

INSURANCE LAW
PROF. MICHELLE BOARDMAN
SPRING 2025
MONDAY, 9:50 – 11:50

The text for this class is Kenneth S. Abraham and Daniel Schwarcz's **Insurance Law and Regulation** (7th Edition). Unlike some first-year texts, the writing between cases is not fluff; it is central to learning and exploring the subject matter. Most of the sections have problems and questions that you will answer for yourself before coming to class. I recommend writing down your analysis. Some answers will be a phrase or a line but others will be more detailed. Your grade will be based on class participation (20%) and an exam (80%).

1/27: **Fundamental insurance concepts and information problems**, 1-11. Worksheet on adverse selection and moral hazard. **Insurance contract formation**, 37-45. Explore <https://www.verisk.com/insurance/capabilities/insurance-policy-programs/> **Misrepresentation**, 12-18 & 30-35.

2/03: **Interpretation**, 45-66. **Public policy restrictions**, 98-104.

2/10: **Insurance Regulation**, 133-150, and then read 111-133. The first reading segment involves two cases, and the second (but earlier in the book) segment is a somewhat dry introduction to aspects of insurance regulation. This portion makes the reading somewhat longer, but you do not need to memorize the information in detail.

2/17: **Property Insurance**, 195-96 and 224-238. You will also need to read/skim/go over the Homeowners Policy, pages 197-223. I recommend that you look through it before class for at least a few minutes to get a sense of its structure and what it covers. You will then want to read portions of it with more focus for the week after. Identify one clause each that attempts to address adverse selection and moral hazard. Bonus points to anyone who can identify coverage or lack of coverage that surprises or made you laugh.

2/24: **Property Insurance II: Exclusions**, 248 (not *Chute*), **Intrinsic Loss**, *skim* 251-56, **Causation**, 256-61 & 267-74. Where relevant, remember to compare any language or concept in the cases with the related sections in the Homeowners Policy.

3/03: **Life Insurance**, 313-14, **Insurable Interest**, 321-28, **Incontestability**, 333-339, and **Long-term care issues**, 351-57.

3/10: Spring Break

3/17: **Health Insurance**, Structure of the market, 383-387. Rating and underwriting, 387-403. Give yourself time to puzzle out ERISA preemption.

3/24: **Health Insurance II**, 403-420. Coverage disputes, 420-430, notes optional.

3/31: **Liability I**, Commercial General Liability, 463-96, sample policy from 465-82, trigger and allocation, 499-521.

4/07: **Liability II**, Number of occurrences, 522-29, expected or intended harm, 529-44, the pollution exclusion, 553-62.

4/14: **Liability III**, Claims-made policies, 570-73, (reading sample policy *optional* 574-90), professional liability insurance, 606-14, defending lawsuits, 615-26, and notice conditions, 562-70.

4/21: **Reinsurance**, 771-76, and the Duty of Utmost Good Faith, 776-784. **Breach of Bad Faith**, 85-98.

4/24: **Auto Insurance**, 691-707, sample policy. Auto liability insurance, 708-16, “use” of vehicle, 723-26, and no-fault, 765-770.

5/05, noon: Exam

Learning Outcomes

This course involves learning about specific lines and categories of insurance, as well as understanding the overarching concepts that are common to all insurance. Among other skills, at the end of the course students will:

- Understand and be able to apply the concepts of risk, risk allocation, adverse selection, moral hazard, and underwriting accuracy to various insurance contexts.
- Understand and be able to apply the insurance-specific rules of contract law that govern the interpretation and construction of insurance policies, including issues of misrepresentation and bad faith breach.
- Know how to analyze the structure and content of various types of insurance policies.
- Develop a general understanding of the insurance market from the perspective of both the policyholder and the insurer and understand how the market shapes the availability and content of insurance.
- Have an advanced understanding of central disputes in liability insurance, homeowners insurance, health insurance, automobile insurance, and life insurance.