

Law and Bioethics
Spring 2011
Professor Kahn
Office Hours: TBA
Office Phone: x2648
jkahn01@gw.hamline.edu

Goals and Objectives:

This course examines the legal, ethical, and policy aspects of current controversies in health care and human subjects research. Objectives of this course include: (1) learning how to apply traditional principles of bioethics, including autonomy, beneficence, nonmaleficence, and justice; (2) learning how to approach issues in health care and human subjects research from both legal and ethical perspectives. (3) understanding some of the larger structural constraints in law and society that shape the conceptualization and applications of ethical principles in medical health-related contexts.

Readings:

The casebook for the course is: King, Areen and Gostin. *Law, Medicine and Ethics*. (Foundation Press). All page references in the syllabus assignments are to this book, unless otherwise noted.

TWEN: There is a class page on TWEN. It is titled "Bioethics and Law." You may access it using the password "bioethics".

Resources: The National Institutes of Health has a helpful bioethics resources web page at: <http://bioethics.od.nih.gov/>. Other useful web sites are maintained by the Kennedy Institute of Ethics at Georgetown University, <http://bioethics.georgetown.edu/nrc/>; and the Hastings Center, <http://www.thehastingscenter.org/>. For an international flavor you might try the Nuffield Council of Britain web site at, <http://www.nuffieldbioethics.org/>

Class Participation: The course is organized around fostering student discussion of the cases we read each class, therefore your regular attendance is essential. Every student will be responsible for presenting at least one case in class. These cases will be assigned in advance.

Classroom Etiquette: The classroom environment must be conducive to learning for all students. Proper conduct in the classroom is intended to encourage everyone to participate in, to derive benefit from, and ultimately to enjoy the class. It is perfectly acceptable and indeed professionally required that you demand professional behavior of your classmates in and out of class.

Technological devices, in particular, can be distracting to your classmates and me and thus undermine that goal. Accordingly, during class, in addition to usual courtesies, refrain from text-messaging and email; using cell phones, pagers, or any other communication device; refrain from displaying wallpaper, screen savers, or other

material on your laptop computer screen that can reasonably be expected to offend or distract your classmates.

- Behavior which interferes with the learning ability of your classmates will be sanctioned accordingly.

Attendance Policy: Attendance is important and required by the ABA and Hamline University School of Law. If a student is absent (for any reason) more than 3 times this semester, it is **his or her responsibility** to contact the professor to determine whether the work can be made up or whether some other arrangement such as a grade change or withdrawal from the course is more appropriate. Failure to consult with the professor promptly about make-up work or other alternatives after a sixth (6) absence may constitute grounds for withdrawal from the course.

Grading: Your course grade will be derived primarily from your final paper. There will also be several short (1-2 page) reader-response papers due at different times throughout the semester. Each student will also be expected to present at least one case in class during the semester (this may vary depending on the size of the class) . Class participation may count as a “plus” factor in cases where grades are on a particular borderline. Failure to participate in class will *not* count against you so long as you each make a good faith effort in your assigned class case presentations.

Final Paper: The final paper will be an in-depth exploration of a particular issue in Bioethics and Law. *You may choose* the topic, but *you must get the professor’s approval* for your choice of topic. The paper is expected to be 13-15 pages long. The paper will be due at **12:00 noon Friday, May 6.**

THIS SYLLABUS SUBJECT TO REVISION

Section I: Bioethics: Foundations

Assignment 1: Foundations: The Belmont Report

Available at: <http://www.hhs.gov/ohrp/humansubjects/guidance/belmont.htm>

Also Read Case Book, pp. 45-56

Section II: Humans as Research Subjects

Assignment 2: Overview and Historical Abuses in the U.S.
pp. 259-292

Assignment 3: Evolution of Public Regulation of Human Experimentation; Prisoners
pp. 292-308; 318-330; 352-355

IOM Report: Ethical Considerations for Research Involving Prisoners – excerpts

Shah, “Testing Drugs on Prisoners: The Easy Out.” *Boston Globe*.

Assignment 4: IRBs; Tuskegee in Context – Guest Speaker
pp. 318-346; Reverby, “Normal Exposure”

Assignment 5: Medical Professionals in Military Contexts

Viewing: Frontline: “The Torture Question”

Reading: Bloche and Marks, “When Doctors Go To War,” *NEJM*; Miles, “Abu Ghraib: Its Legacy for Military Medicine,” *Lancet*; Danner, “Us Torture: Voices from Black Sites.” *NYRB*. Fink, “Do CIA cables show doctors monitoring torture?” *Salon*. Physicians for Human Rights. “Experiments in Torture”

Section III: Ownership of the Body and Other Commercial Considerations

Assignment 6: Body as Commodity - I
pp. 208-243

Assignment 7: Body as Commodity - II
pp. 243-258

Viewing: “Dying for Drugs”

Assignment 8: Conflicts of Interest

Handout:

Elliott, “The Drug Pushers,” *Atlantic*; Elliott, “When Ethicists Have Conflicts of Interest,” *Dissent*; Elliott, “Making a Killing,” *Mother Jones*. McHenry and Juredeini,; Perrone, “Court Documents Show Glaxo used Casper (the friendly ghostwriting program) to Promote Paxil,” *LA Times*; Grant, “Merck Published Fake Journal.” *The Scientist*. Fugh-Berman, “The Haunting of Medical Journals: How Ghostwriting Sold ‘HRT’” *PLoS Medicine*

(This list may be modified)

Section IV: Reproduction and the New Genetics

Assignment 9: Defining Life and Aiding Reproduction
pp. 509-528; 560-582

Assignment 10: Aiding Reproduction -II
pp. 582-616

Section V: Death and Dying

Assignment 11: Defining Death; The Right to Die
pp. 370-385; 395-410

Assignment 12: Physician Assisted Suicide and Death with Dignity
pp. 429-456

Assignment 13: Incompetent Patients
pp. 456-488

Assignment 14: Open - review