

PHILOSOPHY 173: TOPICS IN BIOMEDICAL ETHICS
CAPACITY AND CONSENT
Fall 2017
Syllabus

Professor: Dana Kay Nelkin

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Course Description: We will take on a number of challenging ethical questions that all concern, in one way or another, the ideas of autonomy and informed consent in health care and medical research settings. We will begin by exploring **the history and rationales** for the principle of Informed Consent that forms a centerpiece of medical practice in the United States and around the world today. Next we will turn to three different areas of medical practice, policy, and research in which autonomy and informed consent have been thought to be threatened in some way:

- **Consent and Compensation.** Payment for human organ sales, payment for participation in clinical trials, and payment for surrogacy have all been targeted by the objection that they are in tension with truly autonomous and informed consent. For each case, we will evaluate different answers to the questions of whether payment should be allowed or required in any of these areas, and whether payment is consistent with Informed Consent.
- **Autonomy and Nudges.** We will then turn to a set of questions about the moral permissibility of so-called “nudges” in medical contexts. For example, if making organ donation a matter of opting *out* rather than opting *in* makes an enormous difference to the number of organ donors, should we allow this policy practice? Does it conflict with autonomous decision-making?
- **Consent and Population-Level Interventions.** Some medical interventions, such as adding fluoride to water systems, are neither “opt in” nor “opt out”. Does this sort of widespread policy threaten autonomous decision-making? Similarly, large-scale species-level genetic interventions (some made possible by recent research on gene drives) raise questions about what consent could possibly look like in such cases.

Finally, we will conclude by addressing an issue that concerns autonomy and consent at different stages of a person’s life by looking at the case of **Advance Directives**, in which persons at an earlier time specify in official documents how they would like to be treated later if incapacitated in various ways.

Course Readings: All course readings are available through the class website.

9/29	Introduction
10/2	Informed Consent: History and Rationale Nuremberg Code, Belmont Report
10/4	Informed Consent: History and Rationale Nir Eyal “Informed Consent”
10/6	The Autonomy Rationale Nomy Arpaly, “Which Autonomy?”
10/9	The Autonomy Rationale Onora O’Neill, “Some Limits of Informed Consent”; James Wilson, “Is Respect for Autonomy Defensible?”
10/11	Noxious Markets? Debra Satz, <i>Why Some Things Should Not Be for Sale</i> chapter 3
10/13	Noxious Markets? Debra Satz, <i>Why Some Things Should Not Be for Sale</i> chapter 4
10/16	Organ Sales Debra Satz, <i>Why Some Things Should Not Be for Sale</i> chapter 9
10/18	Organ Sales
10/20	Research Subject Payments Trudo Lemmens and Carl Elliott, “Guinea Pigs on the Payroll”
10/23	Research Subject Payments Alan Wertheimer and Franklin Miller, “Payment for Research Participation: A Coercive Offer?”
10/25	Research Subject Payments Tricia Phillips, “Exploitation in Payment to Research Subjects”
10/27	Surrogacy Debra Satz, <i>Why Some Things Should Not Be for Sale</i> chapter
10/30	Autonomy and Nudges Richard Thaler and Cass Sunstein, <i>Nudge</i> excerpts
11/1	Midterm
11/3	Autonomy and Nudges Richard Thaler and Cass Sunstein, <i>Nudge</i> (excerpt)
11/6	Nudging and Organ Donation Thaler and Sunstein, <i>Nudge</i> (excerpt)
11/8	Nudging and Health Maintenance Alex Rajczi, “Liberalism and Public Health Ethics”
11/10	Veterans’ Day
11/13	Nudging, Informed Consent, Procedures, and Clinical Trials Schlomo Cohen, “Nudging and Informed Consent”
11/15	Nudging, Informed Consent, Procedures, and Clinical Trials TBA
11/17	Consent and Population Level Interventions James Childress, Ruth Faden et al., “Public Health Ethics: Mapping the Terrain”
11/20	Consent and Population Level Interventions: Case Study-Fluoridated Water TBA
11/22	Consent and Population Level Interventions: Case Study-Gene Drives Arthur Caplan et al, “No Time to Waste-The Ethical Challenges Created by CRISPR
11/24	Thanksgiving
11/27	Autonomy and Advance Directives Ronald Dworkin, <i>Life’s Dominion</i> (excerpt)
11/29	Advance Directives Rebecca Dresser, “Dworkin on Dementia: Elegant Theory, Questionable Policy”
12/1	Advance Directives Allen Buchanan, “Advance Directives and the Personal Identity Problem”
12/4	Advance Directives Agnieszka Jaworska, “Respecting the Margins of Agency...”
12/6	Advance Directives Agnieszka Jaworska, “Respecting the Margins of Agency...”
12/8	Conclusion

Course Requirements:

- Midterm (20%)
- Paper (20%)
- Take-home Final, uploaded to Turnitin on the TritonEd site (40%)
- Reading Responses of 100-200 words, uploaded to Turnitin on the TritonEd site before the start of each class (top 20 of 27 opportunities) (20%)
- Up to 5% extra credit may be earned through participation on in-class assignments.

Please note: Late assignments will not be accepted without a valid excuse and supporting documentation, given in advance if at all possible.

Notes:

- If OSD accommodations are needed, please notify me as soon as possible during the first week of class.
- Laptops, phones and other electronic devices may not be used in class **except by permission of the instructor.**
- The Academic Honor Code must be observed in this course.
- If you find yourself needing help with any aspect of the course, or would simply like to explore some ideas further, please don't hesitate to see me in office hours or make an appointment to talk.
- Please note that the policies and readings described above are subject to **minor change.**