

WIDENER UNIVERSITY SCHOOL OF LAW
Right to Die and End-of-Life Decisions (724x)

Spring 2010

Professor Thaddeus Pope

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Time and Place: Tuesdays 4:20 – 6:10 p.m. • Marshall-Dennehey Room

Final Paper Due: Email by 11:59 p.m. on May 14, 2010

I. Course Description

The problems tackled in this course are interesting and current. The course will provide you with the opportunity to observe the legal system's response to novel and important issues of great public interest. And you not only will learn some substantive law but also will gain a greater appreciation for the operation of legal process, as you see how the system attempts to come to grips with novel and complex issues.

The primary requirement of this seminar is that you research and write a scholarly legal paper on the approved end-of-life health law topic of your choice. To a significant extent the specific substantive issues to be discussed will be defined by the paper topics that you and your fellow students select. *I encourage you to begin thinking right away about your paper topic.*

II. Course Objectives

- A. Develop both your legal and interdisciplinary research skills.
- B. Enhance and hone your legal writing skills.
- C. Develop your oral presentation skills.
- D. Master a specific, narrow topic, demonstrating original analysis and synthesis of material previously not synthesized.
- E. Develop your ability to recognize, analyze, and critically evaluate bioethical issues.
- F. Prompt your self reflection and provide experience in communicating and listening to moral viewpoints.

III. Required Materials

- A. EUGENE VOLOKH, *ACADEMIC LEGAL WRITING* (3d ed. Foundation 2007) (ISBN 978-1599411958).
- B. ELIZABETH FAJANS & MARY R. FALK, *SCHOLARLY WRITING FOR LAW STUDENTS: SEMINAR PAPERS, LAW REVIEW NOTES, AND LAW REVIEW COMPETITION PAPERS* (3d ed. West 2005) (ISBN 978-0314146311).

IV. Recommended Materials

- A. MARY B. RAY & JILL J. RAMSFIELD, *LEGAL WRITING: GETTING IT RIGHT AND GETTING IT WRITTEN* (3d ed. West 2000).
- B. Richard Delgado, *How to Write a Law Review Article*, 20 U.S.F. L. REV. 445-54 (1986).
- C. A good style guide, like *GARNER'S MODERN AMERICAN USAGE*

V. Class Schedule

- A. The class will meet on (some) Tuesdays from 4:20 to 6:10 p.m. in the Marshall-Dennehey Room on the second floor of the library. There is no class on February 16th due to in-service or on March 2nd due to spring break. The last officially scheduled class is on April 27. As indicated below, during the middle of the semester, we will meet individually rather than as a group.
- B. I strongly encourage you to attend the *Widener Law Review* symposium on managing risk at the end of life, on Friday, March 26.
- C. Each student must have at least *three* individual conferences with me. The first must be before February 9. The second must be after March 1, when I provide written feedback on your outline. The third must be after April 10, when I provide written feedback on your rough draft. (While these three meetings are mandatory, I encourage you to meet with me and to email me throughout the semester as you research and write your paper.)

VI. Seminar Paper -- Deadlines

- A. **January 26:** Declare your paper topic and tentative paper claim. The topic declaration comprises 5% of your course grade. There are no specific restrictions as to topic, other than the obvious one that the paper must be in the general area of end-of-life healthcare law. Schedule your first individual conference anytime between January 12 and February 9.

B. **February 9:** Submit a preliminary bibliography of sources that you used and plan to use. Your bibliography should separately list: (i) primary legal authorities, (ii) secondary legal authorities, and (iii) non-legal authorities. The bibliography comprises 5% of your course grade.

C. **February 23:** Submit a written outline that includes:

1. Tentative title
2. Thesis statement
3. All the major topic areas and subtopics (*i.e.* three levels deep)

After carefully choosing and defining a topic (by Jan. 26), you should begin preliminary research on that topic. This preliminary research will soon reveal the major issues and sub-issues included in your topic.

Your outline should follow a traditional format (in the style of this syllabus). It should clearly set out the major issues and sub-issues. Your outline should reveal the basic structure and flow of your topic and forthcoming paper. As such it is fundamentally important that it be done carefully and thoughtfully. Outlines should be double-spaced and be about three pages long. The outline comprises 5% of your course grade.

D. **March 1:** By this date, I will provide detailed written feedback on your outline. After you have reviewed this, please schedule your second individual conference.

E. **March 30:** Submit a substantive rough draft (not a first draft). The rough draft comprises 15% of your course grade. More significantly, without a substantial rough draft, I will be unable to provide the feedback necessary to ensure that your final paper will be adequate.

The rough draft should reflect thorough, exhaustive research on your topic and be a complete (if still rough and unpolished) version of your paper. It should follow basically the structure established in your original or revised outline. But please note, that you are not bound by this preliminary outline and you may change the organization or issues as you see fit in order to do justice to your research topic.

Footnoting should be fairly complete, needing only some minor rechecking, reorganizing and redrafting. Your thought processes should be clear, and only your language and presentation should still need much work. Obviously, the more complete and "finished" this first draft is, the less effort will be needed to mold it into the final draft. A good operating assumption is that the first draft is at least two-thirds of the way toward the finished product. First drafts should be formatted per the requirements for the final paper. Target lengths of the first drafts should be at least seventeen pages of text and fifty footnotes.

F. **April 10:** By this date, I will provide detailed written feedback on your rough draft. After you have reviewed my memo, please schedule your third individual conference to discuss your draft.

- G. **May 14:** Submit a complete and polished paper in Word or PDF to tmpope@widener.edu, 11:59 p.m. Make the document filename your first and last name (e.g. ThaddeusPope). The final paper comprises 60% of your course grade.

VII. Seminar Paper - Requirements

- A. **Miranda Warning:** For many students the seminar paper will be the most important, most scholarly research effort of their law school experience. In essence, it is the Doctor of Jurisprudence requirement that most closely parallels the thesis and dissertation requirements of non-law graduate degrees.
- B. **General Standard:** The final draft should be a finely polished document, professional in appearance and reflecting logical overall structure, meticulous and generous footnoting, and advanced command of the English language. Good examples of such efforts are the student notes and comments published regularly in our law review and others.
- C. **Length:** Your final paper must contain between 5000 and 6000 words (or 25 pages) (exclusive of footnotes). It must contain at least 75 footnotes, including both citation and “speaking” footnotes.
- D. **Format:** Both the first draft and the final paper must be double-spaced with one-inch margins all around. The main text must be in 12-point Times font. The footnotes must be in 9-point Times font and in Bluebook form. On the first page, center the title and your name under the title.
- E. **Structure:** The standard law review article structure looks *roughly* like this:

Brief Intro

What is the issue?

Why is it important?

What is the author's position or proposition?

Legal Background

Factual History

Legal History

Discuss Open Issue

Remind the reader where we are today

What are its ramifications for today and for the future?

How much does the factual and legal history influence today's thinking?

Make proposal or take a position

Develop all the favorable arguments

Explain each argument by

Giving its advantages

Giving its disadvantages

Show why advantages outweigh disadvantages

Conclusion of favorable arguments

Develop all the arguments against the proposal or position

(Follow same procedure as "favorable arguments")

Examine how your proposal or position supports:

Public Policy
Current Statutes
Other scholar's theory
Current political thought

Conclusion

Repeat Intro
Stress proposal or position

F. **Standards:** I will evaluate the papers using three primary criteria:

1. *The quality of research:* How complete is your examination of the relevant ethical/medical/legal sources? To what extent have you adequately uncovered and documented the information necessary to sustain your thesis?
2. *The quality of analysis:* To what extent have you have provided a well-structured argument in support of your thesis? How adequate is the evidence offered for each premise of this argument?

While major papers may seem like yet one more law school hoop to jump through, they in fact serve a valuable purpose in helping you gain experience in synthesizing original ideas and arguments into a compelling written document, a valuable skill in any field of endeavor.

3. *The quality of presentation:* To what extent does your paper's organizational structure effectively communicate its thesis? To what extent does your paper conform to the rules of grammar and style? To what extent has your paper been proofread?

I grade grammar and style, not just "content" – because even the most brilliant content gets obscured by sloppy writing. Most of you will do far more writing than speaking in summer jobs and as new lawyers, so you have to learn to write, as well as read and speak, about the law you are learning.

G. **Grading:** The final paper will constitute 60% of your course grade.

H. **Publication:** Students should be able to place the better papers for publication in general or specialized law reviews. In addition, there are paper competitions for law students writing in bioethics.

VIII. Oral Presentation

- A. During the several last class sessions, each student will make a 20-minute presentation on the topic of their paper.
- B. Four days prior to your presentation, you must distribute to the class (through either email or posting to the TWEN site):
 - 1. A one-page outline of your presentation
 - 2. Around ten pages of reading material -- whether from your own paper or a published source -- that will provide both the class and me with a sufficient background to best provide you with constructive feedback
 - 3. You may also want to distribute some discussion questions
- C. The oral presentation will constitute 15% of your grade. You will be graded on:
 - 1. The teaching effectiveness of your presentation
 - 2. Your responses to questions
 - 3. The content of the presentation
 - 4. Your attendance and participation at other presentations

The goal of the presentation is to teach your colleagues the important, primary issues that have grown out of your research for the paper, and how you think these issues should be resolved (in effect, your thesis). In furtherance of this goal, think about the best way to present your points:

- 1. Keep your presentation concise and focused. Start by introducing your topic, explaining why it is important, summarizing any needed background information, and setting forth your thesis. In many ways, the form of the presentation's introduction follows the form of the paper's introduction. Follow your introduction by setting out the main issues you addressed, what methods you used to resolve them, and what conclusions you therefore reached.
- 2. You may but are not required or expected to use PowerPoint. But consider using the board, an overhead, or a handout. Creating a visual aid will not only help you better understand your issues; it will also help the class learn the about the issues in more than one way.
- 3. Use a hypothetical, case study, or narrative to illustrate your problem in a more concrete fashion. After giving an overview of the topic and indicating where the issues you are addressing fit in, it often helps to use one of these techniques to present the problem more concretely. Alternatively, you might want to start your presentation with the hypothetical, case study, or narrative to draw in the class's interest and highlight the importance of the problem.

- D. The rest of the class must be prepared to ask informed, tough questions of the presenter. Prepare for and pay attention to the presenter as if it was a presentation by the person you most respect. Part of the benefit of a seminar is the collaborative work that occurs in the discussions. Meaningful participation counts toward your oral presentation grade. Constructive contributions to discussions about your peers' presentations will be very highly weighted. Similarly, disrespect, inattention, or non-constructive comments to your peers about their presentations will be costly.

IX. Grading Summary

Components of the Course Grade:

1.	Topic Declaration	5%
2.	Bibliography	5%
3.	Outline	5%
4.	Substantive rough draft	15%
5.	Oral presentation	15%
6.	Final paper	60%

X. Office Hours

I look forward to talking to you outside class. (Indeed, this is required to a certain extent through the individual conferences.) There are several means of doing this:

- A. After class: I will remain in the classroom after each class for all trailing questions, until or unless we are kicked out by another class.
- B. Office: I can typically be found in my office after class. If this is not a convenient time, just let me know in class or by email and we can make an appointment with each other. You are welcome to drop in my office anytime, but it is best to confirm a particular time in advance.
- C. Email: Feel free to e-mail me at tmpope@widener.edu if you are unable to come by in person.
- D. Lunch: I have found that grabbing a quick lunch is a good way to get to know each other. If you and one or two other students want to share a bite, please let me know. In general, it would be best to suggest in advance a few proposed dates, so we can match our schedules.

XI. TWEN

The course TWEN site includes three types of materials:

- A. Getting started: choosing a topic and claim
- B. Researching bioethics and health law
- C. Writing a law school seminar paper

You can also use the TWEN site to distribute your oral presentation materials.

XII. Course Calendar

January 12	Introduction and Orientation Recommended reading: <ul style="list-style-type: none">• VOLOKH 9-39 & 84-87 (choosing a topic and claim)• VOLOKH 73-75 & 87 (budgeting your time)• FAJANS & FALK 14-45, 207• Pre-assembled lists of bioethics paper topics• Meeker, <i>Stalking the Golden Topic</i>, 1996 Utah L. Rev. 917.• Whisner, <i>Seeking Inspiration</i>, 100 L. LIB. J. 773 (2008).
January 19	Researching end-of-life law Recommended reading: <ul style="list-style-type: none">• VOLOKH 89-101 (researching)• FAJANS & FALK 46-56• Research pathfinders• Nevers, <i>Thorough Academic Legal Research Will Improve Your Papers</i>, STUDENT LAWYER (Oct. 2009).• Whisner, <i>How Do You Know When Research Is Good?</i> 98 L. LIB. J. 721 (2006).• RAY & RAMSFIELD 283, 323-31, 414-15
January 26	*DUE: Declaration of paper topic *DUE: Make appointment for one-on-one discussion of topic Moving from topic to claim Recommended reading: <ul style="list-style-type: none">• VOLOKH 251-259 (academic ethics)• FAJANS & FALK 98-116• Post, <i>Writing Guidelines</i> (Temple Law 2009).• Suzanne E. Rowe, <i>Unblock Writer's Block</i>, OR. ST. BAR BULL., Oct. 2006, at 37.• RAY & RAMSFIELD 414

February 2	No class meeting Recommended reading: <ul style="list-style-type: none"> • VOLOKH 39-69 & 82-84 (organizing your paper) • FAJANS & FALK 57-71 • Hamilton College Nesbit-Johnson Writing Center Handouts
February 9	*DUE: Bibliography No class meeting Recommended reading: <ul style="list-style-type: none"> • VOLOKH 75-77 (choosing a title) • FAJANS & FALK 135-138 • VOLOKH 134-181 (using empirical research)
February 16	No class – law school in-service day
February 23	*DUE: Written outline *DUE: Make appointment for individual conference on outline No class meeting Recommended reading: <ul style="list-style-type: none"> • VOLOKH 102-106 (writing your paper) • FAJANS & FALK 71-73 • Marshall Kapp, <i>Writing Research Papers: Top Ten Tips</i>, LAW TEACHER, Fall 1999, at 10-11.
March 2	No class – spring break
March 9	No class meeting Recommended reading: <ul style="list-style-type: none"> • VOLOKH 106-114 (editing your paper) • FAJANS & FALK 74-91 • STEPHEN V. ARMSTRONG & TIMOTHY P. TERRELL, ADVANCED WRITING AND EDITING FOR LAWYERS: BEYOND TIPS TO FUNDAMENTAL PRINCIPLES 53-54 (ALI-ABA 2004). • Hamilton College, Nesbit-Johnson Writing Center Handouts on Editing
March 16	No class meeting Recommended reading: <ul style="list-style-type: none"> • VOLOKH 114-134 (polishing your paper) • FAJANS & FALK 91-97 & 117-134 • Hamilton College, Nesbit-Johnson Writing Center Handouts on Grammar/Style

March 23	No class meeting Draft and edit rough drafts
March 26	The <i>Widener Law Review</i> is hosting an all-day symposium in the Ruby Vale Courtroom on <i>Managing Risk at the End of Life</i> . I strongly recommend that you attend. Internationally recognized experts will be speaking, including: Kathryn Tucker, who argued the U.S. Supreme Court and Montana cases on assisted suicide, Timothy Quill, Charles Sabatino, Jonathan Keyserling, and Kathy Cerminara. Also speaking are E.D. Pa. Civil Chief Margaret Hutchinson; Delaware and Pennsylvania judges; and physicians and nurse managers.
March 30	*DUE: Rough draft *DUE: Make appointment to review rough draft Student Presentations (1-3) Recommended reading: <ul style="list-style-type: none"> • <i>Oral presentation tips</i>
April 6	Student Presentations (4-6)
April 13	Student Presentations (7-9)
April 20	Student Presentations (10-12)
April 27	Student Presentations (13-15)
May 14	*DUE: Final paper – email by 11:59 p.m. No class meeting