

American Bioethics
KHC PH101

Fall 2012
Tuesdays/Thursdays
8:00 – 9:20 AM
Room: KHC 107

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Course Description

Bioethics is the systematic study of the moral dimensions of the life sciences and health care. American bioethics is a product of American healthcare and American law, which in turn reflect four deeply-ingrained American characteristics: we are individualistic, technology- driven, death-denying, and wasteful. These characteristics make “reforming” American healthcare extremely contentious. This introductory course takes a wide survey of bioethics in the context of American life and politics, from conception to death, emphasizing how decisions are made in the medical care setting. We will frame at least some of the discussion in the Congressional debate, and Constitutional challenge to the Affordable Care Act, and will be especially interested in how this year’s national election will affect the availability of health insurance, including Medicare and Medicaid, and how the Massachusetts election will affect end of life care. Exploring how American bioethics “works” and why our “best in the world” healthcare system is so resistant to change will be constant challenges in this seminar.

Course Objectives

Upon completion of this course you should be able to:

1. Explain the difference between medical ethics and bioethics, and why the field is dominated by the doctor-patient relationship and medical research;
2. Identify key issues that consistently arise in the practice of medicine and medical research;
3. Explain why resolving ethical issues in medicine is so difficult;
4. Identify the major barriers to health care reform in the United States;

5. Explain the links between American bioethics and American law;
6. Participate constructively in discussions of bioethics and law;
7. Demonstrate critical reasoning skills.

Course Requirements

Required Reading and Texts

Textbooks:

Annas, GJ, *Standard of Care: The Law of American Bioethics* (Oxford, 1993); Annas, GJ, *American Bioethics: Crossing Human Rights and Health Law Boundaries* (Oxford, 2005); and Shaw, GB, *The Doctor's Dilemma* (a play) (all books widely available used, e.g. on Amazon.com)

Course Blackboard Site:

Assigned readings are listed in the course readings section below; with the exception of the texts, they will be posted on the course's Blackboard site (blackboard.bu.edu), as will supplementary readings not handed out in class.

Course Grading

There are two short (3-4 pages) papers, a midterm exam, and a final exam. Due dates will be announced at least 2 weeks in advance and late papers will lose 2 points for every day they are late.

Relative contributions to the final grade:

- § 2 short papers: 30% (15% each)
- § Midterm Exam: 30%
- § Final Examination: 40% Attendance

Attendance in class is required; only 2 unexcused absences will be permitted.

Academic Dishonesty:

<http://www.bu.edu/academics/resources/academic-conduct-code/>

Course Outline & Readings

Note: Suggested Readings will be discussed at various points in the seminar, some noted in the outline:

- Skloot, *The Immortal Life of Henrietta Lacks* [IL]
- Patchett, *State of Wonder* [SW]
- Gwande, *Better* [B]
- Huxley, *Brave New World* [BNW]
- Shelley, *Frankenstein* [F]

Week 1. Introduction to Bioethics, Medical Ethics, Health Law, & Human Rights
(Sept. 4 & 6)

Differentiating bioethics from medical ethics, law, and human rights, and how each apply to American healthcare and discussion of recommended summer readings.

Readings:

§ Standard of Care: Introduction

§ American Bioethics: Introduction, Chapter 2, "Human Rights and Health," "Concluding Remarks," and Appendix A (UDHR)

§ Annas GJ, Doctors, Patients, and Lawyers: Two Centuries of Health Law, *N Engl J Med* 2012; 367: 445-51.

§ [B]

Note: You are invited to attend a MED school lecture on End of Life Care, at the Medical School in Keefer Auditorium, Monday Sept. 10, 12:30-2:30 pm.

Week 2. Ethical Decisions in Extremes
(Sept. 11 & 13)

Considerations of ethics, law, and pragmatism when dealing with extreme and unusual clinical situations.

Readings:

§ Standard of Care: Chapter 3, "Angela Carder," Chapter 9, "Not Saints," and Chapter 18,

“Siamese Twins”

§ American Bioethics: Chapter 7, “Conjoined Twins”

§ [additional material on Blackboard]

§ [F and SW]

Week 3. Reproductive Rights and Abortion
(Sept. 18 & 20)

Whether or not there is a “war on women” the right to terminate a pregnancy has been the most controversial rights since the Supreme Court enunciated it in *Roe v. Wade*. Why? What can and should physicians do about the continuing controversy?

Readings:

§ Standard of Care: Chapter 1, “Brave New Medicine,” Chapter 4, “Supreme Court...”, and Chapter 13, “Politics”

§ American Bioethics: Chapter 9, “White Coat” and Chapter 10 “Partial Birth”

§ *Roe v. Wade* (edited)

§ Annas GJ, The Supreme Court and Abortion Rights, *N Engl J Med* 2007; 356: 2201-8.

Note: Those who can attend are invited to Medical Grand Rounds at the Medical School in Keefer Auditorium, Friday September 21 from noon to 1:00 pm on the Affordable Care Act.

Week 4. The Affordable Care Act in the Congress and the Courts
(Sept. 25 & 27)

The Affordable Care Act is President Obama’s main achievement so far as President, and was Romney’s main achievement as Massachusetts Governor. What does it do and why is it so controversial? Can it be implemented in a way that expands access and controls cost?

Readings:

§ American Bioethics: Chapter 5, “The Right to Health”

§ Oberlander, J. Unfinished Journey: A Century of Health Care Reform in the US, *N Engl J Med* 2012; 367: 585-590.

§ Mariner, Glantz & Annas, Reframing Federalism - The Affordable Care Act (and Broccoli) in the Supreme Court, *N Engl J Med* 2012

§ Mariner, Annas & Glantz, Can Congress make you buy Broccoli? And Why that’s a Hard Question, *N Engl J Med* 2011; 364: 201-03.

§ Annas, GJ, Abortion Politics and Health Insurance Reform, *N Engl J Med* 2009; 361:

2589-91.

§ Annas, GJ, The Real Pro-Life Stance: Health Care Reform and Abortion Funding, *N Engl J Med* 2010; 362; e56.

Week 5. Rationing
(Oct. 2 & 4)

What is the meaning of health care rationing and how can and should it be done? Why did the charge of “death panels” almost kill the Affordable Care Act?

Readings:

§ Standard of Care: Chapter 16, “Rationing Medical Care” and Chapter 17, “Minerva v. National Health Agency (2020)”

§ Shaw, The Doctors Dilemma.

§ Annas, The Prostitute, the Playboy and the Poet: Rationing Schemes for Organ Transplantation, *American J. Public Health* 1985; 75: 187-89.

§ Emanuel & Wertheimer, Who Should get Influenza Vaccine when not all can? *Science* 2006; 312: 854-6.

Note: Students are invited to MED school lecture on patient safety and medical malpractice, Medical School, Keefer Auditorium, Wed., Oct. 3, 8:30-10:20 am.

Week 6. Rationing (Part 2)
(Oct. 9, no class; Oct. 11)

Readings:

§ Week 5 continued

§ Gawande, Big Med, *New Yorker*, August 2012.

§ The Cheesecake Factory, A Recipe For Health Care? NPR, August 7, 2012.

§ [B]

Note: Students are invited to Public Health Forum at the School of Public Health (Main educational Building of Med School, Rm. L-110) for a lecture by Dr. Marcia Angell on the Massachusetts Physician-Assisted Suicide Ballot Question, on Wednesday, October 10 from noon to 1:00. [Dr. Angell will also speak on this topic at the LAW school, room 1270, on Monday, Oct. 15 at noon]

Week 7. Clinical Decision Making and Medical Ethics
(Oct. 16 & 18)

October 16 - Guest Speaker: Michael Grodin, MD, head of medical ethics at Boston Medical Center.

Dr. Grodin will be discussing how physicians use ethical principles and procedures in dealing with complex clinical challenges. He will also lead a discussion of the Massachusetts Ballot Initiative on Physician Assisted Suicide (text posted on Blackboard).

Readings:

§ Standard of Care: Chapter 7, "Insane Root," Chapter 8, "In Thunder," and Chapter 19, "Killing Machines"

§ American Bioethics: Chapter 6, "Capital Punishment"

§ Readings from the New England J of Medicine on the history of public referendums on physician-assisted suicide in Michigan, Oregon, and Washington.

o Annas GJ, Physician-Assisted Suicide - Michigan's Temporary Solution, N Engl J Med 1993; 328: 1573-76.

o Annas GJ, Death by Prescription - The Oregon Initiative, N Engl J Med 1994; 331: 1240-43.

o Annas GJ, The Promised End - Constitutional Aspects of Physician-Assisted Suicide, N Engl J Med 1996; 335: 683-7.

October 18 - MIDTERM EXAM

Week 8. Informed Consent
(Oct. 23 & 25)

Informed consent and application of the doctrine to extreme cases like the Jarvik 7 artificial heart and other human experiments.

Readings:

§ Standard of Care: Chapter 15, "Death and the Magic Machine: Consent to the Artificial Heart"

§ American Bioethics: Chapter 8, "Patient Rights"

§ Barney Clark consent form (reprinted in Shaw, After Barney Clark, 1987)

§ Readings from The Bill Schroeder Story

§ D. Breo, Extraordinary Care (1986)

Week 9. Organ Transplantation and the Dead Donor Rule
(Oct. 30 & Nov. 1)

Heart transplantation and the “dead donor” rule; the supply and demand problem in organ transplantation; organ donation and “brain death.”

Readings:

§ Standard of Care: Chapter 14, “From Canada with Love: Death and Organ Donation”

§ A Definition of Irreversible Coma: Report of the Ad hoc Committee off the Harvard Medical School to Examine the Definition of Brain Death, *JAMA* 1968; 205: 337-40; and The Uniform Definition of Death Act

Week 10. Government Regulation of Human Experimentation
(Nov. 6 & 8)

Government regulation of human experimentation; The Nuremberg Code and Helsinki; the FDA and IRBs.

Readings:

§ The Nuremberg Code

§ The Declaration of Helsinki

§ Selections from the Federal Regulations on Human Experimentation.

§ *United States v. Rutherford*, 442 U.S. 544 (1979)

§ McKinlay J, From “Promising Report” to “Standard Procedure”: Seven Stages in the Career of a Medical Innovation, *Milbank Mem Fund Q.* 1981; 59: 374-411

§ *Abigail Alliance v. Von Eschenbach*, 429 F.3d 129 (D.C. Cir. 2006) (edited)

Week 11. The “New” Genetics (Part 1) (Nov. 12 & 15)

Readings:

§ Standard of Care: Chapter 11, “Mapping the Human Genome and the Meaning of Monster Mythology” and Chapter 12, “Outrageous Fortune: Selling Other People’s Cells”

§ *American Bioethics*: Chapter 12, “Waste and Longing”

§ [IL and F]

§ Green RC & Annas GJ, The Genetic Privacy of Presidential Candidates, *N Engl J Med* 2008; 359: 2192-3.

§ Truog, Kesselheim, & Joffe, Paying Patients for Their Tissue: The Legacy of Henrietta Lacks, *Science* 2012; 337: 37-8.

Week 12. The "New" Genetics (Part 2)
(Nov. 20; Nov. 22 is Thanksgiving)

Readings:

§ American Bioethics: Chapter 3, "Man on the Moon" and Chapter 4, "Endangered Human"

§ Vonnegut, Fortitude (a play) in Wampeters, Foma, & Granfalloon (1968)

Week 13. The Meaning of the "New" Reproductive Technologies
(Nov. 27 & 29)

Readings:

§ Standard of Care: Chapter 5, "Short, Happy" and Chapter 6, "French Homunculus"

§ American Bioethics: Chapter 11, "The Shadowlands"

§ Annas GJ, Ulysses and the Fate of Frozen Embryos - Reproduction, Research, or Destruction?, N Engl J Med 2000; 343: 373-6.

§ Annas GJ. Assisted reproduction--Canada's Supreme Court and the "global baby," N Engl J Med 2011; 365(5):459-63.

Week 14. American Bioethics and the International "Right to Health" (Dec. 4 & 6)

The International "Right to Health" and its meaning in a globalized medical world; social justice and human rights for the poor.

Readings:

§ American Bioethics: reread "Concluding Remarks" and Appendices A, B & C

§ Selections from Comment 14, American Bioethics, 219-20.

§ Paul Farmer, Pathologies of Power, Ch. 9, "Rethinking Health and Human Rights" (2005).

§ UNESCO Universal Declaration of Bioethics and Human Rights

Week 15. Review
(Dec. 11, Final Class) FINAL EXAM TBA