

PHI 5330: Ethics, Law, and Health

Course Syllabus

Instructor: Dr. Mark Satta
Email: mark.satta@wayne.edu
Office Hours: Wed 2-4pm (via Zoom)

Class Location: Remote Learning (Online)
Class Time: Tuesdays from 5 PM – 8:20 PM
Term: Winter 2021

Course Description:

Determining how to structure and implement ethical laws dealing with human health in an interconnected world with over 7 billion people (and trillions of other organisms) is a monumental challenge. It requires a great deal of research, coordination, communication, legislation, and regulation across a wide range of professions. The goal of this course is to provide you with a foundational understanding of how to use the tools of philosophy—especially ethics—and legal reasoning to critically assess complex issues concerning public health, medical care, health law, and health policy.

In the first four weeks of this course, we will focus on building a shared understanding of the foundations of ethical theory, legal theory, and the U.S. legal system. In the remainder of the course, we will use that shared understanding to address ethical and legal questions about discrete practical issues dealing with health. For each issue we will ask the following questions: (1) what is the ethical thing to do? (2) what does the law permit/require? and (3) what should the law permit/require?

This course is designed for students who are interested in philosophy, law, public health, politics, medicine, or any other field that benefits from careful philosophical and legal thinking about issues related to health. Some background in philosophy may at times be presupposed. This class assumes no prior background in medicine, science, or law.

Learning Outcomes:

During the semester you are likely to encounter some views which you like and others which you do not like. My goal is *not* to convince you to adopt any particular view. Rather my goals are that by the end of the course you will be able to do the following:

- Describe key normative ethical theories, including utilitarianism, deontology, virtue ethics, and ethical particularism.
- Demonstrate an understanding of basic elements of legal systems and legal theory, including various theories of judicial review, the difference between legislation and regulation, and the separation of federal and state governmental authority in the U.S.
- Differentiate between ethical questions, legal questions, and mixed ethical-legal questions when assessing practical issues related to healthcare, health law, and health policy.
- Analyze issues related to healthcare, health law, and health policy using critical thinking, ethical theory, and legal reasoning.
- Evaluate the ethical and legal dimensions of complex issues related to healthcare, health law, and health policy in clear and accessible prose.
- Relate what you have learned in this course to ethical and legal issues that arise in your academic discipline or line of work.

Required Texts: All readings for this course will be provided on the course's Canvas page.

Grading:

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| Class Participation | 20% |
| First Paper | 30% |
| Second Paper | 50% |

Grading Scale:

- A if $\geq 93\%$
- A- if between $90\% \leq$ and $< 93\%$
- B+ if between $87\% \leq$ and $< 90\%$
- B if between $83\% \leq$ and $< 87\%$
- B- if between $80\% \leq$ and $< 83\%$
- C+ if between $77\% \leq$ and $< 80\%$
- C if between $73\% \leq$ and $< 77\%$
- C- if between $70\% \leq$ and $< 73\%$
- D+ if between $67\% \leq$ and $< 70\%$
- D if between $63\% \leq$ and $< 67\%$
- D- if between $60\% \leq$ and $< 63\%$
- F if $< 60\%$: F

Participation: Your participation grade will be based on regular class attendance on Zoom, as well as your preparedness for class and your participation in class discussion and activities. Students are required to participate in a manner that is respectful to all. If you have an occasional conflict for which you may need to miss some or all of a class period, please let me know in advance if possible. Excused absences will not harm your participation grade and absences are more likely to be excused if you reach out to me in advance. Thus, it is in your own interest to let me know about potential absences in advance. I reserve the right to begin assigning reading quizzes as part of your participation grade if I find that students are not sufficiently prepared for a productive discussion during class.

First Paper: The first paper will be due at the end of the tenth week of the semester. For this first paper, students will have several options as to what kind of paper they would like to write. They must write a paper that conforms to one of the following styles:

- (a) The first option is writing a descriptive paper where the student takes one of the topics covered in this course and provides an overview of current law and/or of prominent ethical arguments used in public policy around the topic. This paper should be between 1,000–3,500 words.
- (b) The second option is to write an op-ed style essay about a topic covered in this course. The goal will be to defend a claim in between 600–1,400 words in a manner suitable for a general audience.
- (c) The third option is for students to write a persuasive paper of between 1,500–3,500 words where the student uses ethical and/or legal theory to advocate for a particular law or policy position for an issue covered in this class.

Given the shorter length, my expectations for the quality of the writing will be higher for option (b). No matter which option you choose, you will be required to have your thesis statement or topic approved by me. More details about the requirements and the criteria for assessing these papers will be given during the semester.

Second Paper: The second paper will be due at the start of the final class period. For this second paper, all students will have to write a persuasive paper. Undergraduates need to write a paper that is between 2,000-5,000 words. Graduate students need to write a paper that is between 3,000-7,000 words. The student is expected to use ethical theory, legal theory, and/or theories of legal interpretation to argue for a thesis related to a specific law or policy issue discussed in class. More details about the requirements and the criteria for assessing these papers will be given during the semester.

Office Hours: I will be available for weekly office hours via Zoom. Students can sign up for a Zoom office hours appointment using the Canvas calendar for this course. For students who cannot meet during my regularly scheduled office hours, please email me and I am happy to arrange another time to meet over Zoom.

Plagiarism & Cheating: Plagiarism, cheating, or any other form of academic dishonesty is unacceptable. Students should familiarize themselves with the Student Code of Conduct available here: <http://doso.wayne.edu/student-conduct/index.html>. Students should also review the following webpage: <https://doso.wayne.edu/conduct/academic-misconduct>.

In the event that it is discovered that you have violated the code, you will, at a minimum, fail the assignment connected to the code violation. I also reserve the right to fail you for the course or to seek other penalties if they are appropriate. If at any point during the semester you find yourself unsure whether something would count as plagiarism or a violation of the Student Code of Conduct, please ask me. I'm more than happy to provide you with additional feedback and information.

Disability Accommodation: Wayne State University is committed to providing a welcoming and supportive environment for individuals with disabilities. I share this commitment. Wayne State University offers a variety of accommodations and services for students with documented disabilities. If you have a documented disability that requires academic adjustments, you should email me by the end of the first week of class to ensure we have time to make proper arrangements. More details about Wayne State's disability accommodations can be found here: <https://studentdisability.wayne.edu/accommodations>.

Religious Observances: Wayne State is also committed to providing a welcoming and supportive environment for individuals of all faiths. I share this commitment too. It is University policy to respect the faith and religious obligations of its students. Because of the wide variety of religious affiliations of the Wayne State student body, our academic calendar does not make provisions for religious holidays. Thus, students with classes or examinations that conflict with their religious observances are expected to notify their instructors well in advance so that mutually agreeable alternatives may be worked out. Please notify me at least two weeks in advance of such needs (the obvious exception being observances within the first two weeks of class).

Nondiscrimination Policy: Wayne State University is committed to a policy of non-discrimination and equal opportunity in all of its operations. I share this commitment as well. This policy embraces all persons regardless of race, color, sex (including sexual orientation and gender identity), national origin, religion, age, familial status, marital status, height, weight, disability, or veteran status. Wayne State also expressly forbids sexual harassment and retaliation against an individual for filing a

complaint of discrimination or harassment. Please let me or another faculty/staff member know if you are experiencing harassment. More details about Wayne State's nondiscrimination policy can be found here: https://oeo.wayne.edu/pdf/affrm_actn_policy.pdf.

Campus Emergency Policy: In the unexpected occurrence of a major campus emergency, I reserve the right to alter course requirements, deadlines, and grading percentages in response to emergency circumstances. If such changes are made, I will do my best to make changes that are fair to all students. To the extent feasible, I will solicit input from students before making any changes.

Course Drops and Withdrawals: In the first two weeks of the (full) term, students can drop this class and receive 100% tuition and course fee cancellation. After the end of the second week there is no tuition or fee cancellation. Students who wish to withdraw from the class can initiate a withdrawal request on Academics. You will receive a transcript notation of WP (passing), WF (failing), or WN (no graded work) at the time of withdrawal. No withdrawals can be initiated after the end of the tenth week. Students enrolled in the tenth week and beyond will receive a grade. Because withdrawing from courses may have negative academic and financial consequences, students considering course withdrawal should make sure they fully understand all the consequences before taking this step. More information on this can be found at: <https://reg.wayne.edu/students/information#dropping>.

Class recordings: Students need prior written permission from me before recording any portion of this class. If permission is granted, the audio and/or video recording is to be used only for the student's personal instructional use. Such recordings are not intended for a wider public audience, such as postings to the internet or sharing with others. Students registered with Student Disabilities Services (SDS) who wish to record class materials should present their specific accommodation me as soon as possible.

Reading Schedule: Readings should be completed by the start of class for the week listed, unless I communicate otherwise. I reserve the right to make alterations to this list if need be. Any alterations will be announced in class and indicated on the course website well in advance of the date(s) modified.

Week 1, January 12: Introduction to Normative and Applied Ethical Theory – Part I

- “Ethics,” James Fieser (Internet Encyclopedia of Philosophy)
- “Applied Ethics,” Chelsea Haramia (from “1,000 Word Philosophy”)
- “The Debate Over Utilitarianism,” James Rachels

Week 2, January 19: Introduction to Normative and Applied Ethical Theory – Part II

- “Are There Absolute Moral Rules?” James Rachels
- Introduction and Chapter 9 from *Medical Apartheid*, Harriet Washington

Week 3, January 26: Introduction to Legal Systems & Legal Theory

- “Hart, Dworkin, Judges, and New Law,” Robert Yanal
- “Incorrect Judicial Decisions,” Robert Yanal

Week 4, February 2: Introduction to Theories of Legal Interpretation

- Excerpts from *A Matter of Interpretation*, Antonin Scalia, Ronald Dworkin, and Akhil Amar

Week 5, February 9: Health Insurance Mandates

- “Economic Freedom and the ACA,” Jessica Flanigan
- “The Moral Duty to Buy Health Insurance,” Tina Rulli, E. J. Emanuel, and David Wendler

Week 6, February 16: Organ Donation

- “Improving Organ Retrieval Rates: Various Proposals and Their Ethical Validity,” Eike-Henner Kluge
- “Presumed Consent, Autonomy, and Organ Donation,” Michael B. Gill

Week 7, February 23: Religion, Infectious Diseases, and Public Health

- *South Bay Pentecostal Church v. Newsom*, U.S. Supreme Court (conurrence and dissent)
- *Roman Catholic Diocese of Brooklyn v. Cuomo*, U.S. Supreme Court Opinion (per curiam)

Week 8, March 2: Health Law and Religious Accommodations

- “The HHS Mandate Litigation and Religious Health Care Providers,” Adele Keim
- “Not Your Father’s Religious Exemptions: The Contraceptive-Coverage Litigation and the Right of Others,” Gregory Lipper

Week 9, March 9: Euthanasia and Physician-Assisted Suicide – Part 1

- “The Morality of Euthanasia,” James Rachels
- Chapter 1 of *The Future of Assisted Suicide and Euthanasia*, Neil Gorsuch

Week 10, March 23: Euthanasia and Physician-Assisted Suicide – Part 2

- Chapters 2 & 6 of *The Future of Assisted Suicide and Euthanasia*, Neil Gorsuch
- **MIDTERM PAPER DUE BY FRIDAY (3/26) AT 5:00 PM**

Week 11, March 30: Race in Medicine

- “Race in Medicine,” Sean Valles
- Chapter 10 of *Medical Apartheid*, Harriet Washington

Week 12, April 6: Organ Donation Reconsidered

- “Justice and the Coercive Taking of Cadaveric Organs,” Cecile Fabre
- “Justice and the Compulsory Taking of Live Body Parts,” Cecile Fabre

Week 13, April 13: Miscellaneous

- “Surrogacy Contracts” (Chapter 8 of *Whose Body is it Anyway?*), Cecile Fabre
- “Religion as a Controlling Interference in Medical Decision Making by Minors,” Jonathan Will

Week 14, April 20: Medical Brain Drain

- “Can Brain Drain Justify Immigration Restrictions?” Kieran Oberman
- **FINAL PAPER DUE BY FRIDAY (4/30) AT 5:00 PM**