ET 1711: Moral, Legal, and Medical Issues in Healthcare

Bangor Theological Seminary
Two College Circle
Bangor, Maine 04402

Fall 2012

Instructor: Marvin M. Ellison

Email: mellison@bts.edu
Portland office: (207) 774-5212, ext. 207
Office hours: By appointment

Course schedule: September 21-22, October 19-20, November 9-10, and December 7-8 (Friday 6-9 p.m. and Saturday 9:00 a.m. to 4:00 p.m.)

Course Description:

This course explores selected ethical, theological, legal, and ministerial issues within the U.S. health care system, including such things as experimentation using human subjects; patient-assisted death; new reproductive technologies; race, gender, and medicine; genetic counseling; paternalism and patient rights; organ donation; HIV/AIDS; stem cell research; and fair access to health care resources. The focus is on the care of persons, the demands of justice, and the role of religious leaders as advocates for responsible health care. (3 credits)

Learning outcomes: By successfully completing this course, students should be able to

1. Clarify contested issues in health care while engaging in interdisciplinary and inter-professional dialogue with others. HOW demonstrated: course discussions, analysis of case studies, book review, and research essay.

2. Assess different moral viewpoints while articulating their own ethical stance. HOW demonstrated: course discussions and written assignments.

3. Gain insight into public policy debates and ways to strengthen the churches' contribution to the well-being of persons, especially those who are marginalized. HOW demonstrated: course discussions and written assignments.

Required texts:

1. Ronald Munson, Outcome Uncertain: Cases and Contexts in Bioethics (Wadsworth, 2003). ISBN 0-534-55642-6 ($21.25)

2. Choose ONE of the following for a book review:

a. Ted Peters, The Stem Cell Debate (Fortress Press, 2007). ISBN 978-0-8006-6229-5. ($9.99)

b. Rosemary Radford Ruether with David Ruether, Many Forms of Madness: A Family's Struggle with Mental Illness and the Mental Health System (Fortress Press, 2010). ISBN 978-0-8006-9651-1. ($22)

c. T.R. Reid, The Healing of America: A Global Quest for Better, Cheaper, and Fairer Health Care (Penguin, 2012) ($6.40)

d. Rebecca Dresser, ed. Malignant: Medical Ethicists Confront Cancer (Oxford University Press, 2012).

Recommended resources: (available on library reserved reading shelf)

Stephen E. Lammers and Allen Verhey, eds. On Moral Medicine: Theological Perspectives in Medical Ethics, second edition (Eerdmans, 1998).

Margaret E. Mohrmann, Medicine as Ministry: Reflections on Suffering, Ethics, and Hope (Pilgrim, 1995).

Course requirements:

1. Regular attendance and constructive participation in class discussions. (10%)

2. A health care ethics autobiography: Due session #1 (September 21) (10%)

   In 3-5 pages (typed, doubled-spaced), describe your experience as a health care consumer/patient, health care worker, and/or patient advocate (chaplain, guardian ad litem, etc.). Focus on what you've learned about the U.S. health care system and about ethical decision making within a medical context.

3. Submit a 2-3 page response (typed, double-spaced) to case studies (attached at the end of this syllabus, starting with page 8) in which you analyze the situation and provide an ethical assessment. Due on the specific date assigned. (30%) NOTE: The first case response is due September 21.

   Guidelines for analyzing the case studies:

   a. Show evidence of insights gained from the assigned reading. Include citations as appropriate.
   b. Identify the ethical issue or dilemma in the case, and provide a specific name for it (e.g., end of life care options, distributive justice and the allocation of limited resources, etc.).
   c. Don't focus exclusively on the pastoral issues involved.

d. Take a stand, and provide specific reasons for the choice you make. While you may want to indicate the merits of differing perspectives, explain why you weigh things out as you do.

4. Brief description (1-2 paragraphs) of your topic for the final research essay and a preliminary bibliography. Due November 9.

5. Write a 4-6 page critical book review of *either* Ted Peters' The Stem Cell Debate *or* Rosemary Radford Ruether's Many Forms of Madness *or* T.R. Reid's The Healing of America. Be prepared to facilitate the class discussion of the book you review. Due December 7. (15%)

   In your review, include the following:

   - Identify the author(s) and their social/theological location(s).
   - Briefly summarize the ethical problem or concern named by the author(s).
   - State why this problem is important from the author's viewpoint. What are the stakes, and for whom?
   - What change strategy, if any, does the author(s) propose?
   - Offer your own assessment of the strengths and/or weaknesses of the author's ethical analysis.

6. Final course evaluation (see page 7 for description). Due December 21. (5%)

7. A research essay, approximately 10-12 typed, double-spaced pages, in which you reflect on an ethical issue in health care of your choice. Include the following in your essay: (1) a statement of the problem; (2) clarification of your interests, values, and social location; (3) review of pertinent literature [a minimum of 3-4 journal articles]; (4) analysis of the ethical issues, including insights from the Christian tradition as appropriate; and (5) a constructive proposal for responding, including any policy recommendations. Due: December 21. (30%)

Written work will be evaluated in terms of:

- Overall clarity of your thinking and expression.
- Your critical engagement with texts, including solid demonstration of your understanding of an author's point of view and ability to evaluate it fairly.
- Your ability to state and give an accounting for various ethical perspectives, including your own.
- *Late work will be penalized*. Written assignments overdue more than two weeks will not be accepted for credit.

Grading system: A letter grade will be given unless a student requests in writing, no later than September 30, a Pass/D/Fail grade.

Course schedule:

Session #1: September 21-22

Writing assignments due today: (1) healthcare autobiographies, and (2) response to case study #1 ("Severely Disabled Infant")

Topic #1: Introduction to this course and colleagues; developing ground rules for an ethical classroom

Discuss: Healthcare autobiographies

Topic #2: Ethical discernment in healthcare

Reading: Daniel C. Maguire, Death by Choice, expanded and revised edition, Ch. 4 ("Ethics: How to Do It"), pp. 65-96.

Ronald Munson, Outcome Uncertain: Cases and Contexts in Bioethics, Part V, esp. pp. 393-410.

Discuss: Case study #1 ("Severely Disabled Infant") [See page 8 of this syllabus]

Topic #3: Experimentation and Patient Non-Compliance

Reading: Munson, Outcome Uncertain, Ch. 1 ("Research Ethics and Informed Consent"), pp. 3-52.

Session #2: October 19-20

Writing assignments due today: Responses to two (2) case studies

Topic #1: Physician-Patient relationship

Reading: Munson, Outcome Uncertain, Ch. 2 ("Physicians, Patients, and Others: Autonomy, Truth Telling, and Confidentiality"), pp. 53-84.

Karen Lebacqz, "Empowerment in the Clinical Setting," in On Moral Medicine: Theological Perspectives in Medical Ethics, ed. Stephen E. Lammers and Allen Verhey, pp. 805-815.

Margaret E. Mohrmann, "The Practice of the Ministry of Medicine," Loma Linda University Center for Christian Bioethics Update 14:3 (October 1998), 1-7.

Topic #2: Abortion and Reproductive Control

Discuss case study #2 ("How Bad Is It?")

Reading: Daniel C. Maguire, "Visit to an Abortion Clinic," in Maguire, The Moral Revolution, pp. 157-168.

Munson, Outcome Uncertain, Ch. 9 ("Abortion"), pp. 295-325.

Anna Quindlen, "How Much Jail Time for Women Who Have Abortions?" Newsweek (August 6, 2007).

Topic #3: Reproductive Ethics and Technologies

Discuss case study #3 ("Too Old to Have a Child?")

Reading: Munson, Outcome Uncertain, Ch. 6 ("Reproductive Control"), pp. 191-234.

Christine E. Gudorf, "Dissecting Parenthood," Conscience (Autumn 1994), 15-22.

Session #3: November 9-10

Writing assignments due today: (1) Short description of research topic for final essay and preliminary bibliography and (2) responses to two case studies.

Topic #1: End of life issues: advance directives; withholding/withdrawing treatment

Discuss case study #4 ("The Gentleman with Pneumonia")

Reading: Munson, Outcome Uncertain, Ch. 10 ("Euthanasia and Physician-Assisted Suicide"), pp. 326-356.

Nelson and Rohricht, Human Medicine, Ch. 6 ("Humanizing the Dying Process"), pp. 142-175.

Doug Hjelmstad, "My Friend Cal" (unpublished ms.).

Topic #2: Scarce Medical Resources (and organ donation)

Discuss case study #5 ("One Team, Two Patients")

Reading: Council on Ethical and Judicial Affairs, American Medical Association, "Ethical Considerations in the Allocation of Organs and Other Scarce Medical Resources," Archives of Internal Medicine 155:1 (1995), 12 pages.

Munson, Outcome Uncertain, Ch. 7 ("Scarce Medical Resources"), pp. 237-265).

Session #4: December 7-8

Writing assignments due today: Book reviews

Topic #1: The stem cell debate

Due today: Book reviews of Ted Peters' The Stem Cell Debate

Topic #2: Mental illness and the ethics of care

Due today: Book reviews of Rosemary Radford Ruether, Many Forms of Madness

Topic #3: Health care economics and reform

Due today: Book reviews of T.R. Reid, The Healing of America

Topic #4: Health Care Ethicists Rethink Health Care Ethics

Due today: Book reviews of Rebecca Dresser (ed.), Malignant: Medical Ethicists Confront Cancer

Reading: Munson, Outcome Uncertain, Ch. 8 ("Paying for Health Care"), pp. 266-292.

Teresa Maldonado, "Sick of Being Poor," in Lammers and Verhey (eds.), On Moral Medicine, pp. 1001-1004.

Norman Daniels, "Is There a Right to Health Care and, If So, What Does It Encompass," in A Companion to Bioethics, ed. Helga Kuhse and Peter Singer, pp. 316-325.

Dan W. Brock, "The Allure of Questionable-Benefit Treatment," in Malignant: Medical Ethicists Confront Cancer, ed. Rebecca Dresser, pp. 103-117.

December 21: Final coursework due, including course essay and course evaluation

Course evaluation:

In 2-3 pages, share your thoughts about the following: (1) identify several key insights/learnings you've acquired in this course about health care and health care ethics; (2) identify particular readings you've found helpful (or not), and explain why; and (3) suggest ways to improve the course, including topics to include.

ET 1711: Case #1: Severely Disabled Infant

I had been working as a bioethics advisor at University Hospital for three months before I was called in to consult on a pediatrics case. Dr. Savano, the attending obstetrician, asked me to meet with him and Dr. Hinds, one of the staff surgeons, to talk with the father of a newborn girl.

I went to the consulting room with Dr. Savano, and he introduced me and Dr. Hinds to Joel Blake. From what Dr. Savano had already told me, I knew that Mr. Blake was in his early twenties and worked as a clerk at a discount store called the Bargain Barn. The baby's mother was Hilda Godgeburn, and she and Mr. Blake were not married.

Mr. Blake was very nervous. He knew that the baby has been born just three hours or so before and that Ms. Godgeburn was in very good condition. But Dr. Savano had not told him anything about the baby.

"I'm sorry to have to tell you this," Dr. Savano said. "But the baby was born with severe defects."

"My God," Blake said. "What's the matter?" "It's a condition called spina bifida," Dr. Savano said. "There's a hole in the baby's back just below the shoulder blades, and some of the nerves from the spine are protruding through it. The baby will have little or no control over her legs, and she won't be able to control her bladder or bowels." Dr. Savano paused to see if Mr. Blake was understanding him. "The legs and feet are also deformed to some extent because of the defective spinal nerves."

Mr. Blake was shaking his head, paying close attention but hardly able to accept what he was being told.

"There's one more thing," Dr. Savano said. "The spinal defect is making the head full up with liquid from the spinal canal. That's putting pressure on the brain. We can be sure that the brain is already damaged, but if the pressure continues, the child will die."

"Is there anything that can be done?" Blake asked. "Anything at all?"

Dr. Savano nodded to Dr. Hinds. "We can do a lot," Dr. Hinds said. "We can drain the fluid from the head, repair the opening in the spine, and later we can operate on the feet and legs."

"Then why aren't you doing it?" Mr. Blake asked. "Do I have to agree to it? If I do, then I agree. Please go ahead."

"It's not that simple," Dr. Hinds said. "You see, we can perform surgery, but that won't turn your baby into a normal child. She will always be paralyzed and mentally retarded. To what extent, we can't say now. Her bodily wastes will have to be drained to the outside by means of artificial devices that we'll have to connect surgically. There will have to be several

operations, probably, to get the drain from her head to work properly. A number of operations on her feet will be necessary."

"Oh, my God," Mr. Blake said. "Hilda and I can't take it. We don't have enough money for the operations. And even if we did, we would have to spend the rest of our lives taking care of the child."

"The child could be put into a state institution," Dr. Hinds said.

"That's even worse," Mr. Blake said. "Just handing our problem to someone else. And what kind of life would she have? A pitiful, miserable life."

None of the rest of us said anything. "You said she would die without the operation to drain her head," Mr. Blake said. "How long would that take?"

"A few hours, perhaps," Dr. Savano said. "But we can't be sure. It may take several days, and conceivably she might not die at all."

"Oh, my God," Mr. Blake said again. "I don't want her to suffer. Can she just be put to sleep painlessly?"

Dr. Savano didn't answer the question. He seemed not even to hear it. "We'll have to talk to Ms. Godgeburn also," he said. "And before you make up your mind for good, I want you to talk with the bioethics advisor. You two discuss the matter, and the advisor will perhaps bring out some things you haven't thought about. Dr. Hinds will leave you both together now. Let me know when you've reached your final decision and we'll talk again."

Assume that you are the bioethics advisor in this case. What factual considerations (if any) do you consider relevant to resolving the moral issues here? What reasons could you put forward in favor of treating the child? What reasons are there for not treating the child?

Source: Adapted from Ronald Munson, Intervention and Reflection: Basic Issues in Medical Ethics, 6th edition (Wadsworth, 2000), p. 185-6.

ET 1711: Case #2: "How Bad Is It?"

Helen and John Kent waited nervously in the small consulting room while Laurie Stent, their genetic counselor, went to tell Dr. Charles Blatz that they had arrived to talk with him.

"I regret that I have some bad news for you," Dr. Blatz told them. "The karyotyping that we do after amniocentesis shows a chromosomal abnormality."

He looked at them, and Helen felt she could hardly breathe. "What is it?" she asked.

"It's a condition known as trisomy-21, and it produces a birth defect we call Down syndrome. You may have heard of it under the old name of mongolism."

"Oh, God," John said. "How bad is it?"

"Such children are always mentally retarded," Dr. Blatz said. "Some are severely retarded, and others just twenty or so points below average. They have some minor physical deformities, and they sometimes have heart damage. They typically don't live beyond their thirties, but by and large they seem happy and have good dispositions."

Helen and John looked at each other with great sadness. "What do you think we should do?" Helen asked. "Should I have an abortion, and then we could try again?"

"I don't know," John said. "I really don't know. You've had a hard time being pregnant these last five months, and you'd have to go through that again. Besides, there's no guarantee this wouldn't happen again."

"But this won't be the normal baby we wanted," Helen said. "Maybe in the long run we'll be even unhappier than we are now."

1. What factors are relevant to deciding whether an abortion is justified in this instance?
2. First, make the strongest case you can in favor of terminating this pregnancy. Then, make the strongest case for not terminating this pregnancy.
3. Which case is more persuasive to you, and why? What are the strongest arguments "on the other side?"

Source: Adapted from Ronald Munson, Intervention and Reflection: Basic Issues in Medical Ethics, 6th edition (Wadsworth, 2000), p. 131.

ET 1711: Case #3: Too Old to Have a Child?

"I'm going to be blunt about it," Dr. Carl McKenzie said. "You are fifty-five, and that's far too old to have a child."

"You're not trying to tell me it's impossible, are you?" Kisha Clare asked. "I've read that you can use donated eggs and donated sperm to fertilize them outside the body, then implant them and have a normal pregnancy. I'm sure it's expensive, but Tom and I have got enough money, and I want to have a baby."

"Oh, it's possible," Dr. McKenzie admitted, "but it's a bad idea because you'll be too old to take care of a child properly. When he starts first grade, you'll be sixty-two, and when he graduates from high school, you'll be seventy-four – if you're still alive." McKenzie shook his head. "You should have thought of having a child earlier."

"I had a career to work on and a lot of personal problems," Clare frowned, remembering the long hours in the office and how relieved she was when she finally left her husband. "I can be a better mother now than I could have been when I was thirty or even forty. I'm financially secure, I'm happy with myself, and I really want a child." She shook her head. "Statistically, I'm going to live for about another twenty-five years, and that's enough to raise a child."

"But is it fair to a child to be raised by an old person?"

"Grandparents raise children all the time." Clare glared at Dr. McKenzie. "And men have children whenever they want to, no matter how old they are. They don't have to get permission from some doctor."

"But an older man can have children only if he has some younger woman as a partner," Dr. McKenzie glared back at Clare. "That way the child has one younger parent."

"I think you're discriminating against me," Clare said in a flat voice.

"I am." Dr. McKenzie nodded his head. "But it's justifiable. There are compelling reasons why an older, postmenopausal woman, even if she has the money, should not be allowed to become a mother, just because she wants to. It's unfair to society, to younger women with fertility problems, and to the child."

1. Should the interest of the child be taken into account in deciding whether to prohibit pregnancy by postmenopausal women? If so, does this mean we should take into account the interest of the child when older men are involved? What about when alcoholics or the unemployed are involved?
2. Explain how one might support the claim that it would be unfair to society, younger women, and the child to permit older women to become mothers.
3. What are the strongest arguments you can offer in favor of older women becoming mothers? [Source: Adapted from Ronald Munson, Intervention and Reflection: Basic Issues in Medical Ethics, 6th edition (Wadsworth, 2000), p. 730.]

ET 1711: **Case #4: The Gentleman with Pneumonia**

"This gentleman is Ethan Zinker," Dr. Clara Woods said. She bent over the bed and put her stethoscope to the chest of the elderly man. He stirred but showed no sign of waking. "He's got pneumonia," Dr. Woods said, straightening up. "But aside from being ninety-two years old and having lost a few of his marbles, nothing much else is wrong with him. If we treated him aggressively with antibiotics, he might live for another six or eight years. Maybe more." She shrugged. "But we're only controlling his fever and keeping him comfortable."

"How come you're not giving him antibiotics?" Dr. Robert Elias was shocked. He was Morningside Hospital's new bioethicist, and it was his first morning of making rounds with Dr. Woods. "I mean, he has a life-threatening disease that usually responds well to therapy."

"Right," Dr. Woods said, nodding. "But he's also got an advance directive that tells us in no uncertain terms not to intervene." She flipped through the chart until she located the social worker's report. "He was the Powell professor of physics at Columbia. A very smart guy, who couldn't stand the idea of not being mentally sharp and active."

"So he said if he began to fail mentally, then if he needed treatment to keep him alive, he didn't want to have it." Dr. Elias was beginning to understand.

"Exactly," Dr. Woods said. "But the funny thing is, when he started to get senile and moved into the nursing home, he quite liked it." She smiled. "He couldn't recognize his daughter most of the time, but he knows the people he lives with and sees every day. He's made a couple of friends, and according to these notes, he likes watching reruns of the *X-Files*."

"He should be treated," Dr. Elias said flatly. The idea of not treating someone who was so evidently still enjoying life struck him as very wrong. "I think so, too," Dr. Woods said. "Yet we've got an advance directive requiring us to refrain from treatment."

"I don't care," Dr. Elias said. "The only right course of action is to ignore the advance directive and treat him. Let's face it. Professor Zinker didn't know what his life would be like now when he gave his directive. It wouldn't be a good life for him the way he used to be, but that's not the way he is now." His expression turned grim. "He needs to be treated immediately, before it's too late to help him."

1. What reasons could Dr. Elias offer to support his decision to treat?
2. What would be the strongest arguments not to treat Professor Zinker?
3. If instead of enjoying life Professor Zinker were in constant pain, could treating him be justified? What if he were so mentally incompetent he couldn't be said to enjoy anything?
4. If instead of treatment with antibiotics Professor Zinker required extensive surgery that would be painful and expensive, could setting aside his advance directive be justified?

Source: Adapted from Ronald Munson, Intervention and Reflection: Basic Issues in Medical Ethics, 6th edition (Wadsworth, 2000), pp. 242-3.

ET 1711: Case #5: One Team, Two Patients

The microsurgical team at Benton Public Hospital consisted of twenty-three people. Five were surgeons, three were anesthesiologists, three were internists, two were radiologists, and the remaining members were various sorts of nurses and technicians.

Early Tuesday afternoon on a date late in March., the members of the team that had to be sterile were scrubbing while the others were preparing to start operating on Mr. Hammond Cox. Mr. Cox was a fifty-nine-year-old unmarried African American who worked as a janitor in a large apartment building. While performing his duties, Mr. Cox had caught his hand in the mechanism of a commercial trash compactor. The bones of his wrist had been crushed and blood vessels severed.

The head of the team, Dr. Herbert Lagorio, believed it was possible to restore at least partial functioning to Mr. Cox's hand. Otherwise, the hand would have to be amputated.

Mr. Cox had been drunk when the accident happened. When the ambulance brought him to the emergency room, he was still so drunk that a decision was made to delay surgery for almost an hour to give him a chance to burn up some of the alcohol he had consumed. As it was, administering anesthesia to Mr. Cox would incur a greater than average risk. Furthermore, blood tests had shown that Mr. Cox already suffered from some degree of liver damage. In both short- and long-range terms, Mr. Cox was not a terribly good surgical risk.

Dr. Lagorio was already scrubbed when Dr. Carol Levine, a resident in emergency medicine, had him paged.

"This had better be important," he told her. "I've got a patient prepped and waiting."

"I know," Dr. Levine said. "But they just brought in a thirty-five-year-old white female with a totally severed right hand. She's a biology professor at Columbia and was working late in her lab when some maniac looking for drugs came in and attacked her with a cleaver."

"What shape is the hand in?"

"Excellent. The campus cops were there within minutes, and there was ice in the lab. One of the cops had the good sense to put the hand in a plastic bag and bring it with her."

"Is she in good general health?"

"It seems excellent," Dr. Levine said.

"This is a real problem."

"You can't do two cases at once?"

"No way. We need everybody we've got to do one."

"How about sending her someplace else?"

"No place else is set up to do what has to be done."

"So what are you going to do?"

You're asked to be the ethics consultant on this case. What are the ethical issues here, and how would you help Dr. Lagorio sort out his options and make his decision?

As you proceed, consider these questions:

1. Does a first-come, first-serve criterion require that Mr. Cox receive the surgery?
2. Can the chance of a successful outcome in each case be used as a criterion without violating the notion that all people are of equal worth?
3. Should the fact that Mr. Cox's injury is the consequence of his own negligence be considered in determining to whom Dr. Lagorio ought to devote his attention?
4. In your view, who should receive the potential benefits of the surgery? Give reasons to support your view.

Source: Adapted from Ronald Munson, Intervention and Reflection: Basic Issues in Medical Ethics, 6th edition (Wadsworth, 2000), p. 797.