OVERVIEW: This course will introduce students to the potential role of ADR in resolving some of the most compelling disputes in the healthcare field. As this course will emphasize both conflict resolution skill-building and content-based learning, by the end of the course, students will be familiar with a spectrum of dispute resolution processes and context specific strategies for resolving conflicts in different healthcare settings.

Text: There is no text. All reading materials will be provided to students.

DETAILED SYLLABUS:

Unit 1: Introduction to Dispute Resolution in Healthcare

Class (1) – Mon. 1/5/15

Topic: General Introduction to Dispute Resolution in Healthcare

Assignment:
- Benesch, Why ADR and Not Litigation for Healthcare Disputes?
- Morreim, Conflict Resolution in Health Care_2014
- Roscoe, Health Care Reform Will It Impact ADR?
- § 1.1 History and uses of ADR-Westlaw

Class Resource: Alternative Dispute Resolution Practice Guide (Westlaw)

Proposed Class Activities:
- Introductions & Active Listening Exercise
- Course Objectives & Expectations
- “Conflict” Stereotypes – brainstorming “conflict”
- Conflict Style exercise – DYNAD Instrument
- Discuss spectrum of dispute resolution methods
- Discuss Speziale ADR Symposium at QUSL on Friday, March 27, 2015
Class (2) – 1/12/15

Topic: The Culture of Medicine and Dispute Resolution/The Culture of Hospitals: Hierarchical Structure and Hostility to ADR

Assignment:
- Morrison, *ADR in Healthcare: The Last Big Frontier?*

Proposed Class Activities:
- **Speaker: Attorney Bill Stempel** is both a healthcare lawyer and an ADR specialist
- Active Listening Exercises

Unit 2: Patient Centered Conflicts

Class (3) – 1/26/15 – CLASS CANCELED DUE TO SNOW.

Topic: Introduction to Patient Centered Conflicts / Insurance Reimbursement Issues & Medical Malpractice, Part 1

Assignment:
- Hyman, Mediation and Medical Malpractice

Class (4) – 2/2/15 – MOVED TO 2/9/15

Topic: New Approaches to Medical Malpractice, Part 2: Disclosure, Apology, and Compensation

Assignment: **PAPER TOPICS DUE**

- § 1.4 Mediation-Westlaw
- Ebert, Attorneys, Tell Your Clients to Say They're Sorry: Apologies in the Health Care Industry, 5 Ind. Health L. Rev. 337 (2008)
- Mello, Boothman, McDonald, Driver, Lembitz, Bouwmeester, Dunlap and Gallagher *Communication-And-Resolution Programs: The Challenges And Lessons Learned From Six Early Adopters*, Health Affairs, 33, no.1 (2014):20-29

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- Mello, Senecal, Kuznetsov and Cohn, *Implementing Hospital-Based Communication-And-Resolution Programs: Lessons Learned In New York City*, Health Affairs, 33, no.1 (2014):30-38

Proposed Class Activities:

- Introduction to Negotiation

Class (5) – 2/9/15 – NOW 2/16/15

**Topic:** End of Life Decision Making: Bioethics and ADR, part 1

Assignment:

- Cohen, Negotiating death: ADR and end of life decision-making
- Gerardi, Team Disputes at End-of-Life: Toward an Ethic of Collaboration


Proposed Class Activities:

Proposed Class Activities:

- Introduction to Mediation
- Role-play 2-4 case studies from Cohen article. Students determine what should be done and who should decide and select their preferred mode of dispute resolution (negotiation, mediation, etc.).

Class (6) – 2/16/15 – NOW 2/23/15

**Topic:** End of Life Decision Making: Bioethics and ADR, part 2

Assignment:

- Fiester, *Bioethics Mediation & the End of Clinical Ethics As We Know It* (2014)

Proposed Class Activities:

- Introduction to Dialogue Facilitation
- Role-play involving healthcare ethics committees. Role-play involving case study from Fiester article.

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Unit 3: Provider Team Centered Conflicts
COMBINE ASSIGNMENTS FOR Classes (7) & (8) – 2/23/15 & 3/02/15 – NOW 3/02/15

Class (8) – 3/02/15
Topics: Conflict within Hospitals / The Role of Ombudspersons in Healthcare Settings
Assignment:
- Scott & Gerardi, A Strategic Approach for Managing Conflict in Hospitals: Responding to the Joint Commission Leadership Standard, Part 1, 2011
- Scott & Gerardi, A Strategic Approach for Managing Conflict in Hospitals: Responding to the Joint Commission Leadership Standard, Part 2, 2011
- “The Internal Neutral: Why Doesn't Your Hospital Have One?”
- The Role of the Ombudsperson at Stanford University School of Medicine,
- The Ombudsman Association Code of Ethics,
- Ombudsperson at Stanford School of Medicine, Mediation


Class Activities:
- Introduction to the Ombuds Role

Assignment: PAPER OUTLINE DUE – midnight Friday, 3/6/15

No Class – Monday, 3/9/15

Unit 4: Conflicts Between Private Institutions
Class (9) – 3/16/15
Topic: Accountable Care Organizations (ACOs)
- Ronai, Accountable Care Organization Program: New Healthcare Disputes and the Increased Need for ADR Services, 2011
- Sobkowiak & Knag, ACO Disputes: Why Will They Happen and How Should We Solve Them, Dispute Resolution Journal (AAA), Vol. 69, No. 3, 25-33
- Sample ACO contract - Jan. 2011
- ACO contract overview - June 2013
- ACO Manifesto - September 2013
- § 1.2 Contractual arbitration-Westlaw; § 1.3 Judicial arbitration-Westlaw

Activities:
- Speakers: Adjunct Professor Gerry Robilotti & Attorney Paul Knag
- Introduction to Arbitration
- Presentation of student papers
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Class (10) – 3/23/15
Topic: Payor/Provider Conflicts
Assignment:
- Lash, Arbitration’s Key role in resolving employment related HC disputes_DRI_V69_3
- AAA Healthcare DR Brochure – 2011
- AAA Healthcare Payor/Provider (P/P) Arbitration Rules – 2011
- AAA Overview Healthcare P/P Rules – 2012
- ABA DR - ARBITRATION in Healthcare Disputes - 2014

Activity: Speaker Adjunct Professor Peter Benner, attorney, mediator & arbitrator – available for entire class; he serves on AAA’s national payor/provider arbitration panel

SPECIAL EVENT: FRIDAY, MARCH 27, 2015; Attendance = Two Make-up Classes
Since 1998, the Connecticut Bar Foundation has sponsored eight symposia focusing on alternative dispute resolution (ADR), all of which have been hosted by Quinnipiac University School of Law. The symposia are named for former Connecticut Supreme Court Justice John A. Speziale. Upcoming Symposium. The 9th Speziale ADR Symposium will be held on Friday, March 27, 2015, at the law school. The topic will be “What are the Cures for Conflict in Healthcare?” Plenary and breakout topics include:

- “Shared governance” structures within healthcare organizations, which are experiencing conflicts between personnel policies, hospital bylaws and medical bylaws, as clinicians transition from independent practitioners to hospital employees. This topic may also address the impact of Accountable Care Organizations on private practice.
- “Reframing clinical conflict”- using a relational approach to conflict among health professionals, and the skills needed by conflict specialists working in and with healthcare organizations.
- “Unexpected outcomes” in patient care, how they are addressed and a comparison of old processes of outcome and peer review with new processes.

Unit 5: Conflicts with Governmental Bodies
Class (11) – 3/30/15
Topic: Electronic Healthcare Records (EHR); “Meaningful Use” of Health IT for reimbursement purposes; and IT Vendor contracts
- An Introduction to the Medicare EHR Incentive Program for Eligible Professionals, Lieber, As Electronic Health Record Implementations Rise...So will Disputes
- Milwaukee Community health center battles for patients' records, 2013

Class Activities:
- Presentation of student papers
- Discuss Milwaukee Community health center battle/IT Vendor contracts
- Discuss/role-play the case studies involving meaningful use in the Health Care Blog.
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Class (12) – 4/6/14
Topic: Licensure Disputes
Assignment: FIRST DRAFT OF PAPER DUE
- “Mediating Licensure Disputes: The Use of ADR by Canadian Medical and Nursing Licensing Authorities,” Dr. Robert Robson, Director of Patient Safety, Winnipeg Regional Health Authority, 2002
- ALTERNATIVE DISPUTE RESOLUTION AND PROFESSIONAL LICENSING, Pam Brinegar, Council on Licensure, Enforcement and Regulation, and Bruce Douglas, Division of Registration, Colorado Department of Regulatory Agencies
Activities:
- **Speaker Martha Murray** has a unique practice based in New Haven devoted to estate planning and professional licensure matters.
- Presentation of Student Papers

Unit 6: Ethical Issues and Professional Codes of Conduct

Class (13) – 4/13/15
Topic: Conflicts Involving Professional Codes of Conduct
- American College of Healthcare Executives Code of Ethics
Assignment:
- Selected readings from above codes of ethics, and others, including nursing and social work
- Menkel-Meadow, Ethics in ADR: The Many "Cs" of Professional Responsibility and Dispute Resolution (2001)
- Scott, Doctors as Advocates, Lawyers as Healers (2008).
Class Activities:
- **Panel discussion:** Prof. J. Herbst; Lynn Price, APRN, JD, MSN, MPH; Merle Waxman, Associate Dean, Ombudsperson and Director, Women in Medicine, Yale School of Medicine; and
- Course evaluation – were course goals and student expectations met?

Class (14) – 4/20/15
Topic: TBD by students

**FINAL DRAFT OF PAPER DUE: 6:00 P.M. MONDAY 5/4/15**