



# LAW 571

## Health Law and Ethics

S1 Day 2015

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Course convenor

Sonia Allan PhD

[sonia.allan@mq.edu.au](mailto:sonia.allan@mq.edu.au)

Contact via Email

W3A522

By appointment (email to make a time)

Credit points

3

Prerequisites

6cp in LAW or LAWS units at 300 level

Corequisites

Co-badged status

Unit description

This unit introduces students to health law and ethics in Australia. Duties, obligations and responsibilities that arise in the context of the health practitioner-patient relationship will be examined, as well as areas of health law that pose ethical and/or regulatory challenges. Three broad areas of focus include: 1) legal concepts and areas of law integral to health care treatment (consent, negligence, criminal law, and management of health care information); 2) applied health law/ethics regarding preconception, conception and birth; end of life; and research involving humans 3) broader systemic regulation and health care issues (regulation of health care practitioners, public health, and mental illness/ disability). Interrelationships between, law, policy, ethics, regulatory theory, and other areas are explored.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

Describe the fundamental doctrines, concepts, principles, values and sources of regulation, relevant to different types of health law related matters.

Recognise, reflect upon, and appraise how ethics and the law may impact upon health

practice and/or research.

Engage in critical legal reasoning, analysis and research to generate appropriate responses to health related matters that raise ethical, social, legal and/or human rights issues.

Identify the multi-disciplinary nature of 'health law and ethics' and demonstrate an ability to draw upon various fields of inquiry, theory and practice when considering issues that exist within the field.

Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences in relation to health related matters that raise ethical, social, legal and/or human rights issues.

Demonstrate autonomy, accountability and professionalism in relation to study, research, performance and conduct.

## General Assessment Information

When a student suffers a disruption to study which is 'serious and unavoidable' they may apply for special consideration. In order to do so the student must meet the criteria under the Macquarie University "Disruption to Studies" policy and be approved by the Unit Convenor. Applications are made online at [ask.mq.edu.au](http://ask.mq.edu.au). Outcomes for recognized serious and unavoidable disruptions to studies are as set out in the University schedule - [http://www.mq.edu.au/policy/docs/disruption\\_studies/schedule\\_outcomes.html](http://www.mq.edu.au/policy/docs/disruption_studies/schedule_outcomes.html)

When a disruption to study **is not** serious or unavoidable, the approach to special consideration and the impact on your assessment will be as follows.

1. **Assessment Task** (other than final examination) (preparation affected): no special consideration.
2. **Assessment** (other than final examination) (late submission): no special consideration; grade of zero.
3. **Assessment** (other than final exam) (ongoing impact on performance): consideration will be given to the following: extension of time to complete an assessment task; provision of an additional assessment task; recommendation to withdraw.

**NOTE: It is expected that students will attend the all day sessions to be exposed to all course content, and to have the opportunity to collaborate with others to address complex health law and ethics related matters, drawing upon relevant ethical, legal and policy principles.**

## Assessment Tasks

Name	Weighting	Due
<a href="#">Online Quizzes (x 2)</a>	25%	Weeks 6 (3 April), 12 (29 May)
<a href="#">Assignment: Hypotheticals</a>	35%	13/04/2015
<a href="#">Research Paper</a>	40%	5 June 2014 (Friday)

### Online Quizzes (x 2)

Due: **Weeks 6 (3 April), 12 (29 May)**

Weighting: **25%**

Students will be required to complete two (2) online quizzes that will reflect that the student has engaged with, and understood, course materials, prescribed readings/activities, and subject matter covered in the all day sessions. Students must complete BOTH quizzes - noting that the first quiz must be completed in Week 6; and then the second in Week 12.

Each quiz will be released at the beginning of the respective weeks (Eg. Week 6 quiz released on Monday of Week 6), may be completed at any time during that week, and must be completed by Friday of that Week (Eg. Week 6 quiz must be completed by Friday of Week 6). (NB. Once you open the quiz, you must complete it).

Each quiz will contain 30 questions. The total marks for both quizzes will make up 25% of your overall mark.

Students who miss a quiz in either of the weeks will receive a zero for that quiz, unless they satisfy the University Disruptions to Study Policy for the whole week. In such circumstances students will be required to complete an alternative assessment (most likely an alternative quiz).

NOTE - there will be elements of the quiz that draw from material that is presented/discussed at the all day sessions, so make sure you attend!

On successful completion you will be able to:

- Describe the fundamental doctrines, concepts, principles, values and sources of regulation, relevant to different types of health law related matters.
- Recognise, reflect upon, and appraise how ethics and the law may impact upon health practice and/or research.
- Demonstrate autonomy, accountability and professionalism in relation to study, research, performance and conduct.

### Assignment: Hypotheticals

Due: **13/04/2015**

Weighting: **35%**

Students will be required to address the ethical and legal issues raised in two (2) hypothetical scenarios (1000 words each - Total assignment length 2000 words).

Students submitting their assignment late will receive a zero grade, which is a requirement of law school policy - unless they satisfy the University's Disruptions to Studies Policy.

NB. Unless the student has suffered an ongoing issue that has been 'serious and unavoidable' from the release date of the assignment, plans and drafts must be produced to show work completed up until the relevant date of disruption.

On successful completion you will be able to:

- Describe the fundamental doctrines, concepts, principles, values and sources of regulation, relevant to different types of health law related matters.
- Recognise, reflect upon, and appraise how ethics and the law may impact upon health practice and/or research.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to health related matters that raise ethical, social, legal and/or human rights issues.
- Identify the multi-disciplinary nature of 'health law and ethics' and demonstrate an ability to draw upon various fields of inquiry, theory and practice when considering issues that exist within the field.
- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences in relation to health related matters that raise ethical, social, legal and/or human rights issues.
- Demonstrate autonomy, accountability and professionalism in relation to study, research, performance and conduct.

## Research Paper

Due: **5 June 2014 (Friday)**

Weighting: **40%**

Students will be given a choice between essay questions in which they must write a paper of 2500 words, that reflects understanding of the multi-disciplinary nature of 'health law and ethics', and demonstrates an ability to draw upon various fields of inquiry, theory and practice when considering issues that exist within the field. They will be required to engage with critical legal reasoning, analysis and research to an area of health law that raise ethical, social, legal and/or human rights issues.

Students submitting their research paper late will receive a zero grade, which is a requirement of law school policy - unless they satisfy the University's Disruptions to Studies Policy.

NB. Unless the student has suffered an ongoing issue that has been 'serious and unavoidable', plans and drafts must be produced to show work completed up until the relevant date of disruption.

On successful completion you will be able to:

- Describe the fundamental doctrines, concepts, principles, values and sources of regulation, relevant to different types of health law related matters.
- Recognise, reflect upon, and appraise how ethics and the law may impact upon health practice and/or research.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to health related matters that raise ethical, social, legal and/or human rights issues.
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- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences in relation to health related matters that raise ethical, social, legal and/or human rights issues.
- Demonstrate autonomy, accountability and professionalism in relation to study, research, performance and conduct.

## Delivery and Resources

### 1. Resources

#### PRESCRIBED MATERIALS

1) Sonia Allan and Meredith Blake, *The Patient and Practitioner: Health Law and Ethics in Australia* (2014) (Lexis Nexis)

2) Primary and secondary source materials (eg. cases, statutes, articles)

3) Online materials

4) Activity materials (provided online and in day sessions)

(Note, it is expected that students will attend the all day sessions (x2) to be exposed to the full course content. Students who miss the all-day sessions without meeting the University Disruptions to Study Policy may miss out on essential information relevant to quizzes and

assignments.)

## Unit Schedule

WEEK	TOPIC
1	Introduction to Health Law and Ethics
2	Consent
3	Harm Arising from Health Care: Negligence
4	Duties and Rights Associated with Health Care Information
5 & 6	<p><b>Pre-Conception, Conception and Birth I</b></p> <ul style="list-style-type: none"> <li>• Abortion</li> <li>• Child Destruction</li> <li>• Birth Registration</li> <li>• Pre-Natal Injury; Wrongful Birth; Wrongful Life</li> </ul>
6	**** QUIZ 1 - TO BE COMPLETED BY 11.59pm FRIDAY
<b>BREAK</b>	<p><b>MID-SEMESTER BREAK</b></p> <p>'Hypotheticals' Assessment due 13 April 2015</p>
7	<p><b>Pre-Conception, Conception and Birth II:</b></p> <ul style="list-style-type: none"> <li>• Assisted Reproduction</li> <li>• Surrogacy</li> </ul>
8	<b>End of Life</b>
9 & 10	<b>Regulation of Health Professionals</b>
11	<b>Regulation of Health and Medical Research</b>
12	<b>Mental Health Law</b>

WEEK	TOPIC
13	RESEARCH PAPER DUE 5 JUNE 2014

## Learning and Teaching Activities

### DELIVERY

This course will be delivered in an alternative delivery mode. You will have materials that you will be required to work through online, set readings, and activities. You will also enrol in a Group/ Stream, and attend two full day sessions, where I will deliver and discuss content, you will engage in activities, and we will interact with each other in relation to the course content. The day sessions will occur in approximately Week 5/6 and then in Week 9/10. So for example, if you are in Stream A - you would attend one day in Week 5 and one day in Week 9; Stream B - one day in Week 5 and one day in Week 10; etc. Please check timetables for exact dates (and note that you must stay in the group that you enrol for both weeks). Note - the long day sessions are for all students (day and external) -- there are no separate on campus sessions for external students, just as there are no weekly tutorials for day students! Both the online materials and on-campus day long sessions will require you to engage with ethical and legal principles and complex matters related to health law and ethics.

### READING

Students will have personal responsibility for reading all materials, note taking, and preparation of answers to questions and assignments.

### COLLABORATION

Students are encouraged to form study groups to discuss course content, engage in online discussion with each other, and to prepare answers to day session questions jointly. Students will work with each other in the all day sessions.

### COMMUNICATION

Discussion of legal principles, issues and hypotheticals both in and out of class. Students will be called upon in class.

### SELF-DIRECTED LEARNING

Students will complete self-directed learning tasks using online resources and other materials as required. Note that students should understand that, as is the case in other disciplines, most learning occurs outside the classroom for law-related studies. Students are expected, as adults in the higher education system, to assume responsibility for much of their own learning; and as university students completing a law degree, are expected to exercise a high level of autonomy and professionalism toward their studies. Academics will have put in a significant amount of time



and effort into designing and preparing materials, which includes both delivery of content and guiding students to other resources that will aid their learning. They are available to discuss, provide feedback, and respond to questions however, the student is ultimately responsible for engaging with the required materials and completing the required tasks.

## SPECIFIC ACTIVITIES EACH WEEK

On the subject page in iLearn, at the top of each week, will be a list of topics to be covered in that week. Students are required to engage with materials placed online (at iLearn) and beyond. The pattern of study for each week should include that students: 1. Read the 'Topic Overview' pages 2. Listen to any recorded presentations. 3. Watch videos (when relevant); 4. Complete a. the assigned readings – which will include such things as reading of the text, common law judgments, statutes, and other secondary sources – and engage in note taking. (Note taking is an active form of learning which helps students order information in a way that they understand it, and aids in retention and ability to recall information); b. any further activities placed online (eg. self-test quizzes, etc). 5. Prepare draft answers to any questions placed online prior to the day-sessions. You are encouraged to communicate and collaborate with other students when engaging with the above pattern of study. NOTE: engaging each week with the above pattern of study will improve your learning and ability to analyse legal issues and critique the law. As the semester progresses, students will find their ability to read legal materials will improve. Mirroring that change, the subject's pace quickens as the semester progresses. Tip: Always look up and learn unfamiliar phrases in a law dictionary.

## DAY-LONG SESSIONS

The day long sessions (x 2) provide an opportunity to discuss what you have read, evaluate your reading from new perspectives and share your ideas with classmates. Classes will help students 'make sense' of the reading, and give them regular opportunities to practise analytical skills. In order for the classes to work successfully, students must come ready to ask and answer questions. The leader of these sessions will act as a guide, but the discussion should be dominated by students. Again, all students are encouraged to work with others in preparing notes and completing seminar questions. Remember to engage with the materials studied and participate in class. Try not to be shy: relax, and make the most of the chance to discuss moral, ethical, and legal issues. You have the opportunity to hear what other students have to say, and a chance to teach one another. Active class participation can produce an inspiring, stimulating, learning experience, whereby you can and will learn from each other as well as from your lecturer. An important immediate consequence of learning in this fashion, where class discussion will challenge your thoughts and understanding of the material studied, is that you will have to learn to read acutely.

## GENERAL MATTERS

Don't become anxious if you fall behind on occasion. However, try not to fall too far behind, too often! It is your responsibility to catch up if you have fallen behind. While guidance and advice can be provided by your lecturers, the onus will be on you to catch up. Lecturers are not in a position to re-teach material that has already been discussed in classes you have missed. Please check your e-mail and the Health Law and Ethics iLearn page for important information

relevant to the course, guest speakers, video presentations, etc. If you have any questions or comments about the subject, the reading or the way in which your studies are progressing, be sure to talk to your seminar leader or Unit Convenor. Note that the University has schemes in place that provide learning and well-being support.

## FEEDBACK

There are a number of opportunities offered to students during the semester to find out how you are progressing in Health Law and Ethics. Students have a role in ensuring that they exploit opportunities for feedback. While there are several ways in which feedback is provided, it is important to realise that any initiative to give quality feedback can only work in an atmosphere in which both students and lecturers are actively engaged with one another throughout the semester in the teaching and learning process. Effective and useful feedback opportunities in Health Law and Ethics include formal and informal methods. These include the following:

- a) Answering questions during and after class: this is a useful form of feedback, as the responses given to your queries verify your understanding of particular issues.
- b) Learning from one another: students are encouraged to form study groups so that they can take advantage of the opportunity to learn from one another.
- Group feedback: You can also arrange to meet with the lecturer as a group to get feedback on the group's analysis of problem questions.
- c) Constructive and effective use of e-mail/online forums to provide quick help: E-mail/discussion on online forums (with fellow students and/or the lecturer) can be an effective way to obtain quick feedback. Such mediums are useful for answering brief, pointed, discrete queries. Note, though, that some questions are better dealt with in person (for example, because of the complexity of the question). In emailing the lecturer, it is helpful to provide a telephone number where you can be reached so the lecturer can seek clarification of your question and offer a better response if necessary.
- d) Weekly meeting or interview times: members of academic staff set time aside each week to meet with students (in addition to other meetings you may wish to arrange with them). We encourage you to use this regularly scheduled meeting time effectively. This is a genuine opportunity for one-on-one or small group feedback.
- e) Comments on your Assignment: these provide useful assistance for improvement purposes. You can also make an appointment to see your lecturer to receive additional oral comments on your paper. Such meetings are an invaluable tool for you to improve your hypothetical and essay writing skills.

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy [http://mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy [http://mq.edu.au/policy/docs/grievance\\_management/policy.html](http://mq.edu.au/policy/docs/grievance_management/policy.html)

Disruption to Studies Policy [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html) *The*

*Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

## **Student Code of Conduct**

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: [https://students.mq.edu.au/support/student\\_conduct/](https://students.mq.edu.au/support/student_conduct/)

## **Results**

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](http://ask.mq.edu.au).

## **Student Support**

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## **Learning Skills**

Learning Skills ([mq.edu.au/learningskills](http://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## **Student Services and Support**

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## **Student Enquiries**

For all student enquiries, visit Student Connect at [ask.mq.edu.au](http://ask.mq.edu.au)

## **IT Help**

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

## Graduate Capabilities

### Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

#### Learning outcome

- Engage in critical legal reasoning, analysis and research to generate appropriate responses to health related matters that raise ethical, social, legal and/or human rights issues.

#### Assessment task

- Research Paper

### Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

#### Learning outcome

- Demonstrate autonomy, accountability and professionalism in relation to study, research, performance and conduct.

### Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

#### Learning outcomes

- Describe the fundamental doctrines, concepts, principles, values and sources of

regulation, relevant to different types of health law related matters.

- Recognise, reflect upon, and appraise how ethics and the law may impact upon health practice and/or research.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to health related matters that raise ethical, social, legal and/or human rights issues.
- Identify the multi-disciplinary nature of 'health law and ethics' and demonstrate an ability to draw upon various fields of inquiry, theory and practice when considering issues that exist within the field.

## **Assessment tasks**

- Online Quizzes (x 2)
- Assignment: Hypotheticals
- Research Paper

## **Critical, Analytical and Integrative Thinking**

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

## **Learning outcomes**

- Recognise, reflect upon, and appraise how ethics and the law may impact upon health practice and/or research.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to health related matters that raise ethical, social, legal and/or human rights issues.
- Identify the multi-disciplinary nature of 'health law and ethics' and demonstrate an ability to draw upon various fields of inquiry, theory and practice when considering issues that exist within the field.

## **Assessment tasks**

- Online Quizzes (x 2)
- Assignment: Hypotheticals
- Research Paper

## Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

### Learning outcomes

- Recognise, reflect upon, and appraise how ethics and the law may impact upon health practice and/or research.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to health related matters that raise ethical, social, legal and/or human rights issues.

### Assessment tasks

- Assignment: Hypotheticals
- Research Paper

## Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

### Learning outcomes

- Describe the fundamental doctrines, concepts, principles, values and sources of regulation, relevant to different types of health law related matters.
- Recognise, reflect upon, and appraise how ethics and the law may impact upon health practice and/or research.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to health related matters that raise ethical, social, legal and/or human rights issues.
- Identify the multi-disciplinary nature of 'health law and ethics' and demonstrate an ability to draw upon various fields of inquiry, theory and practice when considering issues that exist within the field.

- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences in relation to health related matters that raise ethical, social, legal and/or human rights issues.

## Assessment tasks

- Assignment: Hypotheticals
- Research Paper

## Changes since First Published

Date	Description
28/03/2015	Changes to Unit schedule following mid-point review and student feedback to address workload demands. Changes are as follows: 1) Spread week 5 topics across week 5/6; 2) moved topic that would have been covered in week 6 to after the holidays (Wk 7); 3) topic on health practitioner regulation spread across weeks 9 & 10. 4) two weeks on public health law removed to enable above changes (on agreement with students that this area lends itself to a whole subject in itself). Students encouraged to come back and engage with post-graduate study should they be particularly interested in this area.
16/02/2015	Edited to ensure consistent assessment dates throughout Unit Guide; Edited to explain that students will need to bring their answers to the questions asked in weekly online materials/activities to long-day sessions; Edited to emphasise that the subject involves a significant amount of reading.
12/02/2015	Updated assessment description (Quizzes) and changed weighting to 25%. Updated course schedule weekly topics