February 18 - 22**

**WEEK 8 - FALL BREAK - NO CLASSES**

**Wk 8 - March 27: Legalizing Cannabis**

1. Daniel Bear, "From Toques to Tokes: Two challenges facing nationwide legalization of cannabis in Canada" (2017) 42 Int J Drug Policy 97.
2. Hyunjung Cheon, Scott H. Decker & Charles M. Katz, "Medical Marijuana and Crime: Substance Use and Criminal Behaviors in a Sample of Arrestees" (2018) 48:2 J Drug Issues 182.
3. Andrew D Hathaway et al, "It's Really No Big Deal": The Role of Social Supply Networks in Normalizing Use of Cannabis by Students at Canadian Universities" (2018) 17 Deviant Behavior 1.

**Wk 9 - March 6: Policing Women's Bodies**

1. Meda Chesney-Lind & Syeda Tonima Hadi, "Patriarchy, Abortion, and the Criminal System: Policing female bodies" (2017) 27:1 Women & Crim. J. 73.
2. Marge Berer "Abortion Law and Policy Around the World: in Search of Decriminalization" (2017) 19:1 Health Hum Rights 13.
3. Cynthia Soohoo and Farah Diaz-Tello "Torture and Ill-Treatment: Forced Sterilization and Criminalization of Self-Induced Abortion" in Gender Perspectives on Torture: Law and Practice (Center for Human Rights and Humanitarian Law Anti-Torture Initiative 2018). Available at SSRN: <https://ssrn.com/abstract=3148826>

**Wk 10 - March 13: Euthanasia/Medically Assisted Death**

1. Benny Chan & Margaret Somerville, "Converting The 'Right To Life' To The 'Right To Physician-assisted Suicide And Euthanasia': An Analysis Of Carter V Canada (attorney General), Supreme Court Of Canada" (2016) 24:2 Med. Law Rev 143.
2. Golan Luzon, "The Practice of Euthanasia and Assisted Suicide Meets the Concept of Legalization" (2015) Crim. L Phil 1.
3. Stuart Hughes, "Adam Maier-Clayton's controversial right-to-die campaign" July 2017. <https://www.bbc.com/news/world-us-canada-40546632>

**Wk 11 - March 20 : Vulnerable and Marginalized Populations**

1. Priscilla Ferrazzi & Terry Krupa, "Symptoms of Something all Around us": Mental Health, Inuit Culture, and Criminal Justice in Arctic Communities in Nunavut Canada. (2016) 165 Soc Sci Med 159.
2. Janne Csete & Jonathan Cohen, "Health Benefits of Legal Services for Criminalized Populations: the Case of People who use Drugs, Sex Workers and Sexual and Gender Minorities" (2010) 38:4 J. Law Med. Ethics 816.
3. Guy Coffey et al, "The Meaning and Mental Health Consequences of Long-term Immigration Detention for People Seeking Asylum" (2010) 70:2 Soc Sci Med 2070.

**Wk 12 - March 27: Prison System**

1. Alexander IF Simpson, Jeffrey J. McMaster & Steven N. Cohen, "Challenges for Canada in Meeting the Needs of Persons with Serious Mental Illness in Prison" (2013) 41:4 J Am Acad Psychiatry Law 501.
2. Ralf Jürgens, Manfred Nowak & Marcus Day, "HIV and Incarceration: Prisons and Detention" (2011) 14:1 J Int AIDS Soc 26.
3. Gee, E. A., and Baum, K. B. (2016). Adam Capay's Lonely Path to Solitary Confinement. Toronto: The Globe and Mail. Retrieved from: <https://www.theglobeandmail.com/news/national/adam-capays-journey-through-prison-system-tells-sad-story/article32585480/>

**Wk 13 - April 3: Culminating discussions and synthesis: Transforming criminal medical issues.**

1. Piat Myra & Judith Sabetti "Recovery in Canada: Toward Social Equality (2012) 24:1 Int Rev Psychiatry 19
2. What We Heard: Transforming Canada's Criminal Justice System. March 2018. A Report on Provincial and Territorial stakeholders Consultations Criminal Justice System Review. Department of Justice Canada. Retrieved from: [https://www.justice.gc.ca/eng/rp-pr/other-autre/tcjs-tsjp/WWH\\_EN.pdf](https://www.justice.gc.ca/eng/rp-pr/other-autre/tcjs-tsjp/WWH_EN.pdf)

## **ACADEMIC ACCOMMODATIONS**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** Please contact me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, visit the Equity Services website: [carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf](http://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf)

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, visit the Equity Services website: [carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf](http://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf)

**Academic Accommodations for Students with Disabilities:** If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (PMC) at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) [www.carleton.ca/pmc](http://www.carleton.ca/pmc)

### **Plagiarism**

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>

### **Survivors of Sexual Violence**

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: [carleton.ca/sexual-violence-support](http://carleton.ca/sexual-violence-support)

### **Accommodation for Student Activities**

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must

be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: [students.carleton.ca/course-outline](https://students.carleton.ca/course-outline)

### **Department Policy**

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://carleton.ca/law/current-students/>