Landmark Cases in Bioethics
Fall, 2015

Course #: HCB 502 Time: Tuesdays, 6:00-9:00 pm Location: HSC -- tba

Instructor:
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What is a life worth living? How do we decide—and who decides—when to use medical technologies such as ventilators, kidney dialysis machines, artificial feeding tubes, and reproductive technologies? This is an intensive introduction to some of the cases in medical ethics that have changed the ways that we are born, cared for, and die in the United States, with examples and comparisons from the history and cross-cultural settings. The course is taught by a clinical ethicist/health lawyer, and the focus on cases brings a recognition of the importance of individual cases in shaping US law and policy, and the ways in which new medical technologies bring to the fore conflicts and challenges that were either not present or not as pressing in the past.

Topics include: the right of privacy and health care; end-of-life planning and treatment; informed consent for medical treatment; public health and vaccination; ethics of research on human subjects; women’s bodies and reproductive rights; religious beliefs and health care; the practice of clinical ethics; triage and allocation of scarce resources.

Course Objectives:
1. At the end of this class, students will have been introduced to a selection of the big ideas and canonical legal and medical cases in bioethics.
2. They will be able to identify and describe the principles, interests, and moral & legal philosophies at stake in the cases, and understand how these were weighed and balanced in the case, and whether consensus has shifted since.
3. Students will have an appreciation for the context and history underlying both the cases explored and the sets of rules, regulations, and principles currently used to decide these issues.

Objectives specific to legal materials include:
1. Students will have a general familiarity with the following: structure of US government and the legal system, basics of Constitutional law including the right of privacy, using legal terminology, as well as the processes of legal reasoning and analyzing legal issues.
2. Students will have a basic understanding of substantive laws related to selected health care issues including informed consent for medical treatment, participation in research with human subjects, end-of-life treatment decisions, reproductive rights including abortion, and individual liberties involving sexuality.
3. A general goal for students is to demystify aspects of the law for non-lawyers.
Course Requirements:
This course will be run as a graduate seminar, with formal presentation of some background material by the instructor, but the core of each class will be discussion of the readings and the cases for the week, with each week designed to explore a different set of ethical, social, and legal issues raised by medical and public health practice. Students are expected to read the all assigned articles, cases, chapters, and excerpts in advance, AND come to class prepared to discuss them. Items labeled “Further Reading” are optional.

Evaluation:
Students will be graded on: 1] class participation (20% of final grade), 2] a short first paper (30%), and 3] a final long paper (50%).
- The first paper will address an issue of your choice from among the materials covered in the syllabus (8 pages, excluding references) (double spaced; 12 point font)—Due Tuesday, October 6 at 5:00 pm
- Paper two will be a more-thoroughly developed exploration of the issues you addressed in the first paper (20 pages, excluding references)—Due Friday, December 4 at noon

IMPORTANT—Students are strongly urged to begin thinking about their papers early in the semester and schedule a meeting with Dr. McCrary to discuss their choice of topic.

Required Peer-Review Session: At mid-semester, students will read in advance the short papers of all their colleagues, as well as critique the papers during class on October 13 in order to promote better understand of the breadth and depth of the issues in the course.

References and citation of sources:
Students will be expected to adhere to standard academic conventions for quotation and citation of sources. Any standard reference system, University of Chicago, MLA, AMA or other system of citation, is acceptable as long as it allows your readers to trace the origins of your claims to the original publication or source. If you are in doubt regarding whether to cite a source, include it in your references.

Feedback: The standard evaluation form includes a faculty feedback section. Students will meet with Dr. McCrary individually to discuss their choice of paper topic and develop the paper. Short papers will receive written comments. As noted above, students will peer-review and discuss each others’ short papers, facilitated by Dr. McCrary. Due to end-of-semester time pressures, final papers will not receive written comments.

Course Readings:
There is one required book for the course which will be available for purchase at the Stony Brook Health Sciences Center Bookstore on Level 2 of the HSC building. It is also available from online bookstores and a variety of used book resellers. Additional required readings will be posted on the course Blackboard site, available from the Stony Brook Library. Please advise me immediately if you have any difficulty accessing course readings.

Core Text:
Supplemental Texts:


Class Calendar & Topics

August 25 – Evolving Technologies and the Birth of Bioethics; Interactions between Law and Medicine; Introduction to the U.S. Legal System

September 1 – Introduction to Constitutional Law


Read the entire Constitution of the United States of America, including all Amendments, on Blackboard.


In the event your Blackboard links to the Constitution do not function:

http://www.archives.gov/exhibits/charters/constitution_transcript.html


Further Reading:


September 8 – Introduction to Ethical Theory


Donald C. Ainslie, “Principalism,” vol. 4, pp. 2099-2104.


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September 15 – Origins of the Right to Privacy

Topics: Liberty and substantive due process-- *Griswold v. Connecticut*

Equal protection -- *Eisenstadt v. Baird*

Menikoff- Chapter 2, pp. 17-34

McCrary SV. Key to Constitutional Standards (On Blackboard) (It may be helpful to print and bring this to class with you each week.)


Re-read Amendments # 5 and # 14 to the US Constitution

**Further Reading:**

September 22 -- Apex of the Right to Privacy and Strict Scrutiny: Reproductive Freedom and the Right to Die

* You should have prepared a detailed outline of your mid-term paper by today.

Topics: The right to reproductive freedom-- *Roe v. Wade*
The right to refuse medical treatment-- *In re Quinlan*

Menikoff- Chapter 4, pp. 53-68
Menikoff- Chapter 10, pp. 241-256

Further Reading:


September 29 – Independent Work

You should be completing your mid-term paper this week.

October 6 – The Erosion of Privacy and Strict Scrutiny: Ascendance of Federalism and Emergence of the Undue Burden Standard

*** Short papers due today at 5:00 pm; you should electronically distribute your paper to all students by uploading it to the wiki entitled “Mid-Term Papers 2015” located on Blackboard in the Assignments menu.

Topics: The right to refuse life-sustaining treatment-- *Cruzan v. Director, Missouri Department of Health*

Limiting the right to abortion-- *Planned Parenthood of Southeastern Pennsylvania v. Casey*

Menikoff- Chapter 4, pp. 304-326
Menikoff- Chapter 4, pp. 68-76

Excerpt from *Harris v. McRae* (on Blackboard)
October 13 – Peer Review & Discussion of Short Papers

Come to class having read all short papers by your colleagues. Be prepared to present basic aspects of your paper and to discuss the works of others.

October 20 – Clinical Informed Consent & Refusal of Care: Autonomy vs. State Interests


Menikoff, Law & Bioethics, Ch 7. The Doctor-Patient Relationship, pp. 151-174

Schenker Y, Meisel A. Informed Consent in Clinical Care: Practical Considerations in the Effort to Achieve Ethical Goals, JAMA 2011; 305 (11): 1130-1131.

Further Reading:


Prince v. Massachusetts (on Blackboard)


October 27 – Public Health Law

Topics: Police powers – Jacobson v. Massachusetts
Compulsory sterilization – Buck v. Bell

Menikoff, Law & Bioethics, Ch 3, pp. 39-42

Jacobson v. Massachusetts (on Blackboard)


November 3 – Research Ethics: Tuskegee and Other Scandals

Topics:

1) Consent and Coercion: The Nuremberg Doctors’ Trial


3) The Tuskegee Study


Alan Brandt, “Racism and Research: The Case of the Tuskegee Syphilis Study”

Susan E. Bell, “Events in the Tuskegee Syphilis Study”

Further Reading:

November 10  – Recent Constitutional Developments in Sexuality: Privacy Revived?

Menikoff- Chapter 2, pp. 35-38

Excerpt from opinion (pdf) on Blackboard: Bowers v. Hardwick (on Blackboard)


Liptak A. “Supreme Court Ruling Makes Same-Sex Marriage a Right Nationwide” and “Highlights from the Supreme Court Decision . . .”, The New York Times, June 26, 2015. (on Blackboard)

November 17 – Physician-Assisted Suicide: Legal and Clinical Aspects

Washington v. Glucksberg

Vacco v. Quill

Menikoff- Chapter 11, pp. 327-355


Week of November 24 – No class – Thanksgiving Holiday

December 1 – Ethics of Triage and Allocation of Scarce Resources

*** Final papers due Friday, Dec. 4, at 12:00 noon

Further Reading:


James Childress, “Triage in Response to a Bioterrorist Attack”

Kenneth Kipnis, “Overwhelming Casualties: Medical Ethics in a Time of Terror”


Legal Reference Materials:

If you wish to pursue legal research on your own, you may find the following sites helpful:

Lexis- excellent on-line legal research tool via the Lexis/Nexis Academic Universe (access available through official Stony Brook main library site; click on “Research Databases”, select category “L”, then “Lexis Academic”, then “Legal Research”)

http://www.sunysb.edu/library/

(Direct access via Stony Brook computers- http://web.lexis-nexis.com/universe )

Legal Information Institute- a good legal research site at Cornell Law School

http://www.law.cornell.edu/

Thomas- official legislative research site for the U.S. House of Representatives

http://thomas.loc.gov/

United States Senate- official legislative research site for the U.S. Senate

http://www.senate.gov/

New York State Legislature- official legislative research site

http://leginfo.state.ny.us:82/INDEX1.html

New York State Assembly- official legislative research site for the Assembly only

http://assembly.state.ny.us/

Code of Federal Regulations- official U.S. administrative law research site

http://www.access.gpo.gov/nara/cfr/index.html

Hieros Gamos – legal reference materials (e.g. law dictionaries) and research databases

http://www.hg.org/index.html

FindLaw-commercial site, but not bad

http://www.findlaw.com/index.html
From Official Stony Brook University Policy:

Statements required to appear in all syllabi on the Stony Brook campus:

Americans with Disabilities Act:

If you have a physical, psychological, medical or learning disability that may impact your course work, please contact Disability Support Services, ECC (Educational Communications Center) Building, room128, (631) 632-6748. They will determine with you what accommodations, if any, are necessary and appropriate. All information and documentation is confidential.

Academic Integrity:

Each student must pursue his or her academic goals honestly and be personally accountable for all submitted work. Representing another person's work as your own is always wrong. Faculty are required to report and suspected instances of academic dishonesty to the Academic Judiciary. Faculty in the Health Sciences Center (Schools of Health Technology & Management, Nursing, Social Welfare, Dental Medicine) and School of Medicine are required to follow their school-specific procedures. For more comprehensive information on academic integrity, including categories of academic dishonesty, please refer to the academic judiciary website at http://www.stoneybrook.edu/uaa/academicjudiciary/

Critical Incident Management:

Stony Brook University expects students to respect the rights, privileges, and property of other people. Faculty are required to report to the Office of Judicial Affairs any disruptive behavior that interrupts their ability to teach, compromises the safety of the learning environment, or inhibits students' ability to learn. Faculty in the HSC Schools and School of Medicine are required to follow their school-specific procedures.