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MHA646

Legal and Regulatory Environment  
of Health Care

Belhaven University

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Unit 1

- Relational Problems of Love
- Power and Justice
- Introduction to the Anglo-American Legal System
- Brief History of Medicine
- Access to Healthcare: Rights and Responsibilities

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# Topics We'll Cover

- Intrinsic problems of love, power, and justice
  - Relational problems of love, power, and justice
  - Anglo-American law
  - The court system
  - Alternative dispute resolution
  - Legal procedure
  - Early history of health care
  - Development of modern health care
  - Affordable Care Act (ACA)
  - Access to healthcare
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# Objectives

- Introduce the concepts of love, power and justice in political, social, psychological, and theological contexts
  - Examine how spiritual power relates to physical and psychological power
  - Understand the sources of law in the U.S.
  - Examine the court system
  - Review basic legal process
  - Understand how health care has changed over history
  - Examine the role of employers in providing health insurance
  - Consider how social and political factors have influenced health care
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# Biblical Foundations

- Deuteronomy 30:19 "This day I call the heavens and the earth as witnesses against you that I have set before you life and death, blessings and curses. Now choose life, so that you and your children may live"

Call to righteous living, also- bias toward life.



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# Intrinsic Problems of Love, Power, and Justice

- Ontology- the root meaning
- “Love” sometimes feels like an emotional state- something that cannot be defined.
- Is love nothing more than a feeling?
- Another understanding of love is not emotional but ethical. Judaic-Christian tradition combines love with ethical duties.
- But we sense that love, if demanded, produces indifference or even, hostility.



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# Intrinsic Problems of Love, Power, and Justice, cont.

- What are the qualities of love?
  1. Eros (sensual)
  2. Agape (spiritual)
  3. Self-love
  4. Brotherly love (philos)



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# Intrinsic Problems of Love, Power, and Justice, cont.



- What is the meaning of “power”?
  - There is no politics which is without power.
  - However, the term ‘power-politics’ denotes an element of force or compulsion.
  - We instinctively know there is an element of compulsion which occurs whenever we encounter power.
  - If we limit our understanding of “power” to compulsion we have removed justice and love.
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## Intrinsic Problems of Love, Power, and Justice, cont.

- Paul Tillich asks: “How does spiritual power work, how is it related to physical and psychological power and how is it related to the compulsory element of power?”





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# Relational Problems of Love, Power, and Justice



- Examining “justice”
  - If love is understood as an emotion and power understood as a means of force, then it is difficult to connect them in a constructive way.
  - It is commonly understood that love adds something to justice.
  - Is leniency always loving?
  - Justice is just because of the love which is implicit in it.
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# Relational Problems of Love, Power, and Justice, cont.

- Law is the basic manifestation of power.
- Tillich suggests there are two possible theories behind establishment of law:
  1. Military or economic force
  2. Natural or rational principles



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# Law



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# Where Does Our Law Come From?

- Some may argue over whether law is something imposed by governments, agreed upon by society, discovered through natural moral principals, or accepted as divinely inspired.
  - It is probably true to say that our various laws are, to a greater or lesser degree, a product of all of these.
  - Law evolved from “natural law” as societies became more sophisticated.
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# The Anglo-American Legal System

- Can be traced back to William the Conqueror (1066 AD)
  - Public law v. Private law
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# Sources of Law:

- Constitutions
  - Statutes
  - Administrative rules and regulations
  - Court decisions
  - Executive orders
  - Treaties
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# Constitutions

- The U.S. Constitution is the supreme law of the land.



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# Statutes

- Laws are passed by the U.S. Congress, or any state legislature.





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# Administrative Rules and Regulations

- Rules and regulations are adopted by federal or state administrative agencies such as the IRS, EPA, or state health department.



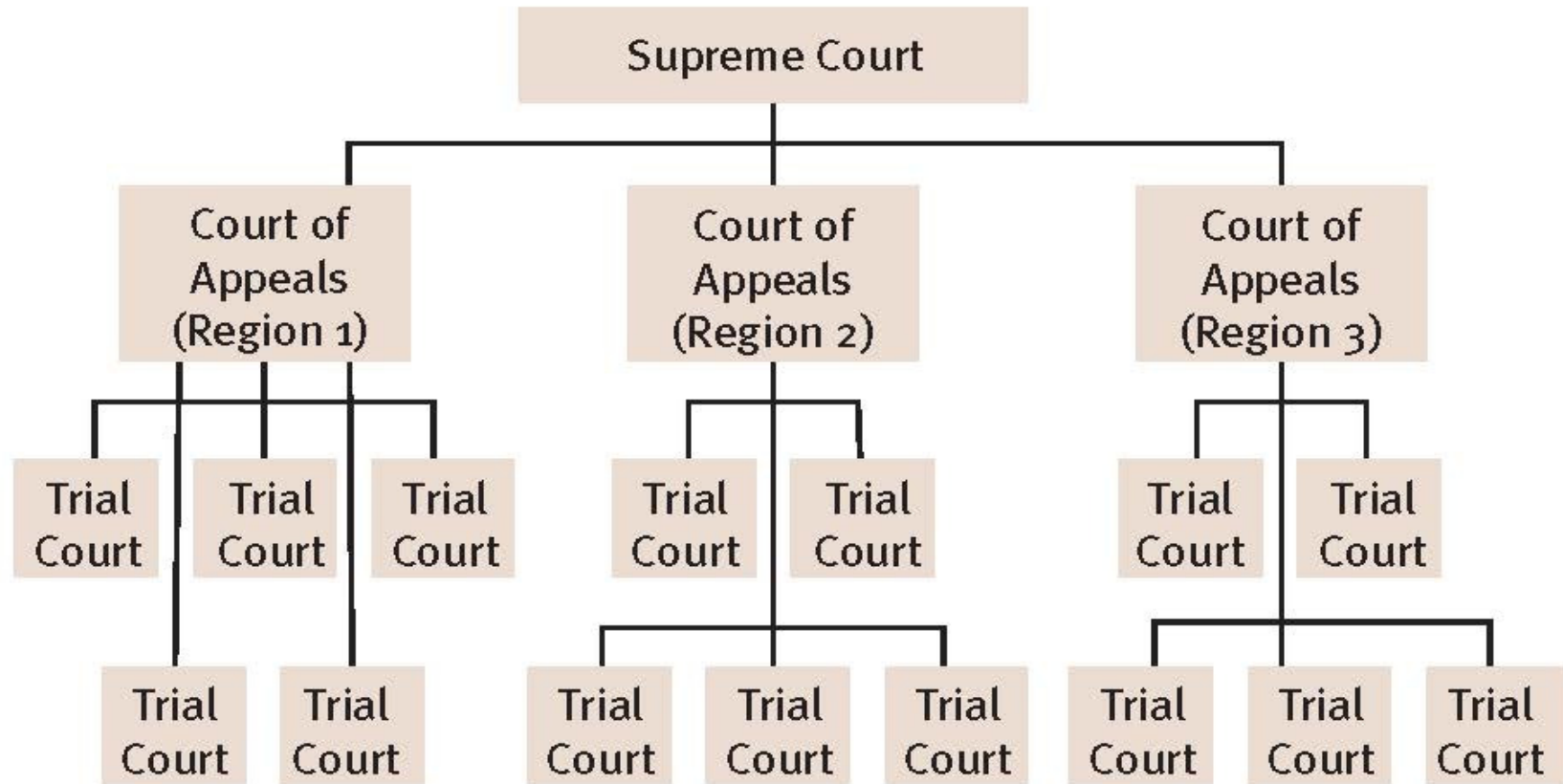
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# Court Decisions

- The doctrine of *stare decisis* requires courts to consider past rulings, and to follow decisions of higher courts.



# Structure of the Court System



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# Federal Courts

- U.S. District Courts – trial level courts

Exclusive jurisdiction to hear:

- ❑ Federal anti-trust cases
- ❑ Admiralty (maritime disputes)
- ❑ Bankruptcy
- ❑ Employee Retirement  
Income Security Act



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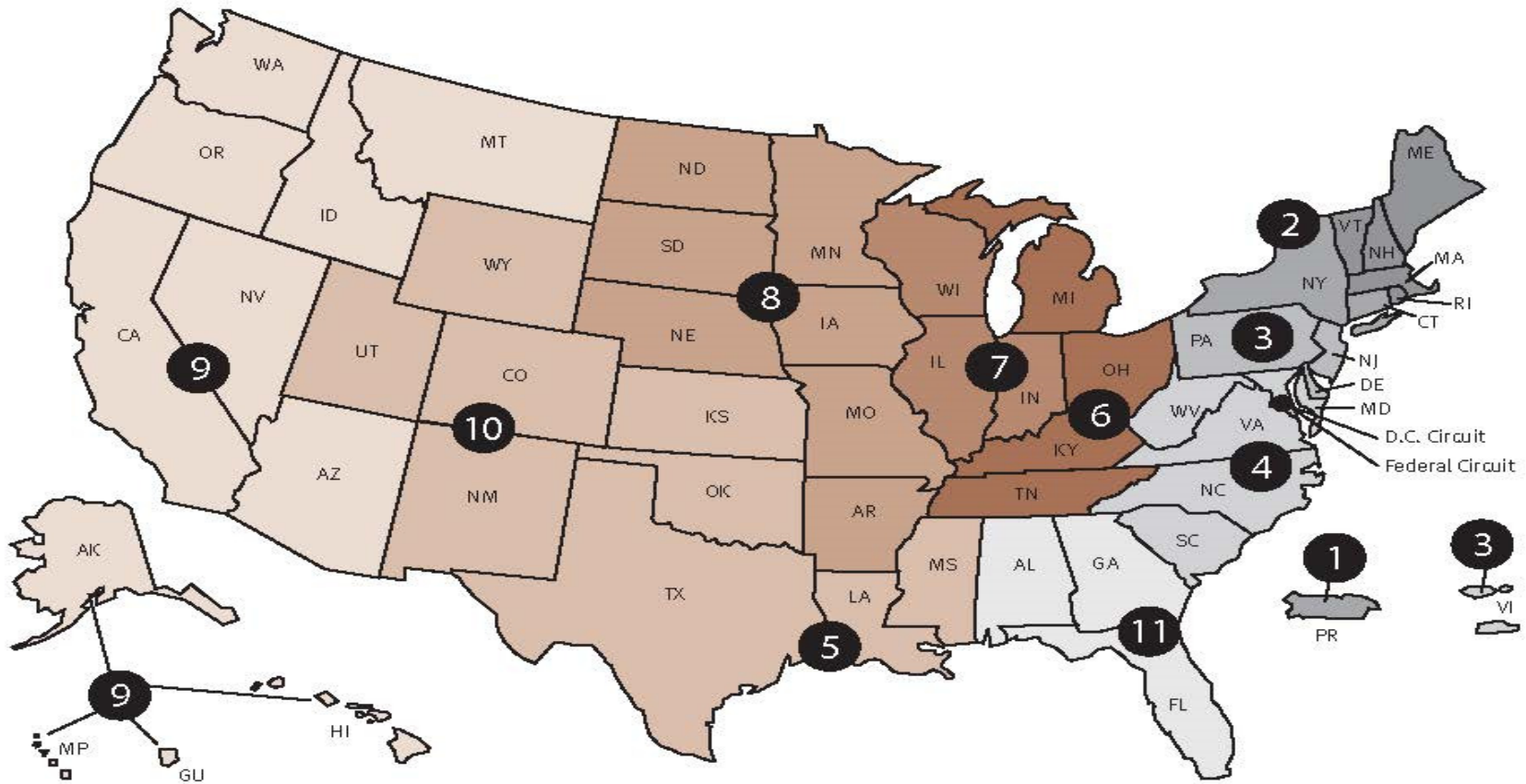
# Federal Courts, cont.

- U.S. District Courts

Concurrent (shared) jurisdiction with state courts to hear:

- Disputes arising under Constitutional or federal law
  - Disputes between citizens of different states (if over \$75,000)
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# Map of U.S. Courts of Appeals



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# U.S. Supreme Court



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# Alternative Dispute Resolution

- Arbitration – 3<sup>rd</sup> party decision which is binding
- Mediation – 3<sup>rd</sup> party attempts to bring about an agreed resolution





# Legal Procedure

1. The Complaint
2. The Answer
3. Discovery (deposition, interrogatory)
4. Trial
5. Decision and Collection
6. Appeal



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# Medicine



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# A Brief History of Medicine

- Mysticism and bloodletting to germ theory, surgery, MRIs, etc. in 150 years



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## A Brief History of Medicine, cont.

- Louis Pasteur (1822-1895)
  - Joseph Lister (1827-1912)
  - Paul Starr (*The Social Transformation of American Medicine*)
  
  - “*Few institutions have undergone as radical a metamorphosis as have hospitals in their modern history. . .*”
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# Civil War to World War I

- Training for physicians changed from a few months after high school to 3 or more years, and programs placed more emphasis on science and research.
  - The AMA proposed new standards for medical schools.
  - Around 1920, the American College of Surgeons developed minimum standards for hospitals and began on-site inspections.
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# Birth of Health Policy and Politics

- Around the turn of the century hospitals became more complex with specialized staff.
  - American College of Hospital Administration –now the American College of Healthcare Executives (ACHE) founded 1933
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# Summary

- We considered the most fundamental meaning behind love, power and justice in political, social, psychological, and theological contexts.
  - We examined how spiritual power relates to physical and psychological power.
  - Our U.S. system of law is based upon that of Great Britain.
  - The sources of our laws are: constitutions, statutes, administrative rules, court rulings, executive orders, and treaties.
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## Summary, cont.

- Lawsuits begin with the filing of a complaint, which is responded to by an answer.
  - A process called discovery precedes the trial.
  - Health care has changed dramatically over the past 100 years.
  - Our health care system is influenced by social and political factors.
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## What's next?

- Complete your detailed reading.
  - Take the unit quiz.
  - Answer the discussion questions.
  - Complete the writing assignment.
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# References

Showalter, J. Stuart *The Law of Healthcare Administration*, 9<sup>th</sup> ed.

Tillich, Paul *Love, Power, and Justice*

## Illustrations

- U.S. Department of Labor
  - Microsoft.com
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