At its inception, health care law was primarily state-based common law, rooted in “Law and Medicine,” the original term for the field. Over time, private health insurance became the dominant payment mechanism, and its close cousin, managed care, became the leading cost control tool, but regulatory developments still continued to be largely state-based. While the role of the federal government in health care has grown slowly but consistently, both in public programs like Medicare and Medicaid and through major federal laws that preempted some state-based rules, health care law has been taught as state-based case law with a significant federal overlay, and administrative law was merely a relevant detail.

It is time to shift the emphasis. Particularly after the Patient Protection and Affordable Care Act of 2010 (ACA), federal law and administrative law notably dominate the field of health care law. The ACA made choices about America’s long-debated approaches to health insurance, private versus public provision of care, medical welfare eligibility, and the state-federal relationship in health care, among other themes. The role of federal statutory and administrative law in health care has greatly expanded both over time and especially after the ACA; this book is the first to reflect that gravitational shift to the federal domain.

Another distinctive feature of this book is its emphasis on primary source materials beyond appellate cases, which are the bread and butter of most first-year law school courses. Health care law abounds with other forms of legal authority, including statutory, regulatory, and sub-regulatory guidance. We use secondary sources sparingly, including only canonical commentary on the field and data-driven empirical research, uniquely important for the practicing health care lawyer. The primary source materials are the focal point, with longer excerpts and light editing, providing an experience that foreshadows the work that our students must do when they become practicing lawyers.

We do not attempt to cover all topics comprehensively. Instead, we chose our key topics carefully, making use of guidelines suggested by practicing attorneys and health law professors in the American Health Lawyers Association. While surveying fewer topics than some other health law casebooks, we engage the selected topics in more depth, so students emerge with an understanding of the most important features for the practice of health care law. The result is a three- or four-credit-hour book that is shorter but leaves room for professors to supplement with additional topics they are keen to teach.

Finally, we have listened carefully to students’ comments about classroom materials over the years and have used that feedback in structuring the book. First, we avoided extensive notes, moving most references to scholarly articles and other secondary sources to the teachers’ manual. Second, we use three different kinds of problems throughout the book: “Questions,” which engage an excerpt directly;
“Problems,” which offer a practice-like scenario, hypothetical, or policy question to consider; and “Capstone Problems,” which are designed to facilitate integrative mastery of the chapter. While we firmly believe that the sometimes tedious, technical reading of statutes, regulations, cases, and other sources is the real work of health care lawyers, for pedagogical purposes, we highlight key issues, background, and other points of interest through boxed side notes, which enrich understanding in the moment of digesting a key source.

Health care law is complex, but teaching it needn't be. We hope you enjoy our labor of love.