This seminar will explore the rules of law pertaining to the American public health care system, and will examine the ethical issues raised by the government’s effort to protect the health of the American people. It is an interdisciplinary seminar, which I propose to co-teach with Jackie Glover, PhD, a philosopher in bioethics, and my colleague on the faculty of the Center for Bioethics and Humanities. In this seminar, both law students and graduate students in the Masters in Public Health program, will meet together at the School of Medicine in Denver.

The seminar readings will begin by defining the study of public health law. We will use as a starting point, Larry Gostin’s definition of health law: the study of “rights and duties of the state to assure the conditions for people to be healthy . . . .”¹ From this point of departure, students will begin by studying the American approach to public health law in order to establish a paradigm that describes five essential features and characteristics of our nation’s public health law system.

First, we will consider the population the health care system is intended to protect. This will allow us to look at the history and demographics of various populations in this country. For each, we will study the overall health status of the population, and recent epidemics and health trends the population faces. Next, we will consider the functional relationship between the governmental public health authority and the people. This section of our study will focus on understanding the infrastructure of America’s public

health system. Much of what we learn in this section will “come alive” as we discuss the experiences of MSPH students who are experienced with community health clinics, public health departments, and epidemiological research into public health issues. The third feature we will explore is the structure of the services the American system provides to its population to discharge the state’s legal responsibility for promoting and protecting public health. With this background understanding, we will turn to our study of the law itself.

We will look at the sources of law that define our government’s powers and the legal avenues available that allow the state to perform the essential public health functions of a government.\(^2\) Here we will study the core legal principles of Constitutional, statutory, judge-made and administrative law that define the state’s public health authority. We will look at powers such as the authority to quarantine during outbreaks of communicable diseases, and the power to close privately owned bathhouses at the outset of the AIDS epidemic in California. Here we will find some of the most intriguing aspects of our study, as we explore the tensions between governmental powers, our nation’s conceptualization of the social good, and any competing individual legal interests in property, autonomy, privacy and liberty. This paradigmatic approach will allow students to develop a loosely organized matrix that will be useful for making some

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\(^2\) These, we will learn, are 1) surveillance, monitoring and epidemiologic investigations (e.g. testing, tracking, data collection); 2) medical interventions (e.g. compulsory treatment or immunization); 3) personal control measures (e.g. quarantine, cease-and-desist orders); 4) prohibition of behavior (e.g. illicit drug use); 5) Requirement of behavior (e.g. seatbelts, helmet laws); 6) regulation of product design (e.g. tort and product liability law) 7) Information constraints (e.g. mandatory disclosures, advertising restrictions); 8) Nuisance abatement (e.g. closure of bathhouses, theaters, restaurants); 9) regulation of businesses (e.g. inspection, permits); 10) environmental regulation (e.g. emission controls, water standards); 11) occupational health and safety (e.g. work hours, infection control); and 12) taxation (e.g. on cigarettes, alcohol).
comparisons and observations between disparate public health law systems for their individual research projects.

Students will be required to read from Gostin’s, *Public Health Law: Power, Duty, Restraint*, as well as selected materials. Grading will be based upon class preparation and participation; an oral presentation; and a written research paper which must be submitted in draft for comments, critiqued by student colleagues, and revised for final submission.