

The University of Western Ontario  
School of Health Studies & Faculty of Law

Health Sciences 4092G & Law 5385D

Public Health Law & Policy

Winter 2025

Instructor: Jacob Shelley  
Email: jshelle6@uwo.ca  
Office:  
Office Hours: By appointment and as posted on OWL

Course Time:

Location:

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### **Course Information:**

This course examines the role of law and policy in public health in Canada. Public health is what we, as a society, can do to ensure the health of the people. Law historically has played an important role in public health – but our collective understanding of this role has been fundamentally shifted during the COVID-19 pandemic. Traditionally, emphasis has been on the state, and the duties and limits of the state, although increasingly it is accepted that private law doctrines are relevant for public health. This course will examine the theoretical and legal foundations of public health. It will also highlight some of the competing values within and between public health and law, identify the place of ethics, reflect on the role of risk evaluation, and consider the challenges associated with using evidence in legal decision-making. With this background, the course will then examine critical public health problems, considering whether law should be used, and how. This will include an examination of traditional public health problems, such as quarantine and the prevention of communicable diseases, more modern problems, such as the prevention of chronic disease (e.g., tobacco control), and emerging problems (e.g., climate change). Throughout the course, students will reflect on the role of public, private, and international law, and the challenges with policy making in the public sphere. Specific attention will be paid to COVID-19 pandemic.

This course is cross listed with the School of Health Studies and Faculty of Law. Law students will join the class Thursday, January 27<sup>th</sup>. In the weeks prior to the Law students participating, the course will focus on the legal foundations of public health, including an examination of the constitution, the *Charter of Rights and Freedoms*, and other relevant legal principles. These sessions will prepare Health Studies students sufficiently for participating in the remainder of the class, which will focus on topics and issues relevant to both group of students. To facilitate deeper engagement with the legal issues, each week the Law students enrolled in the

course will meet for an additional hour and a half for a seminar discussion on specific topics. Health Studies students will not be required to participate in these sessions, although they are welcome – and even encouraged – to participate (note: involvement will have no bearing on evaluations).

This is a highly interactive and engaged class, where students will be able to apply the learnings from their undergraduate training to real world issues.

**Course Objectives:**

This course aims to provide an understanding of the role of law in population health in Canada. Upon successful completion of the course, students will be able to:

1. Discuss the theoretical foundations of public health and public health law.
2. Identify the legal foundations of public health law in Canada, and the role of public law, private law and international law.
3. Understand how the law has been used – or not used – to respond to specific issues in public health, including: prevention of disease (communicable and non-communicable), injury prevention, public safety, health promotion, immunization, and others.
4. Reflect on the tension between values at play in the development of public health laws (e.g., individualism vs collectivism in law).
5. Recognize and analyze the role health evidence plays in the development of legal policies to address public health issues.
6. Identify the role ethics and values play in assessing how law should respond to public health problems.
7. Reflect on how the role of law in public health has evolved in response to the COVID-19 pandemic.

**Course Materials:**

All required reading materials will be posted on the course website.

Recommended text:

Tracey Bailey, Tess Sheldon & Jacob Shelley, eds, *Public Health Law & Policy in Canada*, 4th ed (Markham: LexisNexis, 2019).

\*the text will be on reserve in the library

All additionally required materials, including cases and articles, will be posted on OWL.

**Antirequisite(s):**

Registration in HS 4091B sec 001 if taken in FW 2019, HS 4090B sec 001 if taken in FW 2016.”

**Evaluation:**

The assignments in this course are designed to allow meaningful interaction between Health Studies and Law students. The two groups of students will be assessed differently, but the assignments are linked. The main assignment in the course for Law students is an in-class moot on a public health issue (there will be six separate issues). Health Science students will write scientific reports that will be used as authorities for the purpose of the moot. While Health Studies students will not be involved in the moot exercise directly, for each moot a group of Health Studies students will act as observers and, in the class following the moot, will host a debate about the moot proceedings. For their final assignment, students will write a policy report on the court proceedings. Because the assignments are intertwined, the evaluation for Law students is included below (all Law assignments are italicized and shaded). The marks of Health Studies students will not be influenced by the Law assignments, and vice versa.

<b>Participation</b>	<b>15%</b>
This course is structured to encourage ongoing participation between Health Studies and Law students, and attendance and ongoing participation is required.	
In-class Participation – 10%	
Students will be assessed on their participation in class, with weight given to attendance on days where there are guests and days where classmates are presenting in moots or debates.	
Submitted Discussion Questions & Responses – 5%	
Students will be required to submit <u>five</u> discussion questions throughout the term. Questions must be submitted 24 hours in advance of class to count. Only one question can be submitted per week and must, in some way, engage with the reading. Questions that are not closely linked with the reading will not be accepted (Dr. Shelley will indicate if this is the case). Further details on what constitutes a satisfactory question will be provided.	
<i>Law: Participation – Law students will also be assessed on in-class participation (10%), submitted discussion questions (5%), as well as their role in judging the moots (5%)</i>	<b>20%</b>
<b>Research Report</b>	<b>30%</b>
Health Science students will pair up to write a research report on one of five specific topics, identified in the second class (Thursday, January 9 <sup>th</sup> ). These topics correspond with the public health issue that will be the focus of an in-class moot (mock trial) that will be done by the law students. The Law students will prepare legal memos, and use these memos for their moot. Health Studies students will prepare research reports that the Law students will be instructed to rely on as the scientific authorities in their legal memos. These reports will address scientific evidence and health research relevant for the moot issues, and not legal issues.	
Each report will take on a specific stakeholder perspective (e.g., industry, NGO, community group, etc). Individuals are required to identify a unique stakeholder position which <b>must</b> be approved by the instructor no later than the <b>end of class Thursday, January 16<sup>th</sup></b> . Stakeholders can be based on real groups or can be fictitious – if the former, the submitted position statement cannot be a replica of an existing position statement and if the latter the stakeholder must represent a realistic group that would have a position on the policy issue. All position statements will be uploaded to OWL. Individual marks will be only released for these statements after both the Plaintiff’s and Defendant’s memos have been submitted. Students are encouraged to be as creative as they wish	

<p>in how they communicate this position statement, being mindful that the aim is to be persuasive not flashy. While there are no specific formatting requirements, specific instructions for the report (length, formatting, etc) will be provided in class.</p> <p>The report mark will consist of two things:</p> <ol style="list-style-type: none"> <li>1. Stakeholder Position Statement – 5% <ul style="list-style-type: none"> <li>A stakeholder position statement is to be submitted by the <b>beginning of class on Tuesday, January 21<sup>st</sup></b>. The outline must include: <ul style="list-style-type: none"> <li>- a paragraph (250 word max) describing the stakeholder group’s overall position (e.g., mission statement, purpose of organization); and</li> <li>- an overview of the arguments that the report will address, on a high level</li> </ul> </li> </ul> </li> <li>2. Research Report – 25% <ul style="list-style-type: none"> <li>The Research Report will be due by the <b>beginning of class on Tuesday, February 4<sup>th</sup></b>.</li> <li>All of the reports will be posted to the course site to be reviewed by all students in the course. These reports will be used by the Law students in the preparation of their legal memos and during the moot. They will also be used by both Health Science and Law students for their final assignment.</li> <li>Research reports will be 2500 words.</li> <li>The final marks for research reports will not be released until the legal memos have all been submitted.</li> </ul> </li> </ol>	
<p><i>Law: Legal Memo – Students will submit a legal memo on their issue that will highlight the legal issues to be discussed in the moot. These memos will rely on the research reports for all scientific and evidentiary claims (with some limited exceptions). These memos will also be posted on OWL for viewing by all class members.</i></p>	25%
<p><b>Moot &amp; Debate</b></p> <p>There will be three weeks (six classes) dedicated to moots and debates. The format for each week will be the same. On the first day (Tuesday), there will be two moots in class. This will involve the participation of the Law students mooting (4 per moot), the Law students judging (4 per moot), and Health Science students who will be acting as observers and will debate about the moot in the following class (6 per moot). All other students not actively involved are expected to attend class, but will not participate. On the second day there will be two in-class “debates”/presentations by the Health Studies students who observed the moot. This will repeat for three weeks. The schedule of events will be released at the start of the term. The readings for these classes will be the Research Reports and Legal memos.</p>	
<p><i>Law: Moot – Law students will participate in an in-class moot based on their Legal Memo.</i></p>	20%
<p><b>Debate</b></p> <p>A group of six students will be assigned to observe each moot. While they will not be actively involved in the moot, they will be required to “debate” the proceedings in the next class. The students will be required to respond to the arguments raised in the Legal Memos and Moots by the Law students. Students will take the role of a journalist/policy analyst, and not legal experts. The intent is to mimic the kind of discussion that might take place on a political news show following an important trial. Specific instructions will be given in class regarding the format and approach.</p> <p>*In the event that a student is unable to attend class for their scheduled moot or debate that student will be required to submit a 10 page essay on the moot topic by the last day of classes.</p> <p>**Groups will be assigned one mark for this, but will have an opportunity to speak with the instructor should one or member not contribute sufficiently. In the event that a student not</p>	
	15%

contribute adequately, their mark may be reduced to reflect their contribution.	
<p><b>Final Report</b></p> <p>The final assignment will be a take-home exam where students will be asked to produce a report on one of the public health issues discussed in class. Each student will submit an individual report. Students will be given specific instructions about the topic and format of their report at the beginning of the exam period. There will be a series of specific questions that students will have to answer in their report. Some will require the students to draw upon the Research Reports, Legal Memos, Moot, and Debate related to their particular issue, and some questions may require some additional research.</p> <p>The final report will be due <b>the final day of the exam period</b>, but students can submit their report early. Once a report has been submitted, that submission is final.</p> <p>Note: students <b>will not</b> be assigned to the same issue they wrote their research report on or debated in class. As students will not know which of the remaining issues they will be writing their report on, attendance for the three weeks of moots and debates is mandatory. Students will be randomly assigned to an issue, irrespective of whether or not they were in attendance for the in-class moot and debate, subject only to approved accommodations as set out by the University.</p>	<b>40%</b>
<i>Law: Judgement – Students will be required to write a judgment on the moot they observed as judges. These judgments will be treated as take-home exams. Students will be given specific instructions at the beginning of the exam period.</i>	<b>35%</b>

**Schedule of Evaluations:**

**TO BE UPDATED**

**Evaluation Policies:**

- there will be a 10% penalty per day for late assignments;
- if an assignment more than five days late, it will not be marked, and the student will receive a mark of zero;
- failure to participate in any in-class assignments will result in a mark of zero;
- for group assignments, students will have an opportunity to discuss the participation of group members with the instructor, who reserves the right to modify a student’s grade accordingly (each group member will have an equal opportunity to speak with the instructor);
- the University’s policy on plagiarism will be strictly enforced – and this includes the use of the Research Report and Legal Memos in the Final Report;
- all of the above is subject to the University’s policy on academic accommodations.

**Final Grade:**

The university-wide descriptor of the meaning of letter grades, as approved by Senate:

A+	90-100	One could scarcely expect better from a student at this level
A	80-89	Superior work that is clearly above average
B	70-79	Good work, meeting all requirements and eminently satisfactory
C	60-69	Competent work, meeting requirements
D	50-59	Fair work, minimally acceptable.
F	below 50	Fail

It is expected that the grades for this course will fall between **74-80**. In the event that the course average falls outside this range, a constant may be added (or subtracted) from each student's grade, by the instructor, to bring the class average in line with school policy.

### **Statement on Use of Electronic Devices:**

Electronic devices will be permitted during class time, except during student presentations (moots and debates). Should student use of electronic devices interfere with the classroom, the instructor reserves the right to limit the use of electronic devices.

### **Communication Policy:**

All emails sent to the instructor regarding course material (substantive or procedural) and all submitted questions **must** contain the course name in the email subject line (HS 4092). The instructor will endeavour to respond to all emails within 2 business days.

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## **Additional Statements**

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1. The website for Registrar Services is <http://www.registrar.uwo.ca>.

In accordance with [policy](#), the centrally administered e-mail account provided to students will be considered the individual's official university e-mail address. It is the responsibility of the account holder to ensure that e-mail received from the University at his/her official university address is attended to in a timely manner.

2. **Academic Offences**

Scholastic offences are taken seriously and students are directed to read the appropriate policy, specifically, the definition of what constitutes a Scholastic Offence, in the [Academic Calendar \(westerncalendar.uwo.ca\)](#).

#### **Plagiarism**

Student work is expected to be original. Plagiarism is a serious academic offence and could lead to a zero on the assignment in question, a zero in this course, or your expulsion from the university. You are plagiarizing if you insert a phrase, sentence or paragraph taken directly from another author without acknowledging that the work belongs to him/her. Similarly, you are plagiarizing if you paraphrase or summarize another author's ideas without acknowledging that the ideas belong to someone else. All papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted will be included as source documents in the

reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between Western University and Turnitin.com ([www.turnitin.com](http://www.turnitin.com)).

### **Re-submission of Previously Graded Material**

Without the explicit written permission of the instructor, you may not submit any academic work for which credit has been obtained previously, or for which credit is being sought, in another course or program of study in the University or elsewhere.

### **Use of Statistical Pattern Recognition on Multiple Choice Exams**

Computer-marked multiple-choice tests and/or exams may be subject to submission for similarity review by software that will check for unusual coincidences in answer patterns that may indicate cheating.

## **3. Use of Electronic Devices**

**During Exams:** Unless you have medical accommodations that require you to do so, or explicit permission from the instructor of the course, you may not use any electronic devices during ANY tests, quizzes, midterms, examinations, or other in-class evaluations.

**During Lectures and Tutorials:** Although you are welcome to use a computer during lecture and tutorial periods, you are expected to use the computer for scholastic purposes only, and refrain from engaging in any activities that may distract other students from learning. From time to time, your professor may ask the class to turn off all computers, to facilitate learning or discussion of the material presented in a particular class. **Unless explicitly noted otherwise, you may not make audio or video recordings of lectures – nor may you edit, re-use, distribute, or re-broadcast any of the material posted to the course website.**

**Personal Response Systems** (“clickers”) may be used in some classes. For those classes in which we use this technology, it is your responsibility to ensure that the device is activated and functional. You must speak with the course instructor immediately, if you have any concerns about whether or not your clicker is malfunctioning.

You must use only your own clicker. For all components of this course in which clicker records are used to compute a portion of the grade:

- The use of somebody else’s clicker in class constitutes a scholastic offence;
- The possession of a clicker belonging to another student will be interpreted as an attempt to commit a scholastic offense

#### 4. **Academic Considerations and Absences from Lectures and Assessments**

##### ***Religious Accommodation***

When a course requirement conflicts with a religious holiday that requires an absence from the University or prohibits certain activities, students should request (in writing) any necessary academic considerations at least two weeks prior to the holiday to the academic counsellors in their Home Department. Additional information is provided in the [Western Multicultural Calendar](#).

##### ***Academic Accommodation***

Please contact the course instructor if you require lecture or printed material in an alternate format or if any other arrangements can make this course more accessible to you. Students with ongoing accommodation needs within this course are also encouraged to contact [Accessible Education](#), which provides recommendations for accommodation based on medical documentation or psychological and cognitive testing. The policy on Academic Accommodation for Students with Disabilities can be found [here](#).

##### ***Academic Consideration***

The University recognizes that a student's ability to meet their academic responsibilities may, on occasion, be impaired by extenuating circumstances that are medical or compassionate in nature. These extenuating circumstances may be acute (short term), or it may be chronic (long term), or chronic with acute episodes. In all cases, students are advised to consult with the academic counsellors in their home units, at their earliest opportunity. Academic counsellors may refer students to [Accessible Education](#) for ongoing academic accommodations.

Most forms of academic consideration require documentation, and this documentation is to be submitted to academic counsellors within five (5) business days of their return to academic responsibilities. Any such documents will be retained in the student's file, and will be held in confidence in accordance with the University's [Official Student Record Information Privacy Policy](#). Once the petition and supporting documents have been received and assessed, appropriate academic considerations shall be determined by academic counseling, in consultation with the student's instructor(s). Academic considerations may include extension of deadlines, waiver of attendance requirements for classes/labs/tutorials, arranging Special Exams or Incompletes, re-weighting course requirements, or granting late withdrawals without academic penalty. Academic considerations shall be granted only where the documentation indicates that the onset, duration and severity of the illness are such that the student could not reasonably be expected to complete their academic responsibilities. (Note – it will not be sufficient to provide documentation indicating simply that the student “was seen for a medical reason” or “was ill.”).

Whenever possible, students who require academic considerations should provide notification and documentation in advance of due dates, examinations, etc. Under no circumstances are students expected to submit rationales for (or documentation of) any absences, to course



instructors. Students are, however, required to follow-up with course instructors, in a timely fashion, to identify the ways in which the academic consideration will be implemented.

### **Examination Conflicts**

A student completing tests or examinations with flexible submission times (e.g., where one or more evaluation is a take-home assessment) cannot request alternative arrangements unless a conflict cannot be avoided by rescheduling writing the exam to a different time within the window specified by the instructor. This applies to direct conflicts as well as “heavy load” conflicts (e.g., three exams within a 23-hour period). The student should discuss any concerns about a potential conflict and/or request academic considerations with their academic counselling unit prior to the deadline to drop a course without academic penalty

In the case of online tests and examinations, use of a “Conflict Room,” wherein student can write two proctored exams concurrently, will be interpreted as arrangements for continuous proctoring.

### **5. Contingency Plan for an In-Person Class Pivoting to 100% Online Learning**

In the event of a situation that requires this course to pivot to online content delivery, all remaining course content will be delivered entirely online, either synchronously (i.e., at the times indicated in the timetable) or asynchronously (e.g., posted on OWL for students to view at their convenience). The grading scheme will **not** change. Any remaining assessments will also be conducted online as determined by the course instructor.

Note that disruptive behaviour of any type during online classes, including inappropriate use of the chat function, is unacceptable. Students found guilty of Zoom-bombing a class or of other serious online offenses may be subject to disciplinary measures under the Code of Student Conduct.

### **6. Online Proctoring**

Tests and examinations in this course may be conducted using a remote proctoring service. By taking this course, you are consenting to the use of this software and acknowledge that you will be required to provide **personal information** (including some biometric data) and the session will be **recorded**. Completion of this course will require you to have a reliable internet connection and a device that meets the technical requirements for this service. More information about this remote proctoring service, including technical requirements, is available on Western’s Remote Proctoring website at: <https://remoteproctoring.uwo.ca>.

### **7. Grades**

Where possible assignment objectives and rubrics will be posted on OWL.

Generally, students can expect some form of feedback on their performance in a course before the drop date of March 7<sup>th</sup>, 2024.

A+	90-100	<i>One could scarcely expect better from a student at this level</i>
A	80-89	<i>Superior work that is clearly above average</i>
B	70-79	<i>Good work, meeting all requirements and eminently satisfactory</i>
C	60-69	<i>Competent work, meeting requirements</i>
D	50-59	<i>Fair work, minimally acceptable.</i>
F	below 50	<i>Fail</i>

**Rounding of Grades** (for example, bumping a 79 to 80%):

This is a practice some students request. The final grade documented is the grade that you have achieved. There is no rounding to the next grade level, or 'giving away' of marks. Please don't ask me to do this for you; the response will be "please review the course outline where this is presented".

### **Appealing a Grade Within this Course**

You have the right to appeal any grade within this course. The grounds for a grade appeal may be one or more of: medical or compassionate circumstances, extenuating circumstances beyond the student's control, bias, inaccuracy, or unfairness. All grounds advanced in a request for relief must be supported by a clear and detailed explanation of the reasons for the request together with all supporting documentation.

Appeals generally proceed in this order:

1. Course instructor (informal consultation)
2. Department Chair (submission of written request)
3. The Dean of the Faculty (submission of written request)

In the case of perceived procedural unfairness, steps 2 and 3 are carried out within the Department and Faculty offering the course. In the case of extenuating medical or compassionate circumstances that impact on a grade, steps 2 and 3 are carried out within a student's Home Department and Faculty.

A request for relief against a mark or grade must be initiated with the instructor as soon as possible after the mark is issued. In the event that the instructor is not available to the student, or fails to act, or if the matter is not resolved satisfactorily with the instructor, a written request for relief must be submitted to the Chair of the Department within three weeks of the date that the mark was issued. In the case of a final grade in a course, the written request for relief must be submitted to the Chair of the department by January 31<sup>st</sup> (for first-term half courses) or June 30<sup>th</sup> (for second-term half courses or full-year courses)

## 8. Support Services

### Health and Wellness:

Information regarding health and wellness-related services available to students may be found at <http://www.health.uwo.ca/>.

Students who are in emotional/mental distress should refer to Mental Health@Western (<http://www.health.uwo.ca/>) for a complete list of options about how to obtain help.

There are various support services around campus and these include, but are not limited to:

*Student Development Centre* -- <http://www.sdc.uwo.ca/ssd/>

*Ombudsperson Office* -- <http://www.uwo.ca/ombuds/>

## 9. Student Code of Conduct

The purpose of the Code of Student Conduct is to define the general standard of conduct expected of students registered at Western University, provide examples of behaviour that constitutes a breach of this standard of conduct, provide examples of sanctions that may be imposed and set out the disciplinary procedures that the University will follow. For more information, visit <https://www.uwo.ca/univsec/pdf/board/code.pdf>