

BIOL5813 Biomedical Ethics

Course Meeting Details:

- Semester: Fall 2022
- Schedule: Mondays, 6:00 – 9:00 pm
- Location: Bolin 209
- Office Hours: MW 8:00 – 10:00 am; T 11:00 am – 1:00 pm

Course Instructor:

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Course Description:

Advances in medical technologies, scarcity during times of pandemic, and Supreme Court controversies have made most of us aware of bioethical problems like never before. While we cannot talk about every dilemma you might face in your lifetime, we can cover some of the major cases that shape the ethical landscape we find ourselves living in today. This course will primarily use US case law to examine this landscape. The course will by default be reading, writing, and discussion intensive.

Course Objectives:

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. Students should also have a general understanding of the law and how it applies to their daily lives and the lives of friends, families, and strangers. The goal is to provide you with enough information to make informed decisions about how you live your life.

Recommended Text (all required readings are uploaded on D2L):

Beauchamp, T., Childress, J. (2019). Principles of Biomedical Ethics, 8th edition, New York: Oxford University Press. ISBN-13: 978-0190640873.

Course Requirements:

This course will be conducted as a graduate seminar, with formal presentation of some background material by the instructor followed by 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 all assigned articles, cases, chapters, and excerpts in advance, AND come to class prepared to discuss them. Please give yourself enough time to read the assignments as some of these are long documents.

Grading:

Grades will be assessed using the following categories:

Class participation/Attendance	10%
First Case Reflection*	10%
Second Case Reflection*	10%
Third Case Reflection*	10%
MSU Supreme Court Presentations (present your position to the class; followed by “court argumenta” and then a “vote in chamber”)**	20%
Final MSU Supreme Court Opinion (your individual written opinion)**	40%

*The case reflections will focus on problems associated with legal cases studied in class or other cases related to health law and ethics. Formatting and structure of the reflections are outlined at the end of the syllabus.

In addition to the three case reflections, you will write ONE major paper that will take the form of a supreme court opinion. The topic and formatting are described at the end of the syllabus. This is a **significant paper; you should begin it EARLY in the semester.

Attendance and Participation:

Attendance and participation are essential in small seminar classes. Points will be deducted for each absence (1pt per absence). Participation means that you contribute to the discussion. Please intend to be in class for the full class period. Note: ALL opinions are welcome and ALL discussions will be civil.

Late Assignments:

No late assignments will be accepted.

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 to receive accommodations.

Academic Integrity:

As this is a class on ethics and as graduate students, you are expected to turn in work of the utmost integrity. Dishonesty will NOT be tolerated. Clearly distinguish your opinions from the work of others and ALWAYS cite IN TEXT information that is not your own. It is not enough to put in a reference section; you MUST cite in text. You are personally responsible for your work and there is no such thing as accidental plagiarism.

The course outline begins on the next page and is followed by the required readings and then by descriptions of the case reflections and the court opinion assignments.

Course Outline:

	DATE	TOPIC	ASSIGNMENTS
Week 1	8/22/22	Course Introduction and Introduction to Moral Theory	Week 1 Readings
Week 2	8/29/22	Introduction to US Constitutional Law	Week 2 Readings
Week 3	9/5/22	NO CLASS – LABOR DAY	
Week 4	9/12/22	Right to Privacy – Contraception	Week 4 Readings
Week 5	9/19/22	When are you a person?	Week 5 Readings
Week 6	9/26/22	Right to Privacy – Abortion	Week 6 Readings Case Reflection #1 DUE
Week 7	10/3/22	Bodily Autonomy – Sterilization by the State	Week 7 Readings
Week 8	10/10/22	The right to a child at any cost?	Week 8 Readings
Week 9	10/17/22	Do you have the right to sell your organs?	Week 9 Readings
Week 10	10/24/22	The constitutionality of being an anti-vaxxer	Week 10 Readings Case Reflection #2 DUE
Week 11	10/31/22	Some things to consider before we have CRISPR babies.	Week 11 Readings
Week 12	11/7/22	Health Inequalities and the Right to Health	Week 12 Readings
Week 13	11/14/22	Do you have the right to die?	Week 13 Readings
Week 14	11/21/22	A preview of things to come: Gorsuch and the end of life	Week 14 Readings Case Reflection #3 DUE
Week 15	11/28/22	MSU Supreme Court Session: student presentations and roll-call vote	You will need a solid draft of your opinion
FINALS	12/5/22	NO CLASS – ALL PAPERS DUE	Final Court Opinion DUE

Reading List (pdf files appear in folders on D2L by week):**Week 1 (8/22/22) – Introduction to Moral Theory**

- **Moral Theory: Executive Summary.** McMillan J. (Date Unknown) Royal College of Physicians and Surgeons, Canada. Web Resource.
- **Principles of Healthcare Ethics.** Summers J. Book Chapter in Morrison, Eileen E., ed. Health Care Ethics: Critical Issues for the 21st Century. 2nd edition. Sudbury, MA: Jones and Bartlett Publishers, 2009: 41-58.

Week 2 (8/29/22) – Introduction to Constitutional Law

- **The US Constitution** (read it along with its amendments)
- **Judicial Interpretation of the Constitution.** Goodwin Liu, Pamela S. Karlan, and Christopher H. Schroeder, Keeping Faith with the Constitution, Washington, D.C.: American Constitution Society, 2009.
- **Bioethics and the Constitution.** Schaub D. (2004) The Public Interest. Republished in The New Atlantis.
- **Bioethics and Basic Rights: Persons, Humans, and Boundaries of Life.** Sándor J. Chapter in Rosenfeld M, Sajó A., ed. The Oxford Handbook of Comparative Constitutional Law, 2012.

Week 4 (9/12/22) – Right to Privacy: Contraception

- *Griswold v. Connecticut* (right to contraception for married couples)
- *Eisenstadt v. Baird* (right to contraception for unmarried individuals)
- Re-read Amendments 5 and 14 to the US Constitution

Week 5 (9/19/22) – When are you a person?

- **Beyond Abortion: Why the personhood movement implicates reproductive choice.** Will J. (2013) American Journal of Law & Medicine. 39:573-616.
- **The Ethics of IVF.** Beers B. (2019) Bioethics in Faith and Practice. 4(1).
- **Arrests of and forced interventions on pregnant women in the United States, 1973 – 2005: Implications for women’s legal status and public health.** Paltrow LM, Flavin J. (2013) Journal of Health Politics, Policy and Law. 38(2): 299-343.

Week 6 (9/26/22) – Right to Privacy: Abortion

- *Roe v. Wade* (right to abortion)
- *Dobbs v. Jackson Women’s Health* (leaked draft overturning Roe)

Week 7 (10/3/22) – Bodily Autonomy: Sterilization by the State

- *Buck v. Bell* (state can sterilize the disabled; Virginia overturned this, but not the US Supreme Court)
- *Skinner v. Oklahoma* (state can’t sterilize criminals)

Week 8 (10/10/22) – The right to a child at any cost?

- **The ethics of uterus transplantation.** Catsanos R, et al. (2013) Bioethics. 27(2):65-73.
- **Abortion rights after artificial wombs: Why decriminalization is needed ahead of ectogenesis.** Horn C. (2021) Medical Law Review. 29(1):80-105.

Week 9 (10/17/22) – Do you have the right to sell your organs?

- **Bioethics of organ transplantation.** Caplan A. (2014) Cold Spring Harbor Perspectives in Medicine. 4:a015685.
- **“Body Property”: Challenging the ethical barriers in organ transplantation to protect individual autonomy.** Dunham IV, CC. (2008) Annals of Health Law. 17(1):39-65.
- **Imposing options on people in poverty: the harm of a live donor organ market.** Rippon S. (2014) Journal of Medical Ethics. 40:145-150.
- **Surviving inflation one plasma donation at a time.** Swenson K. (2022) The Washington Post.

Week 10 (11/24/22) – The constitutionality of being an anti-vaxxer

- *Jacobson v. Massachusetts* (the government can require vaccination)
- **Whether Section 564 of the Food, Drug, and Cosmetic Act prohibits Entities from Requiring the Use of a Vaccine Subject to an Emergency Use Authorization.** Slip Opinion (2021).

Week 11 (11/31/22) – Some things to consider before we have CRISPR babies.

- **Setting ethical limits on human gene editing after the fall of the somatic/germline barrier.** Evans JH. (2021) PNAS 118(22):e2004837117.
- **Enhancement.** Chapter 6 in Human Genome Editing: Science, Ethics, and Governance. Report of the National Academies of Sciences, Engineering and Medicine. The National Academies Press, Washington DC, 2017.

Week 12 (11/7/22) – Health Inequalities and the Right to Health

- **The legal determinants of health: harnessing the power of law for global health and sustainable development.** Gostin LO, et al. (2019) The Lancet. 393:1857-1910.
- **Structural violence and clinical medicine.** Farmer PE, et al. (2006) PLoS Medicine. 3(10):e449.
- **An Ethnographic Study of the Social Context of Migrant Health in the United States.** Homes SM. (2006) PLoS Medicine. 3(10):e448.
- **Who Lives and Who Dies.** Farmer PE. (2015) London Review of Books. 37(3).

Week 13 (11/14/22) – Do you have the right to die?

- **The right to die: The broken road from *Quinlan* to *Schiavo*.** Clark AE. (2006) Loyola University Chicago Law Journal. 37:383-403.
- *In Re Quinlan* (Supreme Court of New Jersey, removal of feeding tube)
- *Cruzan v. Missouri Department of Health* (US Supreme Court, removal of feeding tube)
- *Schiavo v. Schiavo* (US Appeals Court, 11th Circuit, removal of feeding tube)

Week 14 (11/21/22) – A preview of things to come: Gorsuch and the end of life

- **The right to assisted suicide and euthanasia.** Gorsuch NM. (2004) PhD Dissertation, University of Oxford.

Details for Case Reflections and the Final Paper begin on the next page...

Case Reflections:

You will be given three Case Reflections in addition to your final paper in this seminar. All Case Reflections will adhere to the following basic outline:

1. Title: this needs to be descriptive, not just “Case Reflection #1”, etc. It could be a question as is shown in the sample case study, or it could be essentially your position statement that you are going to defend. The key is it has to tell me what I am going to be reading about.
2. Introduction: one paragraph that essentially states the case question you are given, the core issues surrounding that case question, and a thesis statement that tells me your position on the matter. You may or may not add some justification to your thesis statement, but you need to at least give me a thesis.
3. Body: the main part of the reflection should contain the following (they can be in any order, combined together, laid out differently—you need to write the reflection so it clearly presents your ideas):
 - a. Explain, briefly, both sides of the issue as you see them (pros/cons, reasons for/reasons against, costs/benefits, etc.)
 - b. Identify the specific ethical/legal principles involved in the case (there are 4 principles of bioethics and a whole constitution full of ideas)
 - c. State your position on the case
 - d. Support your position with THREE (3) reasons
4. Conclusion: restate your position and the core reason you think this way; do not introduce anything new in the conclusion.
5. References: you will need to reference something to support your position. Citations MUST be made in text where they are used AND then listed, in complete format, at the end of your reflection.

I have included a sample case study on D2L for you to look at. Your reflections need to follow the above format (so you do not include an abstract and biography, etc. and yours is laid out a little different), but this sample should give you an idea of the types of things to think about.

- **Sample Case Study: Should a patient who is pregnant and brain dead receive life support, despite objection from her appointed surrogate?** Sperling D. (2020) AMA Journal of Ethics. 22(12):E1004-1009.

These are the Case Reflections you will write about. Due dates are shown on the Course Schedule. You can work on them at any time, but due dates are hard due dates.

- **Case Reflection 1:** There are likely 1 million or more frozen embryos currently in deep-freeze here in the United States, the product of IVF therapies for infertile individuals or individuals who were attempting to avoid genetic anomalies in their children. Assuming *Roe v. Wade* is overturned and that life and personhood are legally defined as beginning at the moment of conception, what should happen to these embryos? As part of your answer, indicate whether these embryos are persons or not.
- **Case Reflection 2:** Thousands of individuals need donor organs, but there are never enough cadaveric organs to use. Broadly speaking, should people be allowed to sell

their organs? More narrowly, should selling your organs or other bodily tissues be a requirement, say to get out of debt or to be able to buy food? As part of your answer, you should consider the medical ramifications to living donation.

- **Case Reflection 3:** Do you have a right to die, to determine the time, place, and circumstances of your own death, or is death a privilege granted by the state? Consider, as part of your answer the following: suicide, “pulling the plug” (meaning someone else turns off your ventilator, for example, because you can’t), physician-assisted suicide (where you are given medication that you ultimately must take yourself), and the death penalty. You are allowed to categorize these forms of death into some that are allowable and some that are not.

Final Paper: Writing a Court Opinion and Using it to Convince Your Peers

Court opinions are, ultimately, an argumentative tool meant to sway other judges, politicians, and the public to your way of thinking. You do not need to be a lawyer to write an opinion and make an argument for why others should agree with you. We are doing a court opinion because bioethical cases generally get trapped in the court system, and so being able to read law will be helpful in making just decisions. We will therefore hold a mock court. Each of you will write your own opinion over the topic below and present that opinion to the class. Once everyone has presented their opinion, you will vote to confirm or overturn the case below. After hearing arguments from others, you may change your opinion—that is ok! You will write an addendum to your individual opinion stating whether you change your mind or not. This addended paper will be what you turn in. You will find instructions for writing your court opinion after the outline of the case below.

- You are tasked with reading the Supreme Court Case *Obergefell v. Hodges* (posted on D2L) and writing an opinion as to **whether the decision in Obergefell legalizing gay marriage should be upheld or overturned**, given the leaked opinion overturning *Roe*. Upholding it would be counter to the rationale for overturning *Roe*, yet overturning it will have ramifications that are significant (reproductive choices, death and dying choices, access to insurance, etc.). You can’t waffle here—you must either argue to uphold or to overturn.

You will by the end of the semester know what a court opinion looks like because you will read enough of them, so you have models to look at; however, below I have appended some more information.

Writing Thesis-Driven Papers¹

Title: *follow the outline of the opinions you read. Mostly, the title of the opinion is the full title of the court case.*

Introduction/Summary

A successful thesis-driven piece of scholarship will always begin with a very clear question replete with careful definition of terms. Then state your answer to the question in a clear, debatable thesis statement. A debatable thesis statement is one about which reasonable persons may have differing opinions. This is best placed in the first paragraph of the paper. You will need to work on this and revise as needed, but do not ever lose sight of your thesis statement. You should not veer off course, because the rest of the paper is an argument supporting your thesis. Every sentence in your paper ought to be connected to your thesis in some way. It might help introduce your audience to the nuances of the topic you are discussing so that they will understand how your thesis differs from claims made by others.

A good paper usually includes a second paragraph that discusses in brief why the question and thesis are important. Is the thesis important for solving a major problem in ethics, law, or both? Who might be impacted by your paper and how?

A third paragraph usually describes how you are planning to structure the paper, and some mention of key sources. It is a good idea to ask about every topic or point in your paper, “how will adding this information help my reader understand my thesis?” If you cannot answer this question, then the information is probably better left out. For example,

“In this paper, I will argue that the 2014 U.S. Supreme Court case of *Burwell v. Hobby Lobby Stores, Inc.*, was wrongly decided. I will evaluate the relevant legal precedent and analyze arguments from the Court’s opinion, including arguments x, y, and z. I will further argue that the Court wrongly disregarded material about medical facts from relevant amicus briefs and provide supporting scientific literature.”

Or/

“I shall contend that under certain urgent conditions, the forced C-section can be justified. I will cover the history of debate over this issue, the philosophical and ethical positions of relevance, and some of the case law involved.”

Or/

“Selective abortion for reasons of gender alone is morally unacceptable. I will examine the history of this practice, and arguments for and against this practice drawing on gender studies, ethics, and policy. In addition to providing a balanced exposition of these arguments, I will contend that the practice is unacceptable for reasons x, y, and z.”

¹ This information was taken from the syllabus for a bioethics course taught at the College of Medicine at Stony Brook (HCB502: Landmark Cases in Bioethics) taught Fall 2018. Information in *italics* is my modification of the HCB502 syllabus.

The outline and headings (i.e., the organization of the paper) should be designed to move your thesis forward in a constructive way. Outline your thoughts before you begin to write.

Main Body

Be certain to use headings well. Headings are a roadmap for the reader. They are like signposts on the highway. They should not be complex or long, so choose a few effective words. Subheadings can sometimes also be quite helpful. Headings should be in bold, and subheadings should be in italics.

Develop your ideas and use transitions to link the major strands of your exposition. Remember, though your interlocutors may be able to follow certain moves you make because they are familiar with the literature the public will not. Make sure that an intelligent person who is not an expert in your topic could easily follow your argument. If you jump around without an indication of why, it will be extremely difficult for your reader to follow you.

When agreeing or disagreeing with an author, including authors of judicial opinions and statutes, don't merely state that you agree or disagree but make a case for why you do. Clearly identify the views of the author whom you will be discussing. Highlight important distinctions and concepts of which the author makes use. It is essential to use citations when doing this. This will indicate to your interlocutors precisely the point at which you disagree, while introducing the public to an important aspect of the conversation you are engaging in and of which they may not be aware.

If you plan to disagree with an author's position, then raise at least one objection that you would advance against the view as you understand it. While the public may be interested in simply learning alternative views on the matter, your interlocutors will want to know why your position differs from those already accepted. If you plan to agree with the author's position, then be sure to explain why it is important that you agree. Others may have raised objections to the position with which you agree. Explain these objections and then explain how it is that the position you endorse overcomes them. Once again, proper citation is essential to this aspect of your paper.

When in doubt, break up long sentences and split up long paragraphs. Semi-colons are hard to use well, so avoid them unless you are sure of your grammar, and avoid page-long paragraphs that beg to be broken up into two or three.

Take care to select quoted phrases, sentences, or segments of several lines with scholarly precision. Only quote the material that makes your point best, and always reference it. There is no need to quote excessively, and you should help the reader understand what you want them to get from a block quote, rather than leave it dangling at the end of a paragraph. Block quotes are acceptable if used wisely, but they should rarely, if ever, exceed ten lines.

Conclusion

Conclude with a brief summary of your paper. *The very LAST sentence of your conclusion will be your recommendation to uphold or overturn Obergefell.*

Addendum

After we have oral arguments in court (the last class period), we will vote to uphold or overturn to come to a class/court decision. While you may continue to edit your main opinion, you are NOT allowed to rewrite it at this point. What you will do instead is to write an Addendum stating whether you are part of the majority or minority with respect to the final class/court decision on Obergefell. If you are part of the majority, you will give at least one point of agreement with the rest of the majority. If you are part of the minority, you will give at least one point of disagreement with the majority. The Addendum does not need to be more than a paragraph and cannot be written before we hold our court session.

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. Be CONSISTENT in how you use reference systems.

Feedback:

If you want feedback on your final paper before you present your ideas in class and/or turn in your final document, you need to send me documents via Word documents attached to an email (please don't send Google docs). Please send material early, not the last day of the semester.