GEORGE MASON UNIVERSITY SCHOOL OF LAW

Legal Aspects of Bioethics
Room 123

Professor: John Hasnas
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Office Hours: Wednesday 2:00-4:00, 6:30-8:00 and by appointment
Required text: JUDITH AREEN, ET. AL., LAW, SCIENCE, AND MEDICINE, (2d ed. 1996) published by Foundation Press, its 2000 Supplement, and a packet of supplementary readings

Spring Semester, 2000
Wed 8:00-9:50

Course Description

Bioethics is the study of the ethical issues that touch upon the practice of medicine, broadly conceived. This course will explore these issues and the legal context in which they arise. For the first seven meetings, readings will be assigned that are designed to acquaint the students with some of the traditional issues in bioethics. The final seven meetings are reserved for the students’ presentations of the results of their research.

Because of the small enrollment, this course can be run as a true seminar; one in which we learn through the exchange of ideas. Our class meetings will reflect this approach. The classes in the first half of the course will be based on the assigned readings. The first class will be an introductory class focusing on methodology led by the professor. Each of the following six classes will have a problem case associated with it. Class will consist in an effort to resolve the associated problem on the basis of principles extracted from the readings. For these classes, it will be the students’ job to read the assigned material, consider how it bears on the problem case, and attend class prepared to advance and support a resolution of the case.

The classes in second half of the course will be devoted to student presentations. During the first month of the semester, each student will schedule a date for his or her presentation. At the class meeting preceding this date, the students making presentations will distribute drafts of their papers to the other students and the professor. These drafts will constitute the class’s reading assignment for that week. Students and professor will attend the presentation prepared with critical questions and constructive comments about the draft. On the presentation date, the authors of the drafts will make a brief introductory statement (approximately 10 minutes) reviewing the theses and essential arguments of their papers. The papers will then be discussed by the class.

For each presentation, two members of the class will be “designated critics.” During the week preceding the presentation, they will each prepare a critical review of the draft that may not exceed 700 words in length. These reviews will be submitted to both the author and the professor on the day of the presentation. Following the author’s introductory remarks, the designated critics will begin the discussion by raising one question/comment each. After that, the floor will be thrown open for general discussion, the object of which will be to provide the author with the critical feedback he or she needs to produce the final draft of his or her paper.
Course requirements: This course has three required elements: the seminar paper, two critical reviews, and in-class performance.

1) The seminar paper - The seminar paper must be a normative research paper. A normative paper is one that presents an argument for a normative conclusion; a conclusion that attempts to establish that something should be the case. Thus, the seminar paper must identify, research, and attempt to resolve an important bioethical controversy. A satisfactory paper will present a significant body of research that supports a well-structured argument for your proposed resolution. You may think of the paper as a brief for your resolution of the bioethical controversy you have elected to address.

There is no mandatory minimum or maximum length. You should submit a paper that fully researches and resolves the issue you are addressing. In my judgement, a reasonable length for such a paper would be between 5000 and 6000 words (approximately 20 to 25 pages).

a) Topics: Students may choose to write about any significant, controversial bioethical issue. You may use the casebook as a preliminary source of potential topics. The readings assigned for the first seven weeks have been selected so as not to preempt many contemporary bioethical controversies. If you wish to write about one of the issues addressed in these classes, you may do so, but your paper must go significantly beyond both the readings in the casebook and our discussion in class to be acceptable. It is strongly recommended that the students do preliminary research early in the semester and consult with the professor before choosing a topic.

b) Substance and quality: A good seminar paper is one that clearly identifies, explains, and resolves a significant and controversial bioethical issue in a way that would be interesting to a non-expert audience.

Audience - You may think of yourself as preparing an article for publication in a general interest law review. Such an article must be accessible to legal practitioners and law professors and students who do not specialize in bioethics. Your goal should be to produce a paper that can be read and understood by, and would be persuasive to, a reasonably knowledgeable contemporary attorney or legal academic. Do not think of yourself as addressing either the professor of this course or an audience of professional bioethicists.

Clarity - Bioethics is rife with concepts and terminology from philosophy and medicine that are unfamiliar to the average attorney and legal academic. One of the major challenges you will confront in writing this paper will be to translate the specialized knowledge you obtain in doing your research into language that can be easily understood by a non-expert audience.

Level of formality - These papers must conform to the requirements of the Bluebook. Some students may wish to use this paper as a writing sample or as a draft of an article you would like to submit for publication. I am happy to work with such students to help them achieve the appropriate tone. However, those of you who do not have these ends in view should feel free to temper the formality of your writing style. Your overriding goal is to produce an interesting paper that resolves a controversial bioethical issue. You should express yourself in the way most likely to achieve this goal.

c) Standards for evaluation: Writing these papers will require you to find, read, understand, and assimilate a great deal of unfamiliar, and possibly technical, material. The understanding you gain
from your research must then be shaped into a coherent thesis that can be clearly communicated
to those who do not possess your first-hand knowledge. Accordingly, the seminar paper will be
evaluated on the basis of the following four criteria: 1) Quality of research - the completeness of
your examination of the relevant ethical/medical/legal sources and the extent to which you have
adequately uncovered and documented the information necessary to sustain your thesis; 2) Quality
of analysis - the extent to which you have provided a well-structured argument in support of your
thesis and the adequacy of the evidence offered for each premise of this argument; 3) Quality of
presentation - the extent to which the paper's organizational structure and clarity of written
expression effectively communicate the paper's thesis to its intended audience, and 4) Literary
quality - the extent to which the paper conforms to the rules of English grammar and spelling and
has been effectively proofread. The relative weight assigned to each of these criteria is as follows:

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<thead>
<tr>
<th>Criteria</th>
<th>Weight</th>
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<tr>
<td>Quality of research</td>
<td>30%</td>
</tr>
<tr>
<td>Quality of analysis</td>
<td>40%</td>
</tr>
<tr>
<td>Quality of presentation</td>
<td>20%</td>
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<tr>
<td>Literary quality</td>
<td>10%</td>
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Other technical requirements: Both the first draft and the final paper must be double-
spaced with one inch margins all around and must employ standard size font. A word count must
be included on the cover sheet of each.

d) Deadlines: A written statement of the topic chosen is due in class on February 16. First drafts
are due in class one week before the date scheduled for your presentation. You must provide
each of your fellow students and the professor with a copy of your draft in that class. Final papers
are due by 5:00 pm, May 13.

Missing a deadline without advance consultation with the professor will result in a one
step reduction in the grade assigned to the paper. In exceptional cases, extensions may be granted
when the student consults with the professor in advance of the deadline.

e) Significance of the grade: The grade assigned to the seminar paper will constitute 70% of the
grade assigned for the course. The grade will be based exclusively on the quality of the final draft.

2) Critical reviews - Each student will be a "designated critic" twice during the second half of the
semester. Each time he or she is a designated critic, the student must produce a critical review of
one of the papers being presented that week.

A critical review is a paper of 700 words or less that provides a comprehensive assessment
of the seminar paper under consideration. It should identify the significant weaknesses of the
paper in both substance and expression, suggest ways in which these weaknesses may remedied,
and otherwise make recommendations as to how the paper may be improved. The tone of these
reviews should reflect that fact that their purpose is to aid your fellow students in producing a
successful final draft.

Copies of the critical review must be submitted to both the author of the seminar paper
and the professor immediately following the presentation. The critical review must be double-
spaced with one inch margins all around and must employ standard size font. The copy submitted
to the professor must have a word count on the cover sheet. The grade assigned to the critical
reviews will constitute 15% of the grade assigned for the course.

3) **In-class performance** - In-class performance is comprised of 1) the quality of the student’s contribution to weekly discussions during the first seven classes, 2) the quality of the student’s contribution to discussion of seminar papers on the dates he or she is not a designated critic, 3) the quality of the student’s in-class performance as a designated critic, 4) the quality of the student’s presentation, and 5) attendance.

Each student is expected to have read the assigned materials and thought about how they bear on the problem case adequately to make an informed contribution to class discussion. *Discussion will be almost exclusively voluntary*. It is up to the individual student to decide how much he or she will contribute to class discussion. It is the value of this contribution that will be evaluated, not its frequency. A valuable contribution is one that helps advance the class’s efforts to understand and resolve the problem case or, in the second part of the course, helps the student making the presentation improve his or her seminar paper.

If one is not attending class, one is not contributing to class discussion. Students may miss one class with no effect on this portion of their grade.

The grade assigned to the student’s in-class performance will constitute 15% of the grade assigned for the course.

**Office Policy**: My office hours this semester are on Wednesdays from 2:00 to 4:00 and 6:30 to 7:30. As you work on your papers, you may wish to have extensive discussions with me outside of class. I encourage you to do this. You are not limited to my posted office hours. I am typically in the law school every day of the week. Please feel free to schedule appointments with me at any mutually convenient time. For advanced planning purposes, I know I will not be available on the following dates: February 24-25 and April 13-14. I will keep you informed as additional dates are added to this list.
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Tentative Syllabus

Week 1: Areen, pp. 49-59.

Week 2: Areen, pp. 230-269.
Areen, pp. 521-531.
Packet, McIntosh v. Milano.
Areen, pp. 273-281.
Packet, “Paternalism” by Gerald Dworkin; Lake v. Cameron.
Areen, pp. 281-294.
Packet, Guardianship of Roe.
Areen, pp. 299-302.

Week 3: Areen, pp. 1114-1118.
Packet, Cruzan v. Harmon; Cruzan v. Director, Missouri Dept. of Health.
Areen, pp. 1142-1153.
Packet, “The Intentional Termination of Life” by Bonnie Steinbock.

Week 4: Areen, pp. 1153-1214.
Packet, “Deciding for Others: Standards for Decision-Making” by Allen Buchanan and Dan W. Brock

Week 5: Areen, pp. 1269-1297, 1257-1269.
Areen, pp. 1353-1363.
Packet, In re A.C.
Areen, pp. 1263-1269.
Week 6: Areen, pp. 885-945.
Packet, "Increasing the Supply of transplant Organs: The Virtues of a Futures Market" by Lloyd R. Cohen.
2000 Supplement, pp. 188-197.

Week 7: Areen, pp. 987-1012, 1016-1019, 546-552, 1041-1086.