Course Overview: The course will provide an immersive and step-by-step analysis of medical malpractice litigation in New York. In doing so, students will learn about the litigation process in New York from inception to resolution, including discussion of relevant case law and statutes, as well as the practical concerns facing medical malpractice litigators. Supplementary course materials will include documents from “real world” cases that have been litigated. The course will also explore the myriad issues surrounding what has been termed a “Medical Malpractice Crisis” by opponents of medical malpractice litigation in the civil litigation arena.

Course Materials: The course materials will consist of reported cases, statutes, peer reviewed medical literature and other authoritative publications.

Course Expectations: The class will meet each Tuesday from 6:10 PM- 8:00 PM. All students are expected to attend each class and arrive on time. Each student should arrive at class prepared and ready to participate in a substantive discussion of the assigned materials. Students shall be required to fully participate and contribute. Students are
expected to keep abreast of any changes or updates to the syllabus, any scheduling changes and any other information that may be provided.

**Course Grading:**

- End of Term Final Exam - 50% of final grade
- Written Assignment(s)* - 35% of final grade
- Attendance & participation - 15% of final grade

* All Written assignments are to be submitted in hard copy at the beginning of class and electronically via email by 4:00 PM on the date they are due.

**Anticipated Course Schedule:**

(OVER)
**CLASS 1**

Assigned reading in anticipation of class discussion:


  http://www.amsa.org/AMSA/Libraries/Initiative_Docs/To_err_is_human_executive_summary.sflb.ashx


**Class Content:**
Class introduction and overview. Discussion relevant to the assigned reading concerning medical practice litigation and patient safety.

**CLASS 2**

Assigned reading in anticipation of class discussion:

- Joseph Treaster & Joel Brinkley, **Behind those Medical Malpractice Rates**, NY Times, Feb. 22, 2005.


  [http://centerjd.org/content/study-repeat-offenders-how-insurance-industry-manufactures-crises-and-harms-america](http://centerjd.org/content/study-repeat-offenders-how-insurance-industry-manufactures-crises-and-harms-america)
Class Content:
Discussion concerning factors effecting medical malpractice liability insurance premiums.

CLASS 3
Assigned viewing in anticipation of class discussion:

- Hot Coffee - A documentary feature film by Susan Saladoff

Class Content:
Discussion concerning the documentary Hot Coffee.

CLASS 4
Assigned reading in anticipation of class discussion:
- **Hill v. St. Clare’s Hospital**, 67 NY2d 72 (1986)
- **Lanza v. Parkeast Hospital**, 102 AD2d (1st Dep’t 1984)
- **Heinsohn v. Putnam Community Hosp.**, 65 AD2d 767 (2d Dep’t 1978)
- New York State Public Health Law Sec. 2805(d)

Class Content: the class will examine the necessary elements which must be established in a meritorious medical malpractice action and informed consent cause of action. The discussion will include information concerning both individual physician’s and institutional liability.
CLASS 5
Assigned reading in anticipation of class discussion:
TBA

Class Content:
The various types of potential defendants in medical malpractice suits will be evaluated. Informed consent, a separate cause of action from medical malpractice, will also be discussed.

CLASS 6
Assigned reading in anticipation of class discussion:
TBA

Class Content:
Discussion concerning the approach to thoroughly investigating a potential medical malpractice case. The discussion will include an analysis of issues including defendant selection, venue selection and other relevant issues.

CLASS 7
Assigned reading in anticipation of class discussion:
TBA

Class Content:
Discussion concerning drafting of pleadings and Bills of Particulars in medical malpractice actions from both a plaintiff’s and defendant’s perspective.
CLASS 8

Assigned reading in anticipation of class discussion:

- CPLR §§ 3101, 3120, 3122, 3124
- EPTL § 5-4.3
- Education Law § 6527(3)
- Public Health Law § 2805-1
- Sealone v. Phelps Memorial Hosp. Center, 184 A.D.2d 65 (2d Dep't 1992)
- Kantor v. Kaye, 114 A.D.2d 728 (1st Dep’t 1985)
- Gill v. Mancino, 8 A.D.3d 340, 341 (2nd Dep’t 2004)
- Scharlack v. Richmond Memorial, 102 A.D.2d 886 (2d Dept 1984)
- Wiener v. Memorial Hospital for Cancer & Allied Diseases, 114 Misc. 2d 1013
- Arons v. Jutkowitz, 9 NY3d 393
- Shefer v Tepper, 73 A.D.3d 447 (1st Dept 2010)

Class Content:

Discussion concerning document discovery in medical malpractice actions. The discussion will review the relevant legal standards for discoverability as well as the types of documents and materials that should be obtained in malpractice litigation.
CLASS 9
Assigned reading in anticipation of class discussion:

To be assigned.

Class Content:

Discussion concerning the taking and defending of depositions. The issues discussed will include plaintiff’s and defendants’ perspectives for both the preparation and questioning of witnesses. It is anticipated that a guest speaker will join us for the class.

CLASS 10
Assigned reading in anticipation of class discussion:

- Napierski v. Finn, 229 A.D.2d 869 (3d Dept 1996)
- Winegrad v. New York University Medical Center, 64 N.Y.2d 851 (1985)

Class Content:

Discussion concerning summary judgment motions. The discussion will analyze the standards applicable to parties moving for summary judgment and the party opposing such motions. The discussion will also include practical considerations applicable to such motions.

CLASS 11
Assigned reading in anticipation of class discussion:

To be assigned.

Class Content:

Discussion concerning appropriate preparation techniques in anticipation of trial. The discussion will also address issues relevant to jury selection in medical malpractice cases.
CLASS 12
Assigned reading in anticipation of class discussion:
To be assigned.

Class Content:
Discussion concerning preparation for the questioning of witnesses at trial. The discussion will include preparation and questioning techniques relevant to both lay witnesses and expert witnesses. It is anticipated that a guest speaker will join us for the class.

CLASS 13
Assigned reading in anticipation of class discussion:
To be assigned.

Class Content:
Discussion concerning trial summations. The discussion will include summation goals and techniques. It is anticipated that a guest speaker will join us for the class.