

Health Benefit Plan Compliance: Overview & Tax Considerations
Compressed Course - Spring 2025
(January 6-10, 2025)
Holland Hall XXX

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Office hours: 1 hour before class starts, **location TBD**, on January 6-10. Zoom meeting ID to be provided upon request for remote students.

Course Description and Preparation Time:

This course will provide an overview of the federal laws that impact the administration, design, and taxation of employee health benefit plans. The course is designed for LL.M. students and JD students who have taken income tax. Students will learn employee benefit plan compliance skills through real world examples and publicly-available plan documents from large, national employers. There is no textbook for this class. Required reading consists of (1) federal statutes, regulations, and other guidance; and (2) benefit plan documents.

This compressed course is one (1) credit. Students should spend at least two (2) full hours preparing for each hour of class meeting. This is the minimum preparation time needed for students to develop a workable knowledge and mastery of the course concepts and objectives.

Course Expectations and Learning Outcomes:

Upon the successful completion of this course, students should be able to:

- navigate the network of federal laws that apply to employer-sponsored health plans;
- frame and present their analysis in the same form as compliance attorneys for employers;
- understand the tax and financial implications associated with offering employee medical coverage; and
- apply current laws to new and evolving topics in health care.

Evaluation, Etiquette & Class Attendance Policy

Grade

25 percent: Participation

75 percent: Final Exam

Participation & Attendance Expectations

Students are expected to treat each other with respect at all times. Students are required to attend at the times listed above. Students are expected to be prepared to respond to questions about the assigned problems and reading. Attendance will be taken each day.

Participation

Repeated lack of preparedness or participation, including not responding to in-class polling, may reduce a student's participation grade by 5 percentage points per incident, the same amount as for an unexcused absence. For students attending via Zoom, cameras should be on during class. Repeated class disruption (e.g., excessive noise, texting, personal internet use, leaving early or arriving late) may also reduce your participation grade by 5 percentage points per incident, the same amount as for an unexcused absence. You will receive a warning prior to having your participation grade reduction on account of an incident relating to lack of preparedness and/or disruptive behavior.

Recording Lectures

With respect to the recording of class lectures, students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Publication without permission of the instructor is prohibited. To "publish" means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third-party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under the Student Honor Code and Student Conduct Code.

Absences

If you are planning to miss class for a religious holiday, please let me know. Absences taken for observance of religious holidays will be excused, but the participation grade may still be reduced by up to 5 percentage points unless there is satisfactory completion of a makeup assignment. For UF's policy on religious holidays, please see <https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/#religiousholidaystext>. If you are absent because of a special situation (sickness, family emergency, job interview, etc.), the absence will be excused after you have provided satisfactory documentation of the situation as requested by me, but the participation grade will still be reduced by 5 percentage points unless you have satisfactorily completed a make-up assignment.

Because this is a compressed course, no unexcused absences are permitted; your participation grade will be reduced by 5 percentage points per unexcused hour you are absent from class. Excessive unexcused absences may result in students being prohibited from further attendance and in a failing grade.

Final Exam

The final exam will be 90 minutes and will be given on the day scheduled by the law school. You will be required to use the software and process designated by the law school when taking the exam; more information will be provided closer in time to the exam. The exam will be open book, but communication with anyone or any AI (e.g., ChatGPT) during the exam is prohibited and will violate the Honor Code (the only exception is if you need to contact Student Affairs or UF IT because of technical issues, illness, or similar).

Other Polices:

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link:

<https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>. You will need to log into UF e-learning to see the document. **Note that the mandatory mean does not apply to LL.M. students.**

Topics and Class Assignments:

Day 1: Overview

- Overview of U.S. employer-sponsored health insurance
 - Background re: why medical insurance is provided through employers in the US
 - Fully-insured vs. self-funded
 - Who are the players? Insurers, claims administrators, consultants, etc.

- Introduction to the map of component federal laws governing an employer-sponsored medical plan
 - ERISA
 - IRC
 - HIPAA (Privacy)
 - COBRA
 - ACA
 - Other federal laws (ADA, HIPAA nondiscrimination, ADEA, Medicare)

- Reading:
 - pp. 26-30:
<https://www.aging.senate.gov/imo/media/doc/reports/rpt884.pdf>
 - <https://www.kff.org/health-costs/press-release/benchmark-survey-annual-family-premiums-for-employer-coverage-rise-7-to-nearly-24000-in-2023/>
 - “Divergent Path of the United States” section:
https://www.ncbi.nlm.nih.gov/books/NBK235989/#_ddd00062_

Day 2: ERISA

- Why do we need ERISA?
- What plans are subject to ERISA?
- ERISA Preemption
 - State insurance law
 - Hawaii Pre-Paid Health Care Act
- Documentation obligations
 - Plan documents
 - SPDs / SMMs
- Reporting obligations
 - Form 5500

- Fiduciary Obligations
 - Duty of prudence
 - Duty to monitor
 - Duty to adhere to plan documents
- Why do our clients need to care?

- Reading:
 - <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/understanding-your-fiduciary-responsibilities-under-a-group-health-plan.pdf>
 - <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/reporting-and-disclosure-guide-for-employee-benefit-plans.pdf>

- <https://www.irs.gov/pub/irs-pdf/f5500.pdf>

Day 3: Tax Code

- Constructive receipt doctrine; overview of why tax code rules are important for employer-sponsored coverage
- Section 105
 - 105(h) Nondiscrimination
- Section 125
- Account-based plans
 - Health flexible spending accounts
 - Dependent care flexible spending accounts
 - Health reimbursement arrangements
 - HSAs
- Deeper dive into HSAs
 - High-deductible health plans / disqualifying coverage
 - Contribution limits
- Puerto Rico
- Why do our clients need to care?

- Reading
 - IRC § 105
 - IRC § 125
 - IRC § 223
 - IRS Notice 2020-15

Day 4: Affordable Care Act

- Overview of health insurance prior to the ACA
- Employer Mandate
 - “Applicable Large Employers”
 - “Full-Time Employees”
 - “Affordable Coverage”
 - Calculation of Penalties
- Market Reforms
 - What is a “group health plan”
 - Annual/lifetime dollar limits
 - Preventive care
 - Impact on standalone benefits
- Why do our clients need to care?

- Reading
 - IRC §4980H
 - <https://www.irs.gov/affordable-care-act/employers/employer-shared-responsibility-provisions>

- <https://www.irs.gov/affordable-care-act/employers/identifying-full-time-employees>
- IRS Form 1094-C
- IRS Form 1095-C
- IRS Letter 226-J
- Public Health Service Act § 2713

Day 5: Other Laws & Application

- COBRA
- HIPAA Privacy
- HIPAA Nondiscrimination

- Application to actual benefit plan issues
 - Severance benefits
 - Fertility benefits
 - Wellness programs

- Reading
 - ERISA § 702

 - DOL Model COBRA Election notice:
<https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/cobra/model-election-notice.docx>

 - HHS Affinity Health Plan Settlement:
https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/enforcement/examples/affinity_agreement.pdf

 - Selections from 2012 RAND Wellness Program Study:
<https://www.dol.gov/sites/dolgov/files/EBSA/researchers/analysis/health-and-welfare/a-review-of-the-us-workplace-wellness-market.pdf>