

AIDS and the LAW SYLLABUS
FALL, 2009

CAROLYN MCALLASTER

Class One: August 24, 2009

Introduction to course; Scope of the epidemic

Readings: Altman, *H.I.V. Study Finds Rate 40% Higher Than Estimated*, NEW YORK TIMES, August 3, 2008; Zuger, *AIDS, at 25, Offers No Easy Answers*, NEW YORK TIMES, June 6, 2006; Sack, *AIDS Epidemic Takes Toll on Black Women*, NEW YORK TIMES, July 3, 2001; Villarosa, *Patients with H.I.V. Seen as Separated by a Racial Divide*, NEW YORK TIMES, August 7, 2004; *The HIV/AIDS Epidemic in the United States*, February, 2009, Kaiser Family Foundation; Centers for Disease Control and Prevention Basic Statistics through 2007; *The Global HIV/AIDS Epidemic*, April, 2009, Kaiser Family Foundation; Kershaw, *New H.I.V. Cases Drop but Rise in Young Gay Men*, NEW YORK TIMES, January 2, 2008; Tuller, *H.I.V. Diagnosis Rates Continue to Rise Among Young Men, African-Americans*, NEW YORK TIMES, June 27, 2008; *Reduction of Maternal-Infant Transmission of Human Immunodeficiency Virus Type 1 with Zidovudine Treatment*, NEW ENGLAND JOURNAL OF MEDICINE, 11/3/94—Vol. 331, No. 18.

Class two: August 31, 2009

Medical and Psycho-Social Aspects of HIV/AIDS

Progression of the Disease
Methods of Transmission
Existing Treatments
Psycho-Social Aspects of HIV/AIDS

Readings: AIDS Cases and Materials, pgs. 31-38; *HIV/AIDS* by Mayo Clinic Staff, August 9, 2008.

Class 3: September 7, 2009

HIV and the Family

Permanency Planning
standby guardianships/guardians

foster care
adoption
Custody and visitation
Issues Involving the Care of HIV-Infected Children

Readings: AIDS Cases and Materials, pgs. 175 - 203; *Standby Guardianship*, The National Abandoned Infants Assistance Resource Center December, 2005; In re: Nikolas E., 720 A. 2d 562 (1998); A.D.H. v. State Department of Human Resources, 640 So.2d 969 (1994).

[no class September 14, 2009]

Class Four: September 21, 2009

Public Health Strategies/Law

Case Identification
screening
contact tracing/partner notification
reporting

Testing and counseling
HIV specific testing and confidentiality laws
exceptions to confidentiality;

Readings: AIDS Cases and Materials, pgs. 99-115; North Carolina Communicable Disease Statute, N.C.G.S. 130A-2; 130A-134-148; N.C.G.S. 130A-25; 10A NCAC 41A.0101,.0102,.0103,.0201, .0202, .0206, .0207, .0210, .0211, .0212; Patient Information Sheet re: Control Measures; Sample Isolation Order; New York Public Health Law ' '2130-2138; New York State Office for the Prevention of Domestic Violence: *Domestic Violence and HIV/AIDS; DV Screening for HIV Partner Notification; HIV Testing in the United States*, October, 2008, Kaiser Family Foundation.

Class five: September 28, 2009

Confidentiality and Right to Privacy

Readings: *HIV & Civil Rights: A Report from the Frontlines of the HIV/AIDS Epidemic*, ACLU AIDS Project, November 2003; Whalen v. Roe, 429 U.S. 589 (1977) (Redacted), Sherman v. Jones, 258 F.Supp.2d 440 (2003); A.L.A. v. West Valley City, 26 F.3d 989 (1994).

Class six: October 5, 2009

Discrimination Based on HIV/AIDS

Readings: AIDS Cases and Materials, Chapter 3; *HIV-Positive Male Inmates in Alabama Prison Allowed to Attend Educational, Vocational Programs*, Kaiser Family Foundation-U.S. News, January 21, 2004; Titles I and III of the Americans with Disabilities Act; Doe v. University of Maryland Medical System Corporation, 50 F.3d 1261, (4th Cir., 1995); *Surveillance of Health Care Personnel with HIV/AIDS*, as of December, 2002, CENTERS FOR DISEASE CONTROL AND PREVENTION.

[Fall Break: October 12-16]

Class seven: October 19, 2009

End of Life Issues and Estate Planning

Wills and End of Life Planning

Giving Persons the Authority to Act during Lifetime

Advance Directives

Treatment Decisions

Wills

Testamentary Capacity

Competency

Undue Influence

Post-Death Matters

Readings: AIDS Cases and Materials, Chapter 7 and pgs.41-50; Merrick, Chapter 13-Death and Dying: The American Experience (219-241) in End-of-Life Decision Making (The MIT Press 2005).

Class eight: October 26, 2009

Torts and HIV-related Private Lawsuits

Claims by HIV-Infected Persons

Claims by Persons Not Infected

Readings: AIDS Cases and Materials, Chapter 8; Kerins v. Hartley, 33 Cal.Rep.2d 172 (Cal. App. 1994); Thomas A. Delaney, Actual Exposure or Reasonableness? Policy Issues Drive the Ongoing Debate Over What Standards Should Govern the Recovery of Emotional Distress Damages for Fear of Contracting Infectious Disease, 13 No. 5 *Health Lawyer* 11 (2001)

Class nine: November 2, 2009

HIV Infection and the Criminal Law; HIV and Needle Exchange Programs

- Criminalization of risky behavior
- Traditional crimes
- HIV specific penal statutes
- HIV as factor in criminal proceedings

Legal issues involved in Needle Exchange Programs

Readings: AIDS Cases and Materials, Chapter 9; Carol L. Galletly, Steven D. Pinkerton, Toward Rational Criminal HIV Exposure Laws, 32 *J. L. Med. & Ethics* 327 (2004.); Soldier at Bragg Charged with HIV Assault, RALEIGH NEWS AND OBSERVER, July 18, 2007; Man accused of cutting, biting officer appears in court, www.wral.com, June 22, 2009; Weeks v. State of Texas, 834 S.W.2d 559 (1992); Smallwood v. State of Maryland, 680 A.2d 512 (1996); How Risky is it?; Georgia General Statute Section 16-5-60; California Health & Safety Code Sec. 120291;

Deregulation of Hypodermic Needles and Syringes as a Public Health Measure: A Report on Emerging Policy and Law in the United States, Scott Burris, editor, American Bar Association: AIDS Coordinating Committee, (2001).

Class ten: November 9, 2009

Funding Issues

- Medical Care
 - Private Insurance
 - Medicaid, Medicare
 - AIDS Drug Assistance Programs (ADAP)
 - Pharmaceutical Programs

Income

SSI/SSDI
Private Disability Insurance

Readings: *AIDS Drug Assistance Programs*, Fact Sheet, THE HENRY J. KAISER FAMILY FOUNDATION, April, 2009; *MEDICARE: The Medicare Prescription Drug Benefit*, Fact Sheet, March, 2009; *Financing HIV/AIDS Care: A Quilt with Many Holes*, THE HENRY J. KAISER FAMILY FOUNDATION, May, 2004.

Class eleven: November 16, 2009:

Global HIV/AIDS Issues

Readings: To be provided.

Class twelve: November 23, 2009

Student Presentations

[Thanksgiving Break--Nov. 25-27]

Class thirteen: November 30, 2009

Student Presentations

