Compulsory Courses

LLAW620 The regulation of biomedical research

The course is aimed at students seeking a understanding of the framework of legal and ethical regulation (both locally and internationally) of biomedical research in all its common aspects, particularly in the context of international standards for clinical trials (pharmaceutical trials); direct human experimental and biomedical research involving human subjects; ‘non-invasive’ epidemiological and other studies involving only the use of data; human tissue banking; cohort studies; biobanking; genetic testing and screening, genomic research; the use of ‘legacy’ diagnostic tissue or data collections; the sharing of personal, medical and genomic information; public ‘diseases registries’ and the use of medical information for public health purposes; the legal and ethical regulation of multi-centre and multi-jurisdictional collaborative biomedical research; international standards for ethical governance of biomedical research at the institutional level (through IRBs, ECs, HRECs); EMR (electronic medical records) databases; data-mining and the implications of migration to large-scale national health records systems.

Fundamental concepts such as the informed consent of subjects (at common law and under ICH rules) with particular emphasis on the consent given by or on behalf of minors, incompetent subjects and vulnerable populations, return of benefits to research subjects or research subject populations, assessment of risks, randomized controlled trial (RCT) and clinical equipoise will be considered in the context of clinical trials, as well as the impact and requirements of international guidelines.

The course seeks to help legal practitioners understand and keep abreast of developments (and to enable them to advise the medical and biomedical research sector) in the rapidly developing field of biomedical research, and to equip them with the basic language and vocabulary necessary to follow and keep abreast of legal and ethical developments in the field. The particular focus of the course is biomedical research carried out by biomedical researchers who are also registered physicians, on research subjects (or personal or medical data relating to such subjects) who are also the patients of the physicians.

Assessment: 30% class participation, 70% take-home final examination

LLAW629 Introduction to medical law

Introduction to Medical Law is an introductory Core Course which will be compulsory for those LLM in Medical Ethics and Law students without a foundational LLB, JD or other equivalent common law system qualification and which aims at introducing
students without a common law background to the legal system, legal methods and the law of tort. LLM in Medical Ethics and Law students with a foundational LLB, JD or other equivalent common law system qualification will be required to take the Introduction to Medical Practice Core Course instead. Where a LLM in Medical Ethics and Law student has both a foundational LLB, JD or other equivalent common law system qualification and a degree in medicine, the Programme Director will exercise his or her discretion to decide whether to (1) require the student to take Introduction to Medical Law or (2) require the student to take Introduction to Medical Practice or (3) grant an exemption.

The introductory portion of the course will consist of Legal System and Methods: an overview of the nature of legal method and precedent and of sources of law, as well as the framework of the Basic Law and general legal system in Hong Kong. In particular, the workings and methodology of the English common law system (on which Hong Kong medical law is largely based) will be examined. Students will be equipped with the necessary academic tools for legal analysis, research and writing. The course will familiarize students without legal backgrounds with distinctions between civil and common law systems as well as the role of international law. Within the common law framework, students will build understanding of the role of precedent, sources of law and governmental authority and distinctions between procedural and substantive law. The course will also cover the topic of health as a human right and its relation to national and international law.

The second portion of the course will cover Introduction to Medical Law. In this section, students will be given an introduction to the law of tort, with an emphasis on the torts of trespass and negligence. Case studies drawn from medico-legal claims will be used. The concept of causation and damages will also be covered briefly. A short introduction to the differences between the various kinds of actions that may be faced by healthcare professionals (coroners’ inquiries, professional disciplinary proceedings, criminal proceedings, and civil claims in trespass, negligence or in contract) will also be given. Consideration will also be given to the legal responsibilities of healthcare professionals other than physicians, including nurses, allied healthcare professionals, medical social workers and counsellors.

Assessment: 30% class participation, 70% take home examination

LLAW6270  Introduction to medical practice

Introduction to Medical Practice is an introductory Core Course primarily intended for LLM in Medical Ethics and Law students who have a foundational LLB, JD or other equivalent common law system qualification. LLM in Medical Ethics and Law students without such a qualification will be required to take the Introduction to Medical Law Core Course instead, which aims at introducing students without a legal background to the legal system, legal methods and the law of tort. Where a LLM in Medical Ethics and Law student has both a foundational LLB, JD or other equivalent common law system qualification and a degree in medicine, the Programme Director will exercise his or her discretion to decide whether to (1) require the student to take Introduction to Medical
Law or (2) require the student to take Introduction to Medical Practice or (3) grant an exemption.

This course is designed to give students with a legal background a better understanding of the healthcare system in Hong Kong, the allocation of financial and manpower resources in the healthcare sector, healthcare financing in Hong Kong, medical education and training in Hong Kong, the arrangement and organization of healthcare services in both the public and the private sectors, an overview of the likely impact of new technologies in clinical practice and in the field of biomedical research, an overview of the regulatory framework governing the healthcare professions and their work, and an introduction to specific public health issues.

Students will be given a perspective on practical problems, issues and constraints faced by medical practitioners so that their perspective of and approach to issues and problems in the field of medical ethics and law will not be confined solely to legal considerations. The class covers essential topics in health care practice with an emphasis on applied learning through practitioner narratives, case studies and site visits.

In order to practice in the dynamic, technologically and ethically complex health care arena, lawyers must understand the practical and cultural realities faced by medical professionals. This course aims to provide an introduction to both the experience of medical practice, and to important topics in health care management and service delivery.

The first portion of the class will focus on Health Care Delivery and will address key topics in management and administration of health care organisations such as financing, resource allocation, provider payment and service delivery.

The second portion of the class will consist of Medical Case Studies, and will serve as an introduction to the experience of care from both a patient and physician perspective. Students will be familiarized with the elements of a patient encounter in different types of health care settings using an interactive case-study based model taught by practitioners.

The class will be supervised by teachers from both the Faculty of Law and the Li Ka Shing Faculty of Medicine.

Assessment: 30% class participation, 70% take-home final examination

**L.LAW6271  Bioethics foundations**

This is a course in bioethics offering an introduction to the fundamentals of bioethics.

The course provides a firm grounding in traditional approaches to bioethics and relevant basics of legal and philosophical theory, while also introducing students to non-Western perspectives. By making connections to moral and legal philosophy as well as to bioethics,
students will be able to locate current questions of policy and law within a broader academic context. The course will emphasize building student understanding of philosophical fundamentals, which are involved in and may provide a different perspective to more specific topics in bioethics such as the end of life and the physician-patient relationship.

The syllabus covers significant schools of thought essential to an understanding of bioethics and medical law, such as consequentialism, virtue ethics, and deontology. Students will also be introduced to non-Western perspectives, such as concepts in Confucian ethics. Throughout the class, students will examine legal, ethical, and economic and policy dimensions of questions in bioethics using the philosophical tools they develop. This will generally take the form of case studies, which students will be given to analyze and debate in class. Such case studies will cover topics such as rationing in modern health care systems, organ transplantation, the use of reproductive technology and human enhancement. Through the in-class debates, students will develop the ability to identify the key issues of bioethics that arise in the case studies, as well as construct well-formed arguments in support of or against a position in these debates.

Assessment: 30% class participation, 70% take-home final examination

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**LLAW6272 The physician-patient relationship**

The course examines in-depth the legal relationship between the physician and the patient, with a particular focus on the basic ethical and legal duties and responsibilities owed by registered medical practitioners and other healthcare professionals (including dentists, pharmacists, nurses, medical social workers, counsellors, medical diagnostic professionals, clinical trials administrators and biomedical researchers) to their patients. The aim is to equip students with a sound understanding of the basic legal principles and doctrines underlying the legal and ethical responsibilities and duties owed to their patients.

In particular, the specific tort of medical negligence will be examined in detail, as well as claims in contract, particularly in relation to non-therapeutic or purely elective procedures. The applicable standard of care for all three elements of the global duty of a physician will be covered, with particular attention being paid to recent law reform in the areas of informed consent, adequacy of disclosure and information, as well as causation. The responsibilities and duties owed by entities such as hospitals, health insurance companies, employers will also be examined in the context of organizational and institutional liability and non-delegable duties in the provision of healthcare. The ethical and legal obligations of professionals in allied healthcare professions such as nursing, pharmacy and supporting medical therapies will also be covered.

Apart from medical negligence, the course will also deal with other important responsibilities of physicians such as the taking of consent from minors and incompetent patients; medical confidentiality and privacy of medical information and records; the refusal of treatment; an introduction to advance medical directives; the concept of medical futility and the withdrawal of treatment. Statutory obligations under the Medical Registration Ordinance and other relevant statutory instruments will also be covered, as
well as an introduction to professional disciplinary proceedings. The course will cover disciplinary processes and fitness to practice, professional ethics, professional licensing and codes of conduct, and statutory and common law rules and concepts applicable to disciplinary proceedings.

Students will also be given an introduction to duties that are likely to arise with the advent and widespread adoption of new technologies in medical practice – for example, likely future developments in the standard of care in the context of genomic medicine, precision medicine, genetic testing and screening, gene editing and germ-line gene therapy.

Assessment: 30% class participation, 70% take-home final examination

LLAW6274 The beginning and end of life

The course examines in depth some of the most compelling ethical, legal and social issues brought about by the advent of modern technology which has blurred the certainty traditionally taken for granted as regards the constructs of the beginning of life and of its end.

Major components of the course include the following sections:

The Foetus and the Beginning of Life. When does human life begin from the perspective of the law? What kind of protections does the law provide for the foetus or the unborn child? Starting with an examination of the common law doctrines bearing on the beginning of human life, we move onto a consideration of the relevant provisions of the Offences Against the Person Ordinance governing abortion, child destruction and infanticide, and then to a wider consideration of abortion laws and policies around the world. We will also examine current legal perspectives on the balance of rights between the interests of the unborn child and its mother, and how such perspectives affect the structure of legal regimes governing the right to abortion, and/or to the limits placed on such procedures. Enforced sterilization will also be covered.

Assisted Reproductive Technologies. This section deals with the impact of artificial or assisted reproductive technologies, including in vitro fertilization, donated gametes, and surrogacy. What controls should there be on genetic screening and genetic selection procedures, including procedures such as preimplantation genetic diagnosis (PGD) which allow the selection of embryos (whether against severely disabling or likely fatal heritable conditions, or for gender or ‘social’ reasons) for implantation? How should supernumerary or ‘spare’ embryos be dealt with?

Decisions at the End of Life. How is death currently defined in the law, and is it a moving target because of rapid developments in medical technology? On what basis is the shift from the traditional cardiovascular death standard to that of ‘whole-brain death’ to be justified? In this section, the course examines at length ethical, legal and social perspectives on patient autonomy and the right of self-determination, anticipatory decisions and advance directives, refusal of treatment, and emergency treatment of the incompetent or unconscious. It explores the concept of medical futility, and the right to
refuse treatment (and conversely, the right to demand treatment), before going on to consider arguments for the right to die and euthanasia.

Assessment: 30% class participation, 70% take-home final examination

Capstone Courses

LLAW6054  9-credit Dissertation

An individual research project on an approved topic carried out under the supervision of an assigned teacher, resulting in the submission of a research paper not exceeding 10,000 words (excluding tables of cases and statues, notes, appendices and bibliographies). The dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

Assessment: 100% research paper

LLAW6273  Practicum project

The Practicum shall comprise a 5,000 word writing project based on (i) one or more short clinical attachment programme(s) as the Programme Director may approve in a hospital, any other appropriate healthcare or biomedical institution, or any other appropriate medico-legal setting and/or (ii) an academic attachment programme as the Programme Director may approve. The duration and the number of hours of such attachment programme(s) shall be as approved by the Programme Director. Each student will be required to declare that he or she has no interest or relationship with his or her supervisor in the clinical or academic attachment programme(s), as the case may be. If any institution to which the student is attached in the clinical and/or academic attachment programme(s) is not on the list of pre-approved institutions as updated from time to time, the student will be required to justify his or her choice.

Students will be paired with an academic or practitioner mentor, who will assist in preparing for the practicum project. Students will be provided with guidance in improving their research and writing skills over the course of the writing process. Each student will meet regularly with his/ her assigned mentor to develop his/ her ideas for his/ her writing project and assess his/ her progress in preparation for the presentation.

Students will be placed with a partner organization after consultation with their assigned academic or practitioner mentors. They must receive a satisfactory written report from the supervisor at the placement organization reflecting that the student has demonstrated a serious approach to the work assigned, as well as shown satisfactory attendance at and completion of tasks assigned. Satisfactory maintenance of an Electronic Journal documenting weekly objectives, work output and achievement of goals is also required. Finally, students must submit a research paper on a topic related to the work of the
placement organisation (to be agreed in consultation with the Programme Director and the supervisor).

As for the presentation, students will be scheduled to give a class presentation of their practicum project experience. Nontraditional formats may be explored subject to the Programme Director’s approval.

Assessment: 50% practicum experience, 50% writing project

Law Elective Courses

LLAW6005 Hong Kong intellectual property law

A comparative study of the Hong Kong law relating to patents, copyright, registered designs, trade marks, trade secrets, trade descriptions, common law remedies including and akin to passing off and injurious falsehood, and associated rights in information. Previous study or practice in the area of intellectual property would be an advantage but is not essential provided some preliminary private study is undertaken.

Assessment: 0% or 25% optional assignment, 100% or 75% take home examination

LLAW6046 Privacy and data protection

This course will explore privacy and data protection in an increasingly interconnected data economy. Reference will be made to the balance between privacy on the one hand and other rights as well as public and social interests on the other. The challenges posed by technological innovations and applications such as the internet, social media, mobile applications, cloud computing and Big Data will be highlighted. Specific topics to be addressed will include: (a) the concept of ‘privacy’ and the genesis and development of its political, philosophical and economic underpinnings; (b) existing common law and statutory protection: the equitable remedy for breach of confidence, defamation, copyright, the intentional infliction of emotional distress, the public interest, remedies; (c) the protection of ‘personal information’: Personal Data (Privacy) Ordinance, data protection principles, data access and correction rights, regulation of direct marketing, transborder data flow, Interception of Communications and Surveillance Ordinance, Electronic Health Record Sharing System Ordinance; (d) Privacy Commissioner for Personal Data: powers, functions, enforcement, exemptions, from data protection principles. The course will focus on the Hong Kong situation but reference will be made to relevant international human rights instruments and the global and regional trends and developments.

Assessment: 40% research assignment, 60% take home examination

LLAW6106 Global information technology law and practice
This course examines the legal and policy issues relating to information technology (IT) from a comparative, global perspective. It covers a wide range of issues involving how national governments regulate the technology of internet and how private citizens’ rights relating to internet are protected. Issues to be canvassed include privacy and personal data, internet jurisdiction, regulation of internet marketing, issues in electronic transactions, internet governance, domain name business models and disputes intellectual property challenges for new business models, legal issues raised by cloud computing, as well as net neutrality and telecom regulation.

Assessment: 25% class presentation, 75% final paper

LLAW6120 Intellectual property and information technology

Given the ubiquity of information technology (IT) today, intellectual property (IP) issues related to IT have never been more challenging. With the predominance of frequent headlines about IT-related IP matters, IP and IT is, indisputably, one of the topics that has aroused great interest and attention today.

The course looks at the main IP issues related to IT, how IP can be used to protect, manage and create value from IT innovations, products and creations, and how the dynamic nature of IT would never leave IP law remain static.

Assessment: 10% presentation and class participation, 10% quiz, 30% exam, 50% research paper

LLAW6132 International and comparative intellectual property law

This course introduces the international framework within which intellectual property law operates, including copyright, patents, trademarks, industrial designs, unfair competition, trade secrets, geographic indications, and other forms of intellectual property (IP). The course examines how multilateral conventions and agreements such as Berne Convention, Paris Convention and TRIPS Agreement shape national IP laws, the role of international bodies such as WIPO and WTO, the effect of bilateral agreements, and other international influences on the development of IP law. The course also introduces the enforcement provisions and WTO dispute settlement mechanism concerning international IP disputes. While devoting special attention to IPRs protection for cutting edge technologies such as biotechnology and information technology, the course also discusses the protection for traditional knowledge and folklore, and the overall implications of international IP protection for global competition between developed and developing countries in an integrated world market.

Prerequisites: Have taken and passed (or concurrently taking) other IP laws.

Assessment: 60% take-home examination, 40% mid-term take home assignment
LLAW6140  Intellectual property, innovation and development

This course examines the interplay between intellectual property law, innovation social and economic development. While it covers copyright and trademark laws and examines how these two areas are affected by digital and Internet innovations, the focus of this course will be on patent law. Particularly this course will explore how cutting-edge technologies such as information technology, biotechnology and green technology have changed the landscape of patent law on the one hand, and how patent law has affected the development of these technologies on the other hand. It uses judicial cases and empirical examples to illustrate how patents for biotech and pharmaceutical inventions have affected the access to technology and essential medicines, and how patent regime has been employed to protect genetic resources/traditional knowledge and green technologies, and whether such protection promotes or impedes innovation and technology transfer in these industries, and how IP protection has affected social and economic development of developing countries and least-developed countries. Last but not least, the course investigates IP-related antitrust issues, and discusses how to strike a balance between IP and competition for the benefit of technology innovation and economic development.

Assessment: 80% take home examination, 20% class participation

LLAW6164  Principles of family law

Family law is about people in a domestic setting; how domestic relationships are created, dissolved (which involves status alteration), reconstituted (remarriage, adoption), how relationships are regulated and disputes resolved. Hong Kong Family law is both common law and statute-based. However, the rules and principles are not ends in themselves, but they serve certain purposes or goals.

In this course, we examine the basic principles governing the creation of family relationship, termination and its consequences, how does the law deal with the evolving notion of domestic relationships, abuse occurring within such relationships, the protection it offers to the weaker party and the reconstitution of family relationships.

Families are undergoing changes constantly, as is society. Debates on transsexual marriage, same-sex marriage reflect this. Families are the microcosm of society bearing all the pressure which society exerts on its members. The challenge of the course is to understand the problems facing families today, to what extent the law is in tune with these problems, how best these problems could be alleviated, minimised or resolved by law reform or other means.

The objectives of the course is to enable you to learn the basic family law rules, understand how these rules are applied to a particular legal problem (which you need to utilise as a lawyer). As rules are not ends in themselves and they promote certain underlying values – you are required to critically analyses and assess what outcomes/values these rules promote; whether these values are consistent with prevailing societal values along certain theme, such as: (i) effective dispute resolution, (ii) protective
(physical/economic) function of family law and (iii) upholding fundamental societal values concerning family, personal relationships and human rights.

Assessment: 45% written examination, 45% assignments and presentation, 10% class participation

LLAW6209 Comparative family law

The course focuses on family law issues in a comparative and international context and prior knowledge of family law or comparative law is not required.

Topics include: property and maintenance on divorce; the grounds for divorce; the legal status of cohabitants; legal regulation of adult relationships and changing family constructs; marital agreements (i.e. pre-nuptial, post-nuptial and separation agreement), the relevance of gender in family law and changing one's legal gender; parenthood and parental responsibility.

All topics are covered from a comparative perspective.

This course will be of interest to students and practitioners wanting to acquire an up-to-date understanding of current policy and issues in family law around the world and anyone with an interest in family law, comparative law and social policy.

Assessment: 25% class participation, 75% research paper

LLAW6212 Intellectual property protection in China: law, politics and culture

This course will examine all major areas of Chinese intellectual property, including trademarks, patents, copyright, competition and related trade and technology transfer issues, with a brief introduction to background, policies and administrative procedures. Reading knowledge of Chinese helpful but not required. No prerequisite.

Topics to be covered: the IP challenge and common ground; overview of IP administration and ARR/ALL procedures; trade and service marks; patents and technology transfer; copyright and software protection; and competition (trade secrets, advertising etc).

Assessment: 10% class participation, 90% four short essays

LLAW6219 Patent law

Intellectual Property Rights (IPRs) are among the most important catalysts for growth and innovation in the modern economy. IPRs – in particular patents - are worth billions if not trillions of dollars. What are patents and why are they so valuable? This course will look at patents, first in the context of all IPRs, then will examine rights under a patent, criteria for patentability, and the process of getting and challenging a patent. The class
will also cover issues related to patent claims and will look at some current patent issues including:

- Commercial dealings: ownership, licensing, assignments, employees’ inventions
  - Protection of discoveries
  - The process of getting a patent
- Patent infringement: Literal infringement and a comparison of UK and US treatment of non-literal patent infringement
- Protection of information technology products and the controversy surrounding software patents
- Design patents
- The value of patents

No prior technical knowledge is required for this class.

Assessment: 10% class performance, 10% quiz, 30% patent drafting exercise, 50% take home examination

LLAW6275 The legal foundations of global health and development

This is an Elective designed primarily for the LLM in Medical Ethics and Law programme, and will introduce students to global health law, international moves towards a right to global health, the fundamental human right of access to basic medical services, national and coordinated international responses to and the management of global health hazards (including responses to emergent infections, epidemics, antimicrobial resistance (AMR), addiction and substance abuse), the socio-legal management of and responses to risky behaviours (including STDs, addiction and substance abuse).

The course will also cover the role of international law, treaties and instruments touching on global health concerns, and how international law operates, and how it is different from national law.

The constitution, function, role and effectiveness of key international global health organizations such as the United Nations, World Health Organization, UNICEF and the FAO will also be studied. Selected examples on key pressing current issues such as national and international responses to SARS, MERS, Ebola, Zika and AMR, as well as an assessment of the state of national and international preparedness for highly-pathogenic future pandemics and the effectiveness of public health measures such as that for tobacco control will be examined through case studies.

Students will also be introduced to the International Health Regulations (IHR 2005), and will examine responses of the various IHR Emergency Committees on Ebola, MERS-CoV, Zika virus, etc. The often-strained relationships between international health organisations such as the WHO and national agencies will be examined.

The argument for basic medical services as a fundamental human right will be examined, particularly in the context of the links between health access on the one hand and
economic and social development and social stability of developing countries on the other. The use of denial of medical services as a weapon of war will also be discussed.

In a similar context, equitable access to drugs and fair pricing will also be considered, as well as the role of intellectual property claims in the context of access to pharmaceutics.

Finally, the course will examine current moves both at the national and international levels for a coordinated public health response to noncommunicable diseases (including epidemic ‘lifestyle’ diseases such as diabetes and other NCDs which are metabolic disorders), and the role that national and international law can play in such responses.

Assessment: 30% class participation, 70% take home examination

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**LLAW6291  Mental disability and the law**

This is a course that explores the relationship between mental disability and the law.

This course deals with the relationship between mental disability and the law, examining various aspects of how the law deals with those with mental disability in both the civil and criminal context. The course also addresses the key ethical principles underlying mental health law, as well as the international human rights instruments (such as the UN Convention on the Rights of Persons with Disabilities) that have had or should have an impact on the development of mental health law.

The syllabus covers a range of topics in mental health law and ethics. Students will begin by learning about mental disability and legislative frameworks that govern mental health. The course will then cover various topics in civil mental health law, including compulsory treatment (both in hospital and in the community) and mental capacity law (with a specific focus on available legal mechanisms in preparation for mental disability). This will be followed by various topics in criminal mental health law, including police powers and criminal defences.

Throughout the classes, students will apply the ethical concepts they have learned to the various areas of criminal and civil law which take a different approach to those with mental disability, and develop the skills to critically examine the strengths and weaknesses in these areas. In particular, students will consider whether the law should have a different approach towards those with mental disability, and why. Students will also consider the extent to which Hong Kong’s mental health law regimes are compliant with Hong Kong’s international commitments, and where they are not, whether reforms are necessary and the direction any such reforms should take. Students will examine ethical, legal and policy dimensions in their exploration of the possibilities for reform.

Assessment: 30% class participation, 70% take home examination