Mental Health Law – Law 403 – Spring 2023

Note: the course text is required – see below!

See you in 2023!

Units: 4
Term—Day—Time: Spring 2023, Tuesdays, 3:30pm-6:50pm
Location: in-person; assigned classroom TBD
Instructor: Gregory Pleasants, J.D., M.S.W. (he / him / él)
Grader: none
Office: in-person (location TBD) or remote / via Zoom
Office Hours: weekly and as needed by student request
Contact Info: gpleasants@law.usc.edu (please do not use my gpleasan@usc.edu email)

Course Description
The course explores foundational legal and practice concepts through three intersecting systems: the mental health system, the criminal system, and the immigration system, with principal emphasis on the mental health system. Areas of focus include:

- Basic features of the mental health, criminal, and immigration systems, and the operation and impact of the connecting “pipeline” between them.

- Core mental health legal concepts through review of seminal legal cases, including mental competence, reasonable accommodations, the right to mental health treatment and to refuse such treatment, and the State’s power to order involuntary commitment.

- The protection (or lack of protection) for fundamental legal rights in institutional and / or coercive settings, including the involuntary commitment, jail and prison, and immigration detention settings.

- The roles of social determinants of health – including systemic racism, stigma against people with mental health conditions, and the overuse of policing and incarceration, and lack of access to mental health care for people without insurance – in compounding the inequities and mental health disparities of these systems.

- Established and emergent accommodations and safeguards to protect fundamental legal rights, including the emergent right to legal defense for people with mental health conditions in immigration court.

- Selected ethics issues, including the dueling roles of autonomy and paternalism, challenges to informed consent, the allocation of authority between the lawyer and the client with impaired capacity, the role of zeallessness in the legal defense of a person with a serious mental health condition, the ongoing harm of solitary confinement, and the benefits of an integrated law + social work approach.
The core values of the Recovery Model (empathy, authenticity, and respect) and person-centered practice skills, including active listening, avoidance of common clinical pitfalls, and client work in a shared decision-making framework based on mutual trust.

The lived experience of people impacted by mental health systems (as described directly by such people). In this vein, this class is a space in which students are always welcomed but are never required to share their own mental health experiences and perspectives.

Learning Objectives: by the end of this course, students will be able to:
1. Apply knowledge of the basic features of the mental health, criminal, and immigration systems.
2. Identify, analyze, apply, and critique core mental health legal and policy concepts in class discussion throughout the course.
3. Identify and explain the connecting “pipeline” between the mental health, criminal, and immigration systems by the end of the course.
4. Understand and explain basics of the role of race, class, immigration status, and other identities / positionalities in driving mental health disparities (particularly those rooted in carceral settings).
5. Analyze, critique, postulate, and defend answers to ethics hypotheticals involving people with mental health conditions by the mid-point of the course.
6. Describe, explain, and apply in hypothetical client scenarios core Recovery Model values and person-centered practice skills by the end of the course.

Prerequisite(s); co-requisite(s), or recommended preparation:
None.

Required Course Text – Important

Law and the Mental Health System: Civil and Criminal Aspects
Slobogin, Hafemeister, Mossman, Reisner (7th Ed.).

The text is available through USC Bookstore or via West Academic at https://www.westacademic.com/Law-and-the-Mental-Health-System-Civil-and-Criminal-Aspects

Note: the text is required – it is not optional. Please rent or purchase the text before classes begin.

Readings from the text are required and will form the basis of a significant part of class discussion. Students will be tested on the reading (see Assignments, below). More fundamentally, review of a “case book”-style text is an essential preparatory skill for those who may wish to pursue legal education.

Please closely consider these requirements and expectations as you consider whether to take this course.

Note: apart from purchasing the required text new, students may also consider purchasing a used copy, renting a copy, consulting a library copy (copies have been placed on hold at the undergraduate USC Leavey Library), or
pursuing other means of text access. The Instructor encourages students to explore lower-cost options as possible, as long as the assigned readings are sufficiently accessible.

Other Reading Materials
Additional readings will be distributed by the Instructor (via Blackboard) throughout the course. Selected additional readings include (but are not limited to) the following:


Assignments
There are four graded assignments, as set forth below, and one optional Extra Credit assignment. Additional instructions on the assignments will be provided during the course. The Mid-Term and Final Exams, as well as the Extra Credit, are “take home,” while the Hearing Voices and Reading Pop Quiz assignments are in-class.

Note: the Mid-Term and Final Exam are “open book” – that is, the use and consultation of course materials (though not other sources such as the Internet) are highly encouraged. More guidelines will be given on this at the time of the exams. Please note, the Final Exam is comprehensive – that is, it covers all course material, form the beginning to the end of the course.

Grading Breakdown

<table>
<thead>
<tr>
<th>Assignment</th>
<th>% of Grade</th>
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<tbody>
<tr>
<td>Mid-Term Exam</td>
<td>40</td>
</tr>
<tr>
<td>“Hearing Voices” Activity</td>
<td>5</td>
</tr>
<tr>
<td>Reading Pop Quiz</td>
<td>5</td>
</tr>
<tr>
<td>Final Exam</td>
<td>50</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
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</table>

Grading Scale
Course final grades will be determined using the following scale (updated 11 10 2022):
<table>
<thead>
<tr>
<th>Letter Grade</th>
<th>Corresponding Numerical Point Range</th>
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<tbody>
<tr>
<td>A</td>
<td>93-100</td>
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<tr>
<td>A-</td>
<td>90-92</td>
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<tr>
<td>B+</td>
<td>87-89</td>
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<tr>
<td>B</td>
<td>83-86</td>
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<tr>
<td>B-</td>
<td>80-82</td>
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<tr>
<td>C+</td>
<td>77-79</td>
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<td>C</td>
<td>73-76</td>
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<tr>
<td>C-</td>
<td>70-72</td>
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<td>D+</td>
<td>67-69</td>
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<tr>
<td>D</td>
<td>63-66</td>
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<tr>
<td>D-</td>
<td>60-62</td>
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<tr>
<td>F</td>
<td>59 and below</td>
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**Extra Credit**

Any student may, by giving notice to the Instructor, elect to write a 5-7 page paper, APA-style and with appropriate citations, on a topic pre-approved by the Instructor, OR perform a comparable extra credit assignment in the discretion and with the prior permission of the Instructor. The extra credit is worth up to 5 points (or up to 5% of the final grade), but mere performance of the assignment is not a guarantee of the full 5 points. All extra credit assignments must be completed on or before the end of the course.

**Course Policies**

**Attendance**

The Instructor encourages, in the strongest terms, in-person attendance at all class periods. The Instructor can offer the best possible educational experience to those students who attend, in-person, each class. Each student will get out of the course what each puts into it; in-person attendance at all class periods is key to getting the most out of the course. Students who do not attend all class periods are very likely find it more difficult to learn and apply the course material and thus to attain the desired grade. Attendance, however, does not directly form part of the course grade (except for as part of the “Hearing Voices” exercise; see immediately below under Participation).

**Participation**

Participation is expected but does not form part of the course grade except as part of the “Hearing Voices” assignment, for which attendance and participation are required for the activity to work. (Students not participating in the Hearing Voices assigning risk receiving a “0” for that assignment). Even so, all students will be called on in class and expected to give responses that reflect having completed the in-class and reading assignments. Responding to oral questions and thinking on one’s feet are key lawyering skills, and we will practice these skills in this course.

**Preparation**

Being prepared is an essential habit of effective legal practice. Students will be called on in class and expected to give responses that reflecting having completed the reading assignments.
Professionalism and Respect

Students are required to treat this class and one another with professionalism and respect. That never requires agreement on the merits for the topics we will discuss, but it does require listening, consideration of others’ views, and thoughtful, respectful, and empathetic engagement. The Instructor will follow this standard and expects and requires students to do so as well.

Use of Computers, Cellphones, and Like Devices

Use of such devices to take notes and to engage in coursework is encouraged. Use of such devices for other reasons during course hours is generally not permitted. If a student anticipates attending to an important communication during class, prior notice to the Instructor is appropriate and appreciated.

Course Schedule: A Weekly Breakdown

The course calendar follows. Please note:

- “Text” refers to the Required Text, above. Readings may be reduced during the course depending on the pace of the course.
- Instructor may add supplementary readings in lieu of Text readings or as optional readings.
- Items in red are the overarching sections of the course; items in bold denote important topics.
- Depending on the pace of the course, some items in italics will be covered very briefly or omitted.
<table>
<thead>
<tr>
<th>Week 1</th>
<th>Tuesday, January 10, 2023</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Course Introduction</strong></td>
<td>Ragins, M., <em>Road to Recovery</em> (2010), pp. 1-8</td>
</tr>
<tr>
<td>• Personal introductions</td>
<td>Cartwright, H., Hope, M., Pleasants, G., <em>Self-Care in an Interprofessional Setting Providing Services to Detained Immigrants with Serious Mental Health Conditions</em> (2020)</td>
</tr>
<tr>
<td>• Review of Student Support Services and Student Accommodations</td>
<td></td>
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<tr>
<td>• Review slides, including “The Stakes”</td>
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<tr>
<td>• Personal learning goals – breakout discussion and report back</td>
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<tr>
<td>• The Mental Health &lt;&gt; Criminal &lt;&gt; Immigration Pipeline</td>
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<tr>
<td>• Hypo review</td>
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<tr>
<th>Week 2</th>
<th>Tuesday, January 17, 2023</th>
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<tbody>
<tr>
<td><strong>I. The Mental Health System</strong></td>
<td>7th edition Text, pp. 1-31 (until B., Biological Therapies)</td>
</tr>
<tr>
<td><strong>Brief Introduction to the Mental Health System</strong></td>
<td>7th edition Text, pp. 1501-1511</td>
</tr>
<tr>
<td>• Context: history, scale, shape, actors, selected data, and issues</td>
<td></td>
</tr>
<tr>
<td>• Payment and parity</td>
<td></td>
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<tr>
<td>• De-institutionalization</td>
<td></td>
</tr>
<tr>
<td>• Trans-institutionalization: jails and prisons as new “hospitals”</td>
<td></td>
</tr>
<tr>
<td>• Homelessness, substance abuse, and mental health</td>
<td></td>
</tr>
<tr>
<td>• CA: Mental Health Services Act</td>
<td></td>
</tr>
<tr>
<td>• Mental Health System &lt;&gt; Criminal System Pipeline</td>
<td></td>
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</tbody>
</table>

<p>|  | <strong>Introduction to Mental Health Conditions</strong> |
|  | 7th edition Text, pp. 1-31 (until B., Biological Therapies) |
|  | 7th edition Text, pp. 1501-1511 |
| • Definition of mental health condition | |
| • Impairment, functioning, competence | |
| • Models: biomedical; social determinants of health / person in the environment | |
| • Labels, stigma, and race | |
| • Professions | |
| • DSM-V / review of selected mental health conditions | |
| • Recovery, Rogerian Triad, people-first language, trust | |</p>
<table>
<thead>
<tr>
<th>Week 3</th>
<th>Tuesday, January 24, 2023</th>
</tr>
</thead>
<tbody>
<tr>
<td>Competence in the Mental Health System</td>
<td></td>
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</tbody>
</table>
| • *Introduction to “competence:” conceptual predicates; competent to do what?*  
• Race, gender, and labeling as “incompetent”  
• Competence for other tasks |
| *7th edition Text*, pp. 1045-1061 |

<table>
<thead>
<tr>
<th>Week 4</th>
<th>Tuesday, January 31, 2023</th>
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<tbody>
<tr>
<td>Competence in the Mental Health System</td>
<td></td>
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</tbody>
</table>
| • Informed consent  
• Right to Refuse and Consent to Psychiatric Treatment |
| *Informed Consent*  
*7th edition Text*, pp. 307-315 (stopping at Section II)  
*Right / competence to refuse treatment:*  

<table>
<thead>
<tr>
<th>Week 5</th>
<th>Tuesday, February 7, 2023</th>
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</thead>
<tbody>
<tr>
<td>Conditions of Confinement in the Mental Health System</td>
<td></td>
</tr>
</tbody>
</table>
| • Involuntary commitment – police power basis  
• Dangerousness  
• CA: Lanterman-Petris-Short Act and patients’ rights (short introduction)  
• Harm of “no treatment” |
| *7th edition Text*, pp. 811-857  

<table>
<thead>
<tr>
<th>Week 6</th>
<th>Tuesday, February 14, 2023</th>
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</thead>
<tbody>
<tr>
<td>Conditions of Confinement in the Mental Health System</td>
<td></td>
</tr>
</tbody>
</table>
| • Involuntary Commitment – parens patriae basis  
• Harm of “no treatment” |
| *7th edition Text*, pp. 861-896  
| Week 7 | Tuesday, February 21, 2023 | Right to Treatment in the Involuntary Commitment Setting  
• *Youngberg v. Romeo*  
Least Restrictive Alternative Doctrine | Right to Treatment in Commitment Setting  
7th edition Text, pp. 1241 – 1276 (very top, stopping at III)  
-Skim 1242, Nocera – 1254, Fisher et. al.  
-Read 1260-1276, *Youngberg v. Romeo*  
Least Restrictive Alternative Doctrine  
7th edition Text, pp. 896-912 (skim) |
| --- | --- | --- | --- |
| Week 8 | Tuesday, February 28, 2023 | Americans with Disabilities Act, Rehabilitation Act of 1973  
• Discrimination – cognizable  
• Reasonable accommodations and safeguards  
• Undue burden / hardship | ADA and Rehab Act  
7th edition Text, pp. 1407-1422 (read closely); Instructor to provide additional materials as well via Blackboard. |
| Week 9 | Tuesday, March 7, 2023 | Mid-Term Exam  
*Covers “Course Introduction” and “The Mental Health System.”* | Study for Mid-Term. |
| Week 10 | Tuesday, March 14, 2023 | Spring Recess March 12-19 – NO CLASS | Rest and Enjoy Your Time Off |
| Week 11 | Tuesday, March 21, 2023 | II. The Criminal System  
Brief Introduction to the Criminal System  
- Context: history, scale, shape, actors, selected data, and issues  
- Pre-trial detention and bond; pleas (overwhelming prevalence); sentencing and incarceration  
- Prevalence of mental health conditions in jails and prisons; right to treatment?  
- Impact of mental health and race  
- Mental Health System > Criminal System Pipeline  
Ethics: Allocation of Authority  
- Allocation of authority in the lawyer-client relationship  
- Relevant Model Rules; Restatement (3rd) rules  
- Protective action and scope  
- Substitution of judgment, expressed interest, hybrid |
|---|---|---|
| Week 12 | Tuesday, March 28, 2023 | Competence in the Criminal System  
- Review – competence to do what?  
- Competence to stand criminal trial (Dusky, Edwards)  
  7th edition Text, 1134 (starting at V) - 1149  
  7th edition Text, 1188-1206 (until note 4)  
Dusky v. United States, 362 U.S. 402 (1960)  
<table>
<thead>
<tr>
<th>Week 13</th>
<th>Conditions of Confinement in the Criminal System</th>
</tr>
</thead>
</table>
| Tuesday, April 4, 2023 | • Solitary confinement / segregation  
• Pre-trial detention and bond  
• Kalief Browder  

**Hearing Voices Assignment (in class)** |

<table>
<thead>
<tr>
<th>Week 14</th>
<th>III. The Immigration Court and Detention System</th>
</tr>
</thead>
</table>
| Tuesday, April 11, 2023 | Review instructor-provided slides on a) immigration court and detention basics and b) criminalization of drug use.  


(Note: read the Prof. Das article closely – this is a synthesis piece that draws together many of the critical themes of the course. The article is complex and will require re-reading. Students should be prepared to discuss this article and its thesis in detail.) |
<table>
<thead>
<tr>
<th>Week 15</th>
<th>Tuesday, April 18, 2023</th>
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</thead>
<tbody>
<tr>
<td><strong>Competence in the Immigration Enforcement System</strong></td>
<td><strong>Franco Gonzalez v. Holder</strong> (third amended complaint) (read closely)</td>
</tr>
<tr>
<td>• Franco-Gonzalez v. Holder (and background)</td>
<td>July 24 2009 Holder Letter (skim)</td>
</tr>
<tr>
<td>• What is the applicability – if any – to the law and concepts we have reviewed to immigration detention? Is there any?</td>
<td></td>
</tr>
</tbody>
</table>
Week 16
Tuesday, April 25, 2023

Classes End:
Fri, April 28, 2023

Study Days:
Sat-Tue, April 29 – May 2, 2023

Exams:
Wed-Wed, May 3-10, 2023

Right to Treatment in the Community – Discharge Planning Upon Release from Immigration Detention

- Right to discharge planning (Charles vs. Orange County)

Course Evaluations

Discussion / review for Final Exam. We will spend at least 1/3 of class discussing the final exam, which will be the same format as the Mid-Term exam.

Discharge Planning Charles v. County of Orange (to be distributed on Blackboard by Instructor)

Prepare for Final Exam.

Statement on Academic Conduct and Support Systems

The current Statement on Academic Conduct and Support Systems is a required component of all USC syllabi.

Academic Integrity:

The University of Southern California is a learning community committed to developing successful scholars and researchers dedicated to the pursuit of knowledge and the dissemination of ideas. Academic misconduct, which includes any act of dishonesty in the production or submission of academic work, comprises the integrity of the person who commits the act and can impugn the perceived integrity of the entire university community. It stands in opposition to the university’s mission to research, educate, and contribute productively to our community and the world.

All students are expected to submit assignments that represent their own original work, and that have been prepared specifically for the course or section for which they have been submitted. You may not submit work written by others or “recycle” work prepared for other courses without obtaining written permission from the instructor(s).

Other violations of academic integrity include, but are not limited to, cheating, plagiarism, fabrication (e.g., falsifying data), collusion, knowingly assisting others in acts of academic dishonesty, and any act that gains or is intended to gain an unfair academic advantage.

The impact of academic dishonesty is far-reaching and is considered a serious offense against the university. All incidences of academic misconduct will be reported to the Office of Academic Integrity and could result in outcomes such as failure on the assignment, failure in the course, suspension, or even expulsion from the university.
For more information about academic integrity see the student handbook or the Office of Academic Integrity’s website, and university policies on Research and Scholarship Misconduct.

Please ask your instructor if you are unsure what constitutes unauthorized assistance on an exam or assignment, or what information requires citation and/or attribution.

Students and Disability Accommodations:

USC welcomes students with disabilities into all of the University’s educational programs. The Office of Student Accessibility Services (OSAS) is responsible for the determination of appropriate accommodations for students who encounter disability-related barriers. Once a student has completed the OSAS process (registration, initial appointment, and submitted documentation) and accommodations are determined to be reasonable and appropriate, a Letter of Accommodation (LOA) will be available to generate for each course. The LOA must be given to each course instructor by the student and followed up with a discussion. This should be done as early in the semester as possible as accommodations are not retroactive. More information can be found at osas.usc.edu. You may contact OSAS at (213) 740-0776 or via email at osasfrontdesk@usc.edu.

Support Systems:

_Counseling and Mental Health_ - (213) 740-9355 – 24/7 on call
Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

_988 Suicide and Crisis Lifeline_ - 988 for both calls and text messages – 24/7 on call
The 988 Suicide and Crisis Lifeline (formerly known as the National Suicide Prevention Lifeline) provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week, across the United States. The Lifeline is comprised of a national network of over 200 local crisis centers, combining custom local care and resources with national standards and best practices. The new, shorter phone number makes it easier for people to remember and access mental health crisis services (though the previous 1 (800) 273-8255 number will continue to function indefinitely) and represents a continued commitment to those in crisis.

_Relationship and Sexual Violence Prevention Services (RSVP)_ - (213) 740-9355(WELL) – 24/7 on call
Free and confidential therapy services, workshops, and training for situations related to gender- and power-based harm (including sexual assault, intimate partner violence, and stalking).

_Office for Equity, Equal Opportunity, and Title IX (EEO-TIX)_ - (213) 740-5086
Information about how to get help or help someone affected by harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants.

_Reporting Incidents of Bias or Harassment_ - (213) 740-5086 or (213) 821-8298
Avenue to report incidents of bias, hate crimes, and microaggressions to the Office for Equity, Equal Opportunity, and Title for appropriate investigation, supportive measures, and response.

_The Office of Student Accessibility Services (OSAS)_ - (213) 740-0776
OSAS ensures equal access for students with disabilities through providing academic accommodations and auxiliary aids in accordance with federal laws and university policy.

**USC Campus Support and Intervention** - (213) 740-0411
Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.

**Diversity, Equity and Inclusion** - (213) 740-2101
Information on events, programs and training, the Provost’s Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

**USC Emergency** - UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call
Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

**USC Department of Public Safety** - UPC: (213) 740-6000, HSC: (323) 442-1200 – 24/7 on call
Non-emergency assistance or information.

**Office of the Ombuds** - (213) 821-9556 (UPC) / (323-442-0382 (HSC)
A safe and confidential place to share your USC-related issues with a University Ombuds who will work with you to explore options or paths to manage your concern.

**Occupational Therapy Faculty Practice** - (323) 442-2850 or otpf@med.usc.edu
Confidential Lifestyle Redesign services for USC students to support health promoting habits and routines that enhance quality of life and academic performance.

// end of syllabus

*Syllabus Law 403 Spring 2023 last updated 11 20 2022 (draft) GLP*