

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

| | | |
|---|---|----------------|
| |) | |
| |) | |
| Jennifer Goodall |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| |) | |
| |) | |
| vs. |) | CASE NO. _____ |
| |) | |
| Comprehensive Women's Health Center, |) | |
| Bayfront Medical Health Group; |) | |
| Bayfront Health Port Charlotte; |) | |
| Stephen B. Russell as the State Attorney |) | |
| for Florida's Twentieth Judicial Circuit; |) | |
| John Doe I in his or her official capacity |) | |
| as Special Assistant State's Attorney; John |) | |
| Doe(s) II, physicians providing obstetric |) | |
| care at Bayfront Health Port Charlotte. | | |
| Defendants. | | |

DECLARATION OF MARY FAITH MARSHALL, PH.D., FCCM

I, Dr. Mary Faith Marshall, declare as follows:

1. I am the Emily Davie and Joseph S. Kornfeld Professor and Director of the Program in Biomedical Ethics at the Center for Biomedical Ethics and Humanities at the University of Virginia School of Medicine. In addition, I am a professor of Public Health Sciences in the UV School of Medicine and professor of Nursing in the UV School of Nursing. I also co-chair the Ethics Committee and direct the Ethics Consult Service of the University of Virginia Medical Center.

2. I am the author of numerous published reports, book chapters, and am co-author of the first and second editions of the text “Introduction to Clinical Ethics.” I have published extensively on reproductive ethics, ethical issues inherent in perinatal substance abuse (not at issue in this case) and coercive interventions in pregnancy. I have testified before Congress on coercive interventions against substance-using pregnant women.
3. I completed my B.A. in psychology and a BSN at the University of Virginia, where I also obtained my Ph.D. in Religious Studies (applied ethics), was the Paddock Graduate Fellow in Biomedical Ethics, and subsequently joined the faculty of the Center for Biomedical Ethics as Assistant Professor in the School of Medicine.
4. Prior to rejoining my alma mater as a professor, I was Associate Dean for Social Medicine and Medical Humanities and Professor of Family Medicine and Community Health at the University of Minnesota Medical School. While at the University of Minnesota, I was a Professor and Interim Co-Director of the Center for Bioethics and Director of the Center for Medical Humanities in the Academic Health Center, as well as tri-chairman of the University of Minnesota Medical Center, Fairview Ethics Committee and Director of the Ethics Consultation Service. I have also directed the bioethics programs at the Medical University of South Carolina and at Kansas University Medical Center.
5. In addition to my research, teaching, and work in the fields of bioethics and medicine, I have served on numerous professional boards and committees. For example, I have served since 2006 on the Committee on Ethics of the American Congress of Obstetrics and Gynecology (“ACOG”), and am past president of the American Society for Bioethics and Humanities and the American Association for Bioethics. I have served on the Ethics

Committee of the Society for Critical Care Medicine, and am an elected Fellow in the College of Critical Care Medicine.

6. A current copy of my Curriculum Vitae is attached as Exhibit A.

7. I have reviewed the letter, dated July 10, 2014, to Jennifer Goodall from Cheryl Tibbett, the Chief Financial Officer of Bayfront Health Port Charlotte and the Comprehensive Women's Health Care, Bayfront Health Medical Group. As a bioethicist, I find several serious problems with the letter, and am especially concerned about its nonadherence to the guidance from the Committee on Ethics of their national professional association, the American Congress of Obstetricians and Gynecologists.

8. The right to informed consent to medical treatment (and its corollary, the right to informed refusal of treatment) is a fundamental ethical tenet of clinical medicine. It is based on the principle of respect for persons, which provides the foundation for patient autonomy (the right to make choices, hold views, and take actions based on personal values and beliefs). Background conditions for informed consent/refusal include i) adequate and accurate disclosure of clinical facts by clinicians ii) voluntariness and freedom from coercion on the patient's part, and iii) the patient's ability to weigh risks, benefits and alternatives to treatment against her personal values and beliefs.

9. The letter to Ms. Goodall states that she has the right to "consent to a Cesarean section...you have elected to refuse." The right to consent is meaningless without the right also to refuse. By its threats to take action against Ms. Goodall for refusing their proposed plan of care for her childbirth, Bayfront Health Port Charlotte and the letter's author imply that Ms. Goodall has no such right to refuse – even though that right is a basic tenet of

clinical ethics (arising from the ethical principle of respect for persons/respect for autonomy).

10. The ACOG Committee on Ethics Opinion 321 (attached as Exhibit B) clarifies the ethical obligations of obstetricians to their pregnant patients when obstetricians may disagree with those patients' medical decisions. ACOG is unequivocal in explaining the physician's role: "Pregnant women's autonomous decisions should be respected . . . [i]n the absence of extraordinary circumstances, circumstances that, in fact, the Committee on Ethics cannot currently imagine, judicial authority should not be used to implement treatment regimens aimed at protecting the fetus, for such actions violate the pregnant woman's autonomy."

11. While it is not extremely common that women present with a desire to have a vaginal birth after three prior cesarean sections, this is a common enough situation that it could be presumed to have been within the contemplation of the Committee on Ethics. Ms. Goodall's wish to have a trial of labor, particularly since there is no present emergency situation described in the letter, are certainly not "extraordinary circumstances" beyond the imaginings of the Committee on Ethics in its admonition that pregnant women's autonomy in decision making should be respected.

12. In addition to threatening Ms. Goodall with child welfare intervention, state judicial action, and operating on her without her consent, the risks that the author of this letter claim are present to Ms. Goodall's health and that of her fetus do not comport with established data. Rather, the statements in this letter regarding the claimed risks are hyperbolic and appear designed to frighten Ms. Goodall into agreeing to their proposed plan of care. Exaggerating or giving misleading information about risks does is inherently coercive and violates the right to voluntary informed consent.

13. As principles of ethics, and the ACOG Committee Opinion quoted above express, the pregnant woman is an autonomous person, best positioned to know the interests of herself, her family, and her unborn child. To suggest, as Bayfront Health Port Charlotte does in this letter, that it is the hospital that will “act in the best interest of you, your family, and your unborn child” is egregiously patronizing and paternalistic. Similarly egregious is the language that suggests Ms. Goodall should “trust her physicians and staff to do the right thing.” It is hard to imagine how Ms. Goodall, or any patient, could put such faith in medical providers who have threatened her with court action, child welfare intervention, and forced surgery. This is the opposite of the open dialogue, clear explanations of risks and benefits, and deference to patient decision-making required by physician’s ethical obligations. It undermines patient trust and violates the patient/provider relationship.

14. It is especially concerning that Bayfront Health Port Charlotte has neither facilitated nor effected a transfer of patient care much earlier in Ms. Goodall’s pregnancy; indeed, has waited until just a week before her due date to suggest in writing that she seek care elsewhere. That said, the fact that Bayfront Health Port Charlotte plans to move forward with child welfare intervention and state judicial action even if Ms. Goodall is able to seek and obtain obstetrical care elsewhere appears punitive and retributive. Long established professional guidance from pediatric, child welfare, public health, and obstetrics/gynecology professional organizations is unequivocal that coercive interventions in pregnancy are antithetical to the best interests of patients and their families.

15. I find it particularly troubling that the author of the letter claims that these health care providers have consulted internally with “experts” before preparing this letter. If that is

indeed the case, their experts have failed to research and abide by the clear guidance and norms of their national professional organization. As an expert on ethics in medicine, the threatened actions and misleading information in this letter do not comport with the ethical obligations of a health care provider, whether an individual clinician or an organization, to a pregnant patient.

16. Based on my training and experience, I believe that Bayfront Health Port Charlotte has taken a course of action that is in direct opposition to ethical mandates. The proper course of action to fulfill doctors' and hospital's ethical obligations while protecting them from liability in the event of a poor outcome is to discuss the patient's options and the potential risks and benefits and alternatives of each potential course of treatment. If the patient chooses a course of care that physicians believe to be contraindicated, the physicians may ask the patient to memorialize her decision in writing. Physicians may express their concerns and advise the patient otherwise, but attempts to advise the patient may not rise to the level of threats. Physicians have the option of transferring the patient's care to another clinician in a timely and safe manner.

17. Finally, the letter to Ms. Goodall is from Bayfront Health Medical Group's Chief Financial Officer (Ms. Cheryl Tibbett). It does not appear that Ms. Tibbett is a clinician. Her professional skills and expertise encompass accounting, auditing, budgets, cash flow and management, and finance. Making claims to clinical practice norms and giving medical advice is not within her professional scope of practice or expertise. Thus, her written mandates to Ms. Goodall are not dispositive.

I declare, under penalty of perjury, under the laws of the United States of America that the foregoing is true and correct.

Executed on July 17, 2014, at Charlottesville, Virginia.

A handwritten signature in black ink that reads "Mary Faith Marshall". The script is cursive and fluid, with the first name "Mary" and last name "Marshall" being clearly legible.

Mary Faith Marshall, Ph.D., FCCM

Exhibit

A

MARY FAITH MARSHALL

Curriculum Vitae

Emily Davie and Joseph S. Kornfeld Professor and
Director, Program in Biomedical Ethics
Center for Biomedical Ethics and Humanities
Professor, Department of Public Health
School of Medicine
University of Virginia
P.O. Box 800758
Charlottesville, VA 22908-0786
Office: 434-924-1934; 434-924-5695
Cell: 434-260-4527
Fax: 434-982-3971

EDUCATION

| | | |
|------|--------|---|
| 1976 | B.A. | The University of Virginia Charlottesville, VA 22908 Psychology |
| 1980 | B.S.N. | The University of Virginia Charlottesville, VA 22908 Nursing (Distinction) |
| 1992 | Ph.D. | The University of Virginia Charlottesville, VA 22908 Religious Studies (Applied Ethics) |

Dissertation: Joseph Fletcher: The Evolution of His Ethical Thought
Advisor: James F. Childress, Ph.D.

FACULTY APPOINTMENTS

University of Virginia, Charlottesville, VA

9/1/12 - Emily Davie and Joseph S. Kornfeld Professor and
Director, Program in Biomedical Ethics
Center for Biomedical Ethics and Humanities
Professor, Department of Public Health
School of Medicine

University of Minnesota, Minneapolis, MN

8/2011 - 8/2012 Interim Co-Director, Center for Bioethics
2005 – 8/2012 Professor, Center for Bioethics

Professor of Family Medicine and Community Health

Faculty Associate: Consortium on Law and Values in Health,
Environment and the Life Sciences

2005-2010 Associate Dean for Social Medicine
Director, Center for Arts and Medicine
Medical School

Kansas University Medical Center, Kansas City, KS

7/2000 – 3/2005 Professor of Medicine and Bioethics (tenure)
Professor of Nursing and Allied Health (adjunct)
Professor of History and Philosophy of Medicine (adjunct)
Director, Institute for Bioethics, Law and Public Policy
University of Missouri Kansas City, Kansas City, MO
Adjunct Professor of Medicine
Midwest Bioethics Center, Kansas City, MO
Program Associate

Medical University of South Carolina, Charleston, SC

1993-2000 Director, Program in Bioethics
1998-2000 Associate Professor of Medicine
1993-1997 Assistant Professor of Surgery
1994-2000 Adjunct Professor, College of Graduate Studies
1996-2000 Adjunct Professor of Psychiatry and Behavioral Sciences
1997-1998 Assistant Professor of Medicine

College of Charleston, Charleston, SC

1997-2000 Adjunct Professor, Department of Philosophy

University of South Carolina, Columbia, SC

1996-2000 Faculty Associate, Center for Bioethics

The University of Virginia, Charlottesville, VA

1991-1993 Director of Advanced Studies in Clinical Ethics
Center for Biomedical Ethics
Assistant Professor of Neurological Surgery
Department of Neurological Surgery, School of Medicine
1989-1990 Paddock Graduate Fellow in Biomedical Ethics
1980-1989 Critical Care Nursing Clinician, Educator, Director

HONORS

2003-2004 Fellow: Hedwig van Ameringen
Executive Leadership in Academic Medicine
Program for Women (ELAM)

| | |
|------|--|
| | Drexel University |
| 2000 | President's Service Award |
| | American Society for Bioethics and Humanities |
| 1999 | Offered (and declined) position of Bioethicist |
| | Advisory to the Director |
| | National Heart Lung and Blood Institute |
| | National Institutes of Health |
| | Trailblazer Award |
| | Charleston Chapter |
| | National Association for the Advancement of Colored People |
| | Charleston, SC |
| 1998 | Plenary Address, Biology at the Interface |
| | Symposium to Honor Marjory Shaw, M.D., J.D. |
| | Sigma Zeta Honorary Society |
| | School of Science and Engineering Technology |
| | University of Southern Indiana, Evanston, IL |
| 1995 | Fellow, Kennedy Institute of Ethics |
| | Georgetown University, Washington, D.C. |
| 1994 | Fellow in Critical Care Medicine (elected) |
| | American College of Critical Care Medicine |
| 1989 | Paddock Graduate Fellow in Biomedical Ethics |
| | University of Virginia, Charlottesville, VA |
| 1983 | Sigma Theta Tau |
| | Beta Kappa Chapter |

SELECTED EXTRAMURAL PROFESSIONAL ACTIVITIES

DSMB: Vitamin C Infusion for Treatment in Sepsis Induced Acute Lung Injury DSMB
(2014-)
National Heart, Lung and Blood Institute
National Institutes of Health
Bethesda, MD

Ethical Guidance for Crisis Standards of Care in Virginia Workgroup (2014-)
Virginia Hospital and Healthcare Association
Glen Allen, VA

Prevention-Africa DSMB (2013-)
Division of Aids
National Institute of Allergy and Infectious Diseases
National Institutes of Health
Bethesda, MD

Member, Expert Panel for the Stem Cell Network (Mid-Term Review Component (2011)

Networks of Centres of Excellence (NCE) Secretariat, the Natural Sciences and Engineering Research Council of Canada, the Social Sciences and Humanities Research Council of Canada, the Canadian Institutes of Health Research in partnership with Industry Canada and Health Canada
Ottawa, (Ontario) Canada

Chairman, NIH Grant Review Panel, RFA-OD-10-006 (2010)
Program to Enhance NIH-supported Global Health Research Involving Human Subjects
Washington, DC

Advisory Board (2009-2010)
DNA as Unique Identifier: Privacy, Trust and the Future of Personalized Medicine
The Greenwall Foundation
Program in Professionalism and Bioethics
The Mayo Clinic
Rochester, MN

Committee on Ethics (2006-)
American College of Gynecologists and Obstetricians
Washington, DC

Special Emphasis Panel (2006, 2007, 2010)
Scholarly Works in Biomedicine and Health
National Library of Medicine/NIH
Bethesda, MD

International Data and Safety Monitoring Board (2005-2012)
DSMB for Africa
Division of AIDS
National Institute for Allergy and Infectious Disease
National Institutes of Health
Bethesda, MD

Consultant, Bioethics Review Committee (2005-11)
(Human Subjects Research, Eurasia)
US Civilian Research and Development Foundation
Arlington, VA

Program Committee (2005)
Hard Science—Hard Choices:
Facts, Ethics & Policies Guiding Brain Science Today
Library of Congress and Columbia University
Washington, DC

Pediatric Ethics Subcommittee of the FDA Pediatric Advisory Committee (2004-2006)

Joint FDA/OHRP Secretarial Expert Review Panels
Department of Health and Human Services
Rockville, MD

Task Force on Research with Prisoners (2003-2005)
Secretary's Advisory Committee on Human Research Protections
Department of Health and Human Services
Rockville, MD

Chairman, Advisory Board (2003-2005)
Partnership for Human Research Protections, Inc.
National Committee for Quality Assurance/
Joint Commission on Accreditation of Health Care Organizations
Washington, DC

Special Emphasis Panel (2003-2004)
Research on Ethical Issues in Human Studies
National Institutes of Health
Bethesda, MD

Review Panel (2003-2004)
AAMC/ORI Responsible Conduct of Research Program for Academic Societies
Washington, DC

Planning Committee (2003-2004)
"Ethical Issues in Technology Transfer and Intellectual Property,"
International Collegium on Ethical Issues in Biomedical Research
Council of Europe, Secretary-General of Poland, Warsaw, Poland

Advisory Board (2003-2005)
Health Screening for Girls in the Juvenile Justice System
In Our Daughters' Hands/Juvenile Law Center
Fairfax CA/Philadelphia PA

Task Force: Ethical Issues Pertaining to Research in the Aftermath of Disaster (2003)
New York Academy of Medicine/National Institute of Mental Health
New York, NY

Advisory Board (2002-2009)
Nominating Committee
DSMB
Cord Blood Committee
National Marrow Donor Program
Minneapolis, MN

Chairman (2000-2002)

National Human Research Protections Advisory Committee
Department of Health and Human Services
Washington, DC

Committee on Assessing the System for Protecting Human Research Subjects (2000–2002)
Institute of Medicine
National Academy of Sciences
Washington, DC

Special Expert Planning Committee (2002-2003)
“Ethical Issues in the Use of Placebo in Human Subjects Research,”
International Collegium on Ethical Issues in Biomedical Research
Council of Europe, Secretary-General of Poland, Warsaw, Poland

Intramural Hematology Data and Safety Monitoring Committee (2000-)
Intramural Cardiovascular Data and Safety Monitoring Committee (2000-)
National Heart Lung and Blood Institute
National Institutes of Health
Bethesda, MD

Special Emphasis Panel (2002)
Ethical Issues in Human Studies
National Institutes of Health
Bethesda, MD

Review Panel (2002-2003)
Responsible Conduct of Research Resource Development Program
Office of Research Integrity
Department of Health and Human Services
Rockville, MD

Research Ethics Consultant (2002-2008)
Preventing Cardiovascular Complications in Diabetes
(ACCORD Study)
Advisory to the Director
National Heart Lung and Blood Institute
National Institutes of Health
Bethesda, MD

Chairman: Advisory Committee (2002- 2003)
Human Research Protection Program Accreditation Standards
National Committee for Quality Assurance
Washington, DC

Program Committee (2002)
Ethical Issues in International Research
Office of Research Integrity/Office for Human Research Protections
Department of Health and Human Services
Rockville, MD

Task Force: Pesticide Testing in Humans: Ethics and Public Policy (2002)
The New York Academy of Medicine
Mount Sinai Center for Children's Health and the Environment
New York, NY

External Advisory Committee (2002-2004)
A Study of the Presumptive Approach to Consent for Organ Donation
Program for Transplant Policy and Ethics
Center for Bioethics
University of Pennsylvania
Philadelphia, PA

Hispanic/Latino Community Consultation in Genetic Research (2001-2003)
National Institutes of Health
Bethesda, MD

Life Sciences Research Committee (2001-2003)
State of Missouri
Jefferson City, MO

Advisory Board, IRB Benchmarking Consortium (2002)
Center for Bioethics
University of Pennsylvania
Philadelphia, PA

Special Emphasis Panel (1999-2000)
Research on Ethical Issues in Human Studies
National Institutes of Health
Bethesda, MD

Task Force on Professionalism (1998-2000)
Council of Academic Societies
Association of American Medical Colleges
Washington, D.C.

Member, Selection Committee (1999)
David E. Rogers Award
Association of American Medical Colleges/Robert Wood Johnson Foundation

Washington, D.C.

On-Site Evaluation Team/Human Research Subject Protections (1998-)
Office for Human Research Protections
Department of Health and Human Services
Rockville, MD

Expert Testimony: Perinatal Substance Abuse (July 1998)
Subcommittee on National Security, Internal Affairs, and Criminal Justice
Committee on Government Reform and Oversight
House of Representatives
Washington, D.C.

C-Span Live Broadcast
Release of Nelson/Marshall Report on Substance Abuse by Pregnant Women (August, 1998)
Substance Abuse Policy Research Program
The Robert Wood Johnson Foundation
The National Press Club
Washington, D.C.

Review Panel (1997-1998)
Substance Abuse Policy Research Program
Robert Wood Johnson Foundation
Winston-Salem, NC

Special Emphasis Panel (1997)
Informed Consent in Research Involving Human Subjects
National Institutes of Health
Bethesda, MD

Program Committee (1997)
First International Conference on Ethical Issues in Biomedical Engineering
American Society of Biomechanics
Bioengineering Alliance of South Carolina
Clemson, SC

Program Co-Chair (1997)
Ninth Annual Bioethics Summer Retreat
Hilton Head, SC

Special Review Panel (1996)
“Interventions to Reduce HBV, HCV and HIV in IDUs” (1996)
Advisory to Harold Varmus, M.D., Director

National Institutes of Health
Bethesda, MD

Member: Working Group on Ethics in Umbilical Cord Blood Banking (1996-1997)
Program in Medical Ethics
Duke University Medical Center
Durham, NC

Advisory Committee for Students' and Residents' Ethical and Professional Development
Association of American Medical Colleges (1996 -1998)
Washington, D.C.

Special Emphasis Panel (1996)
"Clinical Trials Cooperative Groups"
National Institute on Deafness and Other Communication Disorders
National Institutes of Health
Bethesda, M
Member: Project on Human Research Ethics - Project on Informed Consent (1995-1996)
Annenberg Public Policy Center Award
Center for Bioethics
University of Pennsylvania
Philadelphia, PA

Member: Project on Evaluating Case Consultation in Clinical Ethics (1995-1997)
Agency for Health Care Policy and Research
Program in Clinical Ethics
The University of Illinois at Chicago
Ellen Fox, M.D., Principal Investigator
Chicago, IL

Program Chair
1996 Joint Meeting
Society for Bioethics Consultation/Society for Health and Human Values
Cleveland, OH

Consultant (1993-2000)
Medical Ethics Committee
South Carolina Medical Association
Columbia, SC

Expert Testimony (Under Subpoena) (1995)
Ferguson v. City of Charleston et al
United States District Court
District of South Carolina, Charleston Division

Governor's Coalition on Advance Directives (1995-1997)

State of South Carolina
Columbia, SC

Joint Committee on DNR Orders and Ineffective Treatment (1995-1996)
South Carolina Medical Association/South Carolina Hospital Association
Columbia, SC

Hospital Ethics Task Force (1994-1995)
South Carolina Hospital Association
Columbia, SC

Testimony (1994)
Ethical Issues in Ex Utero Human Embryo Research
Human Embryo Research Panel
National Institutes of Health

PROFESSIONAL MEMBERSHIPS AND OFFICES HELD

National Societies:

The American Society for Bioethics and Humanities

President (1998-1999)

Executive Council (1997-2000)

Board of Directors (1997-2000)

Committee on Professional Rights (1999 -)

Awards Committee Chairman (1999-2000)

AAMC Council of Academic Societies (1998-2004)

Nominating Committee Chair (2013, 2014)

The American Association for Bioethics

President (1998)

Vice President (1997)

Secretary/Treasurer - Board of Directors (1995-1996)

Chair, Graduate Committee

The Association of American Medical Colleges

Council of Academic Societies (1998-2005)

CAS Program Planning Committee (2003-5)

GEA Undergraduate Medical Education Section (2001-5)

David E. Rogers Award Selection Committee (1999)

CAS Task Force on Professional Mentoring (1999-2--2)

Committee on Students' and Residents'

Ethical and Professional Development (1996-1998)

The American Society of Law, Medicine, and Ethics

Association for Bioethics Program Directors (2011-)

The Society for Bioethics Consultation

Secretary - Board of Directors (1994-1997)
Newsletter Associate Editor
Chair, 1996 Program Committee
 The Society of Critical Care Medicine
Ethics Committee (1989-1997)
 The Society for Health and Human Values
Program Director's Section
 The Hastings Center
 The International Association for Bioethics
 The Association for Health Services Research
 American Association for the Advancement of Science
 The American Association of University Professors
 The Academy of American Poets

EDITORIAL ACTIVITIES

Editorial Board: *Biolaw (1989-1993)*
Medical Research Law and Policy Report (Bureau of National Affairs)
Moral Community: The Monthly Digest of Health Care Ethics
News:(1995-1998)
 External Reviewer Institute of Medicine
 Referee: [The Joint Commission Journal on Quality and Patient Safety](#)
American Journal of Bioethics
American Journal of Law & Medicine
American Journal of Public Health
Biosecurity and Bioterrorism
Critical Care Medicine
Critical Care Nurse
IRB: Ethics and Human Research
Journal of the American Medical Association
Journal of Clinical Ethics
Journal of Law, Medicine & Ethics
Nature
Nature Reviews Cancer
New England Journal of Medicine
Science
 Southern Illinois University Press
 McGraw-Hill
 Commentary: *American Journal of Bioethics*
Journal of Law, Medicine & Ethics
 Book Reviewer: [The Journal of Nursing Regulation](#)
Bioethics
Health Care Ethics Committee Forum
 Associate Editor: *Society for Bioethics Consultation Newsletter*
 Guest Editor: *Journal of the South Carolina Medical Association*

EXTRAMURAL FUNDING

Completed

NIH/NCRR

PI: Blazar, **Marshall MF** and DeBruin D, Co-Investigators, Research Ethics Component, Clinical and Translational Science Award, NIH: 2011-2016. (note professional relocation in August, 2012 caused end of service on this project).

MF Marshall: Co-Investigator, PIs DeBruin and Gervais (Multiple PI Plan) MN Dept of Health Contract. # A98479/B10679/B1068D, "Development of an Ethical Framework for Influenza Pandemic. \$303,741 (2007-10)

MF Marshall: Co-Investigator, P Weissmann, the Art of Medicine, \$25,000 (2006-7)
American Medical Association

MF Marshall: Co-Principal Investigator with Jeremy Sugarman: Promoting the Responsible Conduct of Clinical Research (for the American Society of Bioethics and Humanities), \$23,500 (2003-2004) Office for Research Integrity/Association of American Medical Colleges

MF Marshall: Principal Investigator (20%): Kansas City Community Human Subjects Research Review Board, \$150,000 (2001- 2003), Ewing Marion Kauffman Foundation

MF Marshall: Principal Investigator (20%): Kansas City Initiative to Promote Integrity in Biomedical Research, \$687,870 (2000-2003), Kemper Foundation

MF Marshall: Co-Investigator (15%), Dennis Cope: Principal Investigator
Faculty Development and Residency Training in General Internal Medicine and General Pediatrics \$496,800 (1999-2002) National Institutes of Health

MF Marshall: Co-Investigator (15%), JE Kurent: Principal Investigator
The Enterprise Community: Improving Palliative Care Services and End-of-Life Care for an Urban African-American Population - \$243,228 (1998-1999)
Promoting Excellence in End-of-Life Care
The Robert Wood Johnson Foundation & Healthy South Carolina

MF Marshall: Principal Investigator (30%), Lawrence J. Nelson: Co-Investigator
An Ethical and Legal Analysis of State-Compelled Loss of Liberty as an Intervention to Manage the Harm of Prenatal Substance Abuse and Addiction - \$99,404 (1996-1998)
Substance Abuse Policy Research Program
The Robert Wood Johnson Foundation

MF Marshall: Co-Investigator (25%), JC Fletcher: Principal Investigator

Modeling a Service Oriented Bioethics Center - \$175,000 (1991-1992)
The Emily Davie and Joseph S. Kornfeld Foundation

MF Marshall: Co-Investigator (25%), JC Fletcher: Principal Investigator
Developing Hospital Ethics Programs - \$40,000 (1989-1991)
Virginia Foundation for the Humanities and Public Policy

MF Marshall: Co-Investigator (25%), JC Fletcher: Principal Investigator
Evaluation of Year 1, "Developing Hospital Ethics Programs" - \$11,000 (1992)
The Greenwall Foundation

MF Marshall: Principal Investigator (25%)
Pre-Doctoral Research Fellowship - \$18,000 (1989-1990)
The Bishop Robert Paddock Trust

INTRAMURAL FUNDING

MF Marshall: Development award: Institute for Bioethics, Law, and Public Policy
\$25,000 (2003-2004)
Executive Vice-Chancellor
Kansas University Medical Center

MF Marshall: Principal Investigator (20%)
Effects of Do-Not-Resuscitate Orders on Resource Utilization at the End of Life
\$20,000 (1992)
Health Services Research Award, Health Sciences Center
University of Virginia

UNIVERSITY SERVICE

University of Virginia (current)
Director, Ethics Consultation Service
Co-Chair, Medical Center Ethics Committee
Promotion and Tenure Committee, Department of Public Health Sciences
Schwartz Rounds Planning Committee
Medical Center Hour Planning Committee
Director: Biomedical Ethics Summer Internship (Center for Biomedical Ethics and Humanities)
[Reviewer, Outstanding DNP Capstone Award \(School of Nursing\)](#)

University of Minnesota

University

Advisory Board, Biology, Society, and Environment Undergraduate Major (2012)
Advisory Board, Institute for Advanced Study
Review Panel, Faculty Fellowship Applications (2009, 2010, 2011)
Review Panel, IAS Collaboratives (2010)
Faculty: Fostering Integrity and Responsible Conduct of Research
University Council on Public Engagement
Human Embryonic Stem Cell and Human Embryo Research Oversight Committee (2009-)

College of Medicine

Anatomy Bequest Advisory Panel
On Doctoring Steering Committee
Harvard Street Forum Planning Committee
Master Tutor: Physician and Society
Selection Committee: Deep Brain Stimulation for Obsessive Compulsive Disorder

Academic Health Center

Director, Clinical Ethics Program, Center for Bioethics
Chairman, Admissions Committee, MA Program in Bioethics (2007-2011)
Center for Bioethics
Promotion and Tenure Committee, Center for Bioethics
Minnesota Pandemic Ethics Project, Center for Bioethics
Body on Display Planning Committee
Faculty Advisor: AHC Student Multicultural Society
Faculty Advisor: Student Committee on Bioethics

University of Minnesota Medical Center, Fairview and Amplatz Children's Hospital

Tri-Chairman: Ethics Committee
Director, Ethics Consult Service

Children's Hospitals and Clinics of Minnesota

Member: Ethics Committee
Member: Ethics Consultation Service
Member: Futility Committee

Kansas University Medical Center; Kansas City, KS

Medical Center Committee on Research Compliance
Conflict of Interest Committee
Director: Ethics Grand Rounds Series
Director: Research Ethics Grand Rounds Series

Medical University of South Carolina; Charleston, SC**University**

Institutional Review Board
IRB Subcommittee on Guidelines for Consent to Genetic Research
Health Services Research Working Group

Scientific Integrity Review Committee
University Humanities Committee
Education Working Group of University Strategic Planning Committee
Director: Research Ethics Grand Rounds Series
Director: Clinical Ethics Grand Rounds Series
Executive Committee: Women in Medicine and Science
The Waring Library Society

College of Medicine

Co-Chair: Human Values Working Group/Primary Care Curriculum Program
Liver Transplant Selection Committee
College of Medicine Strategic Planning Committee
Introduction to Clinical Medicine Subcommittee
Faculty Advisor: Students for Reproductive Health and Freedom
Discussant: Surgery Ethics Grand Rounds

Medical Center/University Hospital

Vice Chairman: Medical Center Ethics Committee
Chairman: Ethics Consultation Subcommittee
Director: Ethics Consultation Service (1993-1997)
Chairman: Security and Confidentiality Committee: Electronic Medical Record
Implementation Project
Member: Policy and Accreditation Committee
Member: Data Safety Monitoring Committee

Gerard A. Silvestri, M.D., M.S., Study Group Chairman
Ultraflex Tracheobronchial Stent Quality of Life Study - \$105,000
The Clinical Innovation Group, MUSC Foundation for Research Development

The University of Virginia; Charlottesville, VA (1988-1993)

Associate, Virginia Health Policy Research Center
Health Sciences Center Ethics Committee
Director: Ethics Consultation Service
Infection Control Committee
Resuscitation Committee
Board of Directors:
Alumni Association
University of Virginia School of Nursing

MAJOR TEACHING RESPONSIBILITIES

University of Minnesota

Course Director: HSEM 3716: Honors Seminar, Issues in Bioethics
Course Director: (with Don Brunnquell) BTHX 8000: Topics Course: Ethical Issues in Pediatrics

Course Director: BTHX 8000 (with Joan Liaschenko): Theory and Practice of Clinical Ethics

Course Director: BTHX 8500: Practicum in Clinical Ethics (Lisa Freitag, M.D., MA Bioethics student; Jacalin Shealy, MA Bioethics Student; Bethany Gerdin, Nursing Ph.D. student, Nikki Gjere, Nursing Ph.D. Student)

Course Co-Director: (with Steve Miles, M.D.): BTHX 5000: Topics Course: War and Bioethics

Course Director: BTHX 5001: Introduction to Clinical Ethics
BTHX 5900 (Independent Study)

Course Director: BTHX 5000: Topics Course: Soul Medicine: Understanding Healing and Illness Through Literature

Course Director (Ethics): Pharm 6153 Law and Ethics in Pharmacy Practice (2008)

Lecturer: Biomedical Engineering Weekly Graduate Seminar

Lecturer: Center for Bioethics Seminar Series

Lecturer: University of Minnesota Medical Center, Palliative Care Education Seminars

Lecturer: University of Minnesota Biology, Society and Environment 3305, International Research

Lecturer: University of Minnesota Medical Devices Center Fellowship

Advisor: MA Thesis: Lisa Freitag, M.D., MA Bioethics Student

Advisor: MA Thesis: Jacalin Shealy, BA, MA Bioethics Student

Advisor: Jason Kallested, MD, Palliative Medicine Fellow Clinical Ethics Rotation (2011)

Advisor: Elizabeth Uschetelle, MD, Palliative Medicine Fellow Clinical Ethics Rotation (2012)

Advisor: Julia Anuras, MD, Renal Fellow Clinical Ethics Rotation (2007)

Advisor: *Bioethics Interns:* Grace Fleming, NYU Philosophy Undergraduate (2009), Christopher Barbey, Undergraduate Grinnell College (2011); Daniel Bernstein, UMN Biology Society and the Environment Major (2011); Jennifer Niclay, UMN Honors Undergraduate (2011); Victoria Diedrichs, Undergraduate Grinnell College (2010), Eleanor Gilmore Szott, University of Arkansas Philosophy and Pre-Med Undergraduate (2012), Rachel Lochner, Macalister College (2012); Samantha Stern, Honors Undergraduate (2012)

Advisor: Dissertation: Health Communications: Laura Pigozzi (2009)

Advisor: PhD Nursing Dissertation: Bethany Gerdin (2011-2012)

Kansas University Medical Center; Kansas City, KS

School of Medicine

Course Director: Ethics of Human Subjects Research (NIH K-30 Clinical Research Curriculum Program, faculty and students)

Ethics Noon Conference: Resident Staff, Internal Medicine

Core Lecture for Medical Residents: Research Ethics

Lecturer: ICM 900: (2 sessions) Research Ethics; Cultural Diversity

Lecturer: PRVM 806: Clinical Preventive Medicine

Lecturer: AMAP 869: Grant Writing

Schools of Nursing and Allied Health

Lecturer: NRSB 965: Special Topics: Issues and Methods in Health Services Research

Lecturer: NRSB 962: Futuristic Issues in Nursing

Lecturer: NRS 881: A Framework for Ethical Decision Making
Lecturer: NRS 775: Health Care Professionalism
Lecturer: NRS 754: Research Ethics
Lecturer: PHTH 836: Contemporary Health Issues and Management
Lecturer: Undergraduate Humanities Honors Seminar

Medical University of South Carolina, Charleston, SC

College of Medicine

Undergraduate Medical Education:

Course Director: ICM III-Introduction to Clinical Ethics (required 22-hour course for sophomore medical students; fall semester annually).

Course Faculty: Clinical Ethics Correlate/Parallel Curriculum ICM II-Introduction to Patient Care (spring semester, 1993, 1995).

Interdisciplinary Studies

Course Director

Health Care and the Humanities: Exploring the Human Condition through Literature and Film (fall, 1996).

Theoretical Approaches to Bioethics (fall, 1995).

Great Cases: The History of American Bioethics (spring, 1995).

Clinical Ethics Consultation: Theory and Practice (fall, 1994, 1997).

Graduate Studies Education

Director: Research Ethics Component of Biomedical Research Laboratory Practice and Informatics: College of Graduate Studies (spring, annually).

Faculty: Health Care Ethics: Department of Health Administration and Policy (fall 1993, 1994).

College of Nursing

Co-Director: Ethical Aspects of Research Involving Vulnerable Populations: College of Nursing (Spring, 1997)

Lecturer: Professional Issues in Nursing (Fall, annually).

Lecturer: Research Methods (Spring, annually).

Lecturer: Dimensions of Professional Nursing (Spring, annually).

College of Pharmacy

Lecturer: Pharmaceutical Biotechnology/Immunology (Spring, 1998, 1999).

Lecturer: Introduction to Drug Information (Fall, 1997, 1998).

Continuing Medical Education

Host Faculty: Fourth Annual Liver Disease and Transplantation Symposium (February, 1999).

“Human Subjects Research in Nazi Germany,” Grand Rounds, Department of Medicine, MUSC (January, 1999).

“Current Controversies in Research Ethics,” Department of Rheumatology Fellows Seminar, MUSC (April, 1998).

“Clinical Ethics: Approaches to Palliative Care,” University of Minnesota Medical Center, Fairview Ethics and Culture in Palliative Care Workshop, Minneapolis (March, 2007).
“Ethical Issues in Caring for the Decisionally Incapacitated Patient,” Grand Rounds, Department of Speech Pathology, MUSC (January, 1997).
“Human Subjects Protection in Clinical Investigation,” Department of Medicine Research Grand Rounds, MUSC (September, 1997).
“Truth-telling, Whistleblowing, and Admitting Mistakes,” Orthopedic Grand Rounds, MUSC (May, 1996).
“Living Will Issues,” Department of Surgery Grand Rounds, MUSC (March, 1994).
“Adam Smith, His Economics Then and Now,” Department of Surgery Grand Rounds, MUSC (March, 1995).
“Female Circumcision and Genital Mutilation,” Department of Surgery Grand Rounds, MUSC (July, 1994).

College of Charleston, Charleston, SC

Co-Director (with Martin Perlmutter): Honors Seminar in Bioethics (Honors 391) Ethical Issues in Perinatal Substance Abuse: Department of Philosophy (semester-long course, fall, 1997)

The University of Virginia, Charlottesville, VA

Course Advisor Spring 2014: INST 1550 Current Topics in Neuroethics

Course Director Spring 2013: RELG 4023 Bioethics Internship Seminar

Course Co-Director Spring 2013, 2014: GNUR 8640 Nursing Ethics for Advanced Practice

Course Director Summer 2013, 2014: PHSE 8110: Clinical Ethics

Discussion Leader: OB/GYN Clerkship Ethics Thread Discussion Leader

Lecturer: Ethics of Rationing Health Care, Social Issues in Medicine Course, Spring, 2013, 2014

Lecturer: “Crystal M. Ferguson, *et al.*, v. The City of Charleston, South Carolina, *et al.* No. 99-936 in the Supreme Court of the United States,” in Law of Reproduction, UVA School of Law, Lois Shepherd, JD, Course Director, Spring, 2013

Lecturer: “Issues in Biomedical Ethics,” College of Science Scholars, October 2, 2012.

Instructor of Record and Faculty Advisor Spring 2014: INST 1500: Issues in Neuroethics, College of Arts and Sciences

Instructor Fall 2014: Independent Study (Bioethics/Morgan Ritchey CAS)

Course Director: Graduate School of Arts and Sciences

Principles and Practices of Ethics Consultation

Introduction to the Clinical Setting: Pathophysiology and Medical Knowledge

Health Care Law and the Clinical Encounter

Course Director: School of Medicine and Graduate School of Arts and Sciences

Introduction to Clinical Ethics

Course Faculty:

Major Figures and Traditions: Proseminar in Clinical Ethics: Graduate School of Arts and Sciences

Advanced Cardiac Life Support Provider and Instructor Courses: School of Medicine

The Arts in Medicine: Department of Medical Humanities

TRAINEES

Graduate Students

University of Virginia

Ashley Hurst, JD, MDiv, Graduate Student Religious Studies
Advisor, Bioethics Independent Study Spring Semester 2013

Deborah Galaski, MSW, Graduate Student Religious Studies
Bioethics Intern Spring Semester 2013

Dissertation Defense Committee: Scott Giles, Department of Religious Studies (April 2014)

Postdoctoral Fellows

University of Virginia

Ashley J. Hurst, JD, MDiv, MA, Thomas G. Bell Fellow in Bioethics (2014)

University of Minnesota

Julia Anuras, MD, Renal Fellow (1997)
Bioethics Rotation

“Ethics and End-of-Life Training in Renal Fellowships”

Jason Kallested, MD, Palliative Medicine Fellow (2011)
Clinical Ethics Rotation

Elizabeth Uschetelle, MD, Palliative Medicine Fellow (2012)
Clinical Ethics Rotation

Medical University of South Carolina

David Perlman, Ph.D.(c) (1998)
Medical University of South Carolina

“Henry David Aiken: A Philosophical Model for Clinical Ethics”

University of Virginia

Ellen Waldman, J.D., LLM

Fellow in Clinical Ethics (1991-1992)

Center for Biomedical Ethics

“A Rural Teaching Project on Advance Directives”

Funded by the Virginia Foundation for the Humanities and Public Policy (\$11,000)

Medical Students

University of Virginia

Rebecca Dirks, Hook Scholar: MSSRP Project (2013)

“Exploring the Role of Narrative and Communication in Medical Practice and Ethics”

Medical University of South Carolina

Andrew J. Lipman, B.A.

Independent Research (1998-1999)

“Cyberethics: Application of Web-based Instruction for a Clinical Ethics Course”

First Prize: MUSC Student Research Day (1999)

Michele Lee O’Neill, B.A.

Special Topic: Reproductive Health, (1997-1998)

One-Year Externship: Program in Bioethics

Nursing Students

University of Minnesota

Nikki Gjere

Ph.D. in Nursing

Advisor, Clinical Ethics Practicum (spring, 2010)

Mary G. Alberts

Master of Science in Nursing

Characteristics of Children with the Special Education Classification of Emotional Behavioural Disorder: A Review of the Literature: Plan B Master’s Project

May, 2009

Heidi Lindfors

Master of Science in Nursing

Mindfulness as a Starting Point for Engaging in Lifestyle Changes in Women with Coronary Artery Disease: Plan B Master’s Project

April, 2009

Kansas University Medical Center

Kimberly L. Talbot, BSN

Research Ethics Practicum (summer, 2001)

Wichita State University

School of Nursing Graduate Program

Con Win

“Non-financial Conflicts of Interest”

Professional Ethics Practicum

Undergraduate (2001-2002)

Master of Health Sciences

Medical University of South Carolina

Project Mentor, Misty Dawn Anderson, B.A. (1997)

Development of a Confidentiality Education Plan for MUSC

Master of Health Sciences-Health Information Administration

Master of Arts Students

University of Minnesota

Lisa Freitag, MD

Master of Arts in Bioethics (fall, 2013)

Extreme Caregiving: An Ethical Analysis of Narratives by Parents

Julie Freitag, M.D.

Master of Arts in Bioethics (spring, 2010)

University of Virginia

Valita M. Fredland, J.D., M.A. (1992)

Master of Arts in Clinical Ethics

The University of Virginia

“Effects of Do-Not-Resuscitate Orders on Resource Utilization at the End of Life”

Elizabeth M. Pharr, M.A. (1992)

Master of Arts in Clinical Ethics

The University of Virginia

“A Pilot Study to Develop an Evaluation Instrument for Ethics Consultations”

James Finnerty, M.D., M.A. (1992)

Master of Arts in Clinical Ethics

The University of Virginia

“A Study of Ethical Reasoning Among First Year Medical Students

Before and After a Course on Introduction to Clinical Ethics”

High School Students

Aaron Perlmutter (1995-1996)

Academic Magnet High School at Burke

Senior Thesis (Honors)

“High School Students’ Attitudes Towards Assisted Death”

Medical University of South Carolina

Maria K. Tran (1997)

High School Research Apprentice Program

Office of Diversity

Medical University of South Carolina

Lavonia Mitchell (1998)

High School Research Apprentice Program

Office of Diversity

Medical University of South Carolina

Non-Degree Seeking Graduate Students

Medical University of South Carolina

B. Natalie Demers, M.H.A. (1994-1997)

Medical University of South Carolina

“South Carolina Educational Program for Training Ethics Resources”

Donna R. Taylor, J.D. (1994-1997)

Medical University of South Carolina

“A Bioethical Analysis of Health Care Law in South Carolina”

CONTINUING EDUCATION

“Ethical Issues in Complex Patients with Protracted Lengths of Stay,” with Ashley Hurst and Beth Epstein. Family Medicine Grand Rounds, University of Virginia (July 8, 2014)

“Ethics Consult Services and Conflicts in End of Life Decisionmaking,” Hematology/Oncology Education Rounds, University of Virginia (June 6, 2014)

“Ethical Issues and Policy Approaches to Perinatal Substance Abuse,” Pediatric Grand Rounds, University of Virginia (April 4, 2013)

“Difficult Treatment Decisions in Surgery,” Orthopedic Surgery Grand Rounds, University of Virginia (March 6, 2013)

“Negotiating Cases of Medical Futility,” Department of Hematology/Oncology, University of Minnesota (August 8, 2012)

“The Moral Status of the Embryo,” Ethical and Legal Issues in Genetic Counseling, University of Minnesota (March, 2012)

“The Long and Winding Road: The Unfaithful Proxy and the Protracted Death of Albert Barnes,” Center for Bioethics Seminar Series (January, 2012).

“The Al Barnes Case: Fraudulent Proxies and Futility Disputes,” Grand Rounds, Department of Medicine (January, 2012)

Clinical Case Presentation, Neurology Morbidity and Mortality Rounds, University of Minnesota (December 2, 2011)

“The Charleston Policy on Cocaine Use During Pregnancy: A Cautionary Tale,” Biology, Society and the Environment, University of Minnesota Medical Center, Fairview (November 23, 2011)

“Clinical Ethics: Approaches to Palliative Care,” Fairview Ethics and Palliative Care Seminar, Brennan Center University of Minnesota Medical Center, Fairview, Minneapolis, MN (November 1, 2011)

“Care Determined to be Harmful or Futile,” Hematology Oncology Transplant Fellows Grand Rounds, University of Minnesota Medical Center, Fairview, Minneapolis, MN (September 30, 2011)

“Ethical Challenges in Care Determined to be Futile or Harmful,” Critical Care Fellows Grand Rounds, University of Minnesota Medical Center, Fairview, Minneapolis, MN (August 31, 2011)

“Approaches to Clinical Ethics,” Staff Nurse Advisory Council Meeting, University of Minnesota Medical Center, Fairview, Minneapolis, MN (August 3, 2011)

“The Practice of Clinical Ethics,” Palliative Medicine Didactic Lecture Series, University of Minnesota, Minneapolis, MN (August 2, 2011)

“The Case of Albert Barnes,” Fellowship Didactic Conference, Hematology/Oncology Fellow Teaching Conference, University of Minnesota, Minneapolis, MN (June 15, 2011)

Panelist: “Medical Orphans and Dubious Proxies: Seeking Sound Surrogate Decision Makers,” Annual Fairview Health Services Ethics Forum (June, 2011).

“Inclusion of Pregnant Women in Clinical Trials,” Department of Obstetrics and Gynecology Women’s Health Grand Rounds (April, 2011).

“Morality and Risk: The Search for the Perfect Pregnancy,” (with Debra DeBruin and Joan Liaschenko), Center for Bioethics Seminar Series (December, 2010).

“Ethical Edges at the End of Life: Limiting Futile Treatment,” Grand Rounds, Department of Neurology, University of Minnesota, Minneapolis, MN (September 16, 2010).

“Medical Futility,” (with Vic Sandler, MD) Department of Social Work, University of Minnesota, Minneapolis, MN (June 17, 2010)

“Ethical Edges at the End of Life,” Palliative Care Symposium, Family Medicine Update 2010, Minneapolis, MN (May 11, 2010).

“Ethical Issues in Clinical Medicine,” Minnesota Medical Leaders, University of Minnesota (April, 2010).

“Managing Death and Avoiding Futile Care at the End of Life: Lesson Learned From the Ethics Consult Service,” (with Vic Sandler, MD) Grand Rounds, Department of Medicine, University of Minnesota, Minneapolis, MN (March 11, 2010).

“Bioethics in Clinical Research,” Biological Science Research Club, UMN, (December, 2009).

“Perspectives on Medical Futility,” University of Minnesota, Fairview and System Ethics Committee Annual Educational Retreat (November, 2009).

“Ethics and Palliative Care,” University of Minnesota Medical Center, Fairview’s Organizational Learning Centers Seminar, Minneapolis, Minnesota (October, 2008, October 2009).

“Ethical Issues I Human Subjects Protection,” Medical Device Fellows Program Seminar, School of Engineering, University of Minnesota, Minneapolis, Minnesota (October, 2008).

“Life Science Alley: Ethical Issues in Bequeathment/Commodification of Body Parts,” St. Paul, MN, (February, 2008).

“The Dynamic Between Healing and Narrative,,” The Alchemy Project, School of Music, University of Minnesota, (November, 2007).

“Medical Ethics and Palliative Care,” Pediatric Hematology-Oncology Fellows, University of Minnesota Medical Center, Fairview (October, 2007).

“Decision Making at the End of Life,” Medical and Surgical Intensive Care Unit Staff, University of Minnesota Medical Center, Fairview (July, 2007).

“Donation After Cardiac Death,” Operating Room Staff, University of Minnesota Medical Center, Fairview (March and May, 2007).

“Clinical Ethics: Approaches to Palliative Care,” University of Minnesota Medical Center, Fairview Ethics and Culture in Palliative Care Workshop, Minneapolis (March and October, 2007).

“Oh the Water: Allegations of Euthanasia at Memorial Medical Center,” Center for Bioethics Seminar Series, University of Minnesota (January, 2007).

“Clinical Ethics: Approaches to Palliative Care,” University of Minnesota Medical Center, Fairview Ethics and Culture in Palliative Care Workshop, Minneapolis (November, 2006).

Plenary Address, Annual Student Research Day Workshop, “Research in the Aftermath of Bioterrorism,” Kansas University Medical Center, (April, 2003).

Grand Rounds, “Ethical Issues in Bio-preparedness: A Review of Testing Dryvax Vaccine in Children,” Department of Medicine, Kansas University Medical Center, (January, 2003).

KUMC/UMKC Nursing Faculty Forum, “Ethical Issues in Stem Cell Research and Cloning, Kansas University Medical Center, (January, 2003).

Graduate Seminar, “Preventing Scientific Misconduct,” Department of Cell Biology and Anatomy,” Kansas University Medical Center, (December, 2002).

Continuing Medical Education Seminar, “Evolving Issues in Human Subjects Research,” Area Health Education Council Telecast to Dodge City, KS Community Physicians (July, 2002).

Grand Rounds, “*Ferguson v. City of Charleston et al*: Ethical Issues in Perinatal Substance Abuse,” School of Allied Health, (December, 2001).

Sigma XI Seminar: with Charles D. Little: “Ethical Issues in Human Stem Cell Research,” (October, 2001).

Sigma XI Seminar: with J.A. Menikoff, JD, MD: “Crisis and Response: The Evolution of an Ethics of Research,” Kansas University Medical Center, Kansas City, KS (September, 2001).

Pathology Small Group Seminar: Case Study of Unconsented HIV Testing, Kansas University Medical Center, Kansas City, KS (September, 2001).

Peter T. Bohan Alumni Lecture: “Crisis and Response: The Evolution of an Ethics of Research,” Kansas University Medical Center, Kansas City, KS (May, 2001).

Grand Rounds, “New Directions in Research Ethics,” School of Allied Health, Kansas University Medical Center (February, 2001).

“Human Subjects Protections: The Evolving Landscape,” Faculty Grand Rounds, Schools of Nursing and Allied Health, Kansas University Medical Center (June, 2001).

“A Research Trial Gone Wrong: Gelsinger v. University of Pennsylvania” Grand Rounds Department of Orthopedic Surgery, Kansas University Medical Center (November, 2000).

SELECTED EXTRAMURAL PRESENTATIONS

Marshall, MF. “Boys Interrupted: Coercion, Contention and Capacity in Forced Feeding.” Grand Rounds, Department of Psychiatry, Veterans’ Administration Hospital, Salem, VA (April 2014).

Marshall MF (presenter), Barbey C, Liaschenko J, Miner M. "Moral Panic, Moral Monsters and Justice in Health Care," Annual Meeting, American Society for Bioethics and Humanities. San Diego, CA (October, 2012).

Marshall MF (presenter), "Maternal Fetal Conflict: an Unethical Construction?" Department of Obstetrics and Gynecology, Northwestern University, Chicago, IL (scheduled for August, 2012; cancelled due to move to UVA).

"Ethical Issues at the End of Life," Scared to Death of Dying: Community Conference on Death and Dying, Lakeview Hospital, Stillwater, MN (June 7, 2012)

Clinical Ethics, Futility and Palliative Care," Ethics Workshop, Education on Ethics, Lakewood Health Systems, Staples, MN (September 23, 2011)

"Morality and Risk – An Understudied Topic in Bioethics," Panel Session, with Debra DeBruin, Joan Liaschenko, and Anne D. Lyrly, Annual Meeting, American Society for Bioethics and Humanities. San Diego, CA (October, 2010).

"Ethical Edges at the End of Life: Limiting Futile Treatment," Internal Medicine Review and Update, Radisson University Hotel, Minneapolis, MN (November 11, 2010).

"Three Quick Cases: Culture, Adolescents, Terminating Treatment Relationships," Grand Rounds, Children's Hospitals and Clinics of Minnesota, St. Paul, MN (November 18, 2010).

"Futility and Care at the End of Life," Grand Rounds, North Memorial Hospital, Minneapolis, MN (January, 2010).

"Ethical Issues in Clinical Medicine," Health Occupation Students of America Conference, Anoka, MN (January 2010)

"Ethical Issues in the Treatment of Patients with Eating Disorders," The Emily Program, Minneapolis, MN (October 6, 2010)

Panel: "Savage Minds and the Politics of Vengeance: Punishing Pregnant Women Who Attempt Suicide," Annual Meeting, American Society for Bioethics and Humanities, Washington, DC (October, 2009).

"Ethical Issues in International Research," University of Minnesota College of Public Health (January, 2009).

"Oh, the Water! Lessons from Katrina in Planning for Pandemics and Other Disasters," American Society for Bioethics and Humanities Plenary Session, Association of American Medical Colleges Annual Meeting, San Antonio, Texas (November, 2008).

“Compassion Through Creativity: Exploring Pediatric Ethical Dilemmas Through Literature, Film and Music,” Guest Faculty- Children’s Hospital of the Kings Daughters 19th Annual Bioethics Day (November 2008).

Moderator: “Planning for Severe Pandemic: Canadian and Minnesotan Perspectives,” American Society for Bioethics and Humanities Annual Conference, Cleveland, Ohio (October, 2008).

Moderator: “Future Issues in Ethics Consultation,” American Society for Bioethics and Humanities Annual Conference, Cleveland, Ohio (October, 2008).

“Cyborg Amplifications and the Computer-Brain Interface: Issues in Neuroethics,” MeritCare PrimaryCare Seminar, Bemidji, Minnesota (September, 2008).

“Coercive Interventions in Perinatal Substance Abuse,” MeritCare Primary Care Seminar, Bemidji, Minnesota (September, 2008).

“Ethics in the Health Professions,” University of Minnesota School of Dentistry Annual Meeting, Minneapolis, Minnesota (Aug, 2008).

“HIV Research in Africa: Politics, Provincialism and Pragmatics,” Rush University School of Medicine, Chicago, Illinois (May, 2008).

“Ethical Issues in Human Subjects Research,” School of Law, Howard College, University of Kwazulu-Natal, Durban, South Africa (March, 2008).

“Oh the Water: Allegations of Euthanasia at Memorial Medical Center,” School of Law, University of Charleston, Charleston, South Carolina, (February, 2008).

Panelist: “Non-Transplantable Tissues: Changing Regulation,” Minnesota Commission on the Procurement and Use of Anatomical Donations, LifeScience Alley, St. Paul, MN (February, 2008).

“The Dynamic Between Healing and Narrative,” The Alchemy Project, School of Music, University of Minnesota, (November, 2007).

“Hurricane Katrina and Allegations of Euthanasia,” Pediatric Grand Rounds, Children’s Hospital of Minneapolis, and repeated, Saint Paul campus (October, 2007).

“Research with Human Subjects,” Tufts University School of Dentistry, Boston, MA (September, 2007).

Ethical Issues in Perinatal Substance Abuse,” University of Illinois at Champaign, Urbana, Il (September, 2007).

“ASBH and Moral Tolerance,” Keynote Address, Nursing Affinity Group Annual Meeting, American Society for Bioethics and Humanities, Washington, DC, (October, 2007).

“Stem Cell Research for Curing Diseases of the Eye: Policy Pros and Cons,” Annual Program of the American Association of Visually Impaired Attorneys, Minneapolis (July 2007).

“Emerging Guidance on Research with Special Populations,” 4th Annual Northwestern University Clinical Research Educational Conference, Chicago (May, 2007).

“Ethical Issues in Human Subjects Research,” Society for Executive Leadership in Academic Medicine (SELAM) Annual Conference, Philadelphia (April, 2007).

“Euthanasia and Hurricane Katrina,” Center for Medical Humanities, University of Illinois at Chicago, (March, 2007).

“Cell Division: The Ethics of Stem Cell Research,” College of St. Catherine Biology Seminar, St. Paul, MN (December, 2006).

“Decision Making Capacity: An Ethical Perspective,” St. Luke’s Hospital Biomedical Ethics Conference, Duluth, MN (December, 2006).

“Dial E for Ethics: Helping PIs with Ethical Dilemmas Identified in Protocol Review, or After the Research is Underway,” Annual Human Research Protection Program Conference, Washington, DC (November, 2006).

“Oh the Water. . . Katrina, Memorial Medical Center and Death During the Deluge,” University of Minnesota Medical Center, Fairview Palliative Care Grand Rounds, Minneapolis (November, 2006).

“Ethics of Clinical Trials,” Current Issues in Clinical Research Conference, Minneapolis (October, 2006).

“The Ethics of Human Subject Research: From Nuremberg to the Present,” Tufts University Dental School Annual IRB Workshop, Boston (September, 2006).

“Non-Financial Conflicts of Interest,” Columbia University School of Medicine, New York. (April, 2006).

“Non-Financial Conflicts of Interest,” Plenary Panel, and “Accreditation: Lessons Learned and Best Practices Identified,” 2005 Annual Human Research Protection Programs Conference, Public Responsibility in Medicine and Research and Applied Research Ethics National Organization, Boston, MA (December, 2005).

“Lessons Learned from the CECRE Study,” National Institutes of Health, Bethesda, MD (December, 2005).

“An Argument for a Code of Ethics for Bioethicists,” American Society for Bioethics and Humanities, Annual Meeting, Washington, DC (October, 2005).

“Research Ethics Landmarks in the 21st Century,” National Conference on Biomedical Research and Practice, The Woodside Center for Interdisciplinary Studies, Grand Forks, ND (October, 2005).

“Ethical Issues in Human Subjects Research,” Tufts University Schools of Medicine and Dentistry, Boston, MA (September, 2005).

Presenter: “Ethics and Research with Prisoners,” Ethical Considerations for Revisions to DHHS Regulations for Protection of Prisoners Participating as Subjects in Research, Institute of Medicine, National Academies of Science, Washington, DC (May, 2005).

Discussant: “From Robots to Nanoprobes—Technology for the Brain,” Hard Science—Hard Choices: Facts, Ethics and Policies Guiding Brain Science Today, co-sponsored by the Library of Congress and Columbia University, Washington, DC (May, 2005).

“Ethical Issues of Therapy vs. Enhancement,” Our Brains and Us: Neuroethics, Responsibility, and the Self,” co-sponsored by the American Association for the Advancement of Science and Massachusetts Institute of Technology, Cambridge, MA (April, 2005).

“Missouri v. Lewis and Other Cases: Ethical and Policy Issues in Perinatal Substance Abuse,” OB/GYN Grand Rounds, Washington University School of Medicine, St. Louis, MO (November, 2004).

“Ethical Issues in Pregnancy: Perinatal Substance Abuse,” Department of Anthropology Undergraduate Seminar, Washington University, St. Louis, MO (November, 2004).

“Research With Prisoners,” and “Protecting Research Participants: How to Measure Success?” Annual PRIM&R Conference, San Diego, CA (October, 2004).

“Managing Unanticipated Results in Research,” Emory University Annual IRB Retreat,” Atlanta, GA (September, 2004).

“The Evolution of Human Research Ethics,” and “Conflicts of Interest in Human Subjects Research,” Tufts University Schools of Medicine and Dentistry, Boston, MA (September, 2004).

“What Really Happened,” Memorial Conference in Honor of John C. Fletcher, University of Virginia School of Medicine, Charlottesville, VA (September, 2004).

“The Past and Future of Ethical Issues in Human Subjects Research: From Nuremberg to Beyond,” Joint Meeting of the International Continence Society and the International Urogynecological Association, Paris, France (August, 2004).

“Challenges to Professional Integrity,” Cedars Sinai Medical Center, Los Angeles, California (May, 2004).

Plenary Panel: “Fusing/Confusing Ethics and Privacy/Confidentiality—Principles and Regulations,” “(Marshall-Privacy Concerns in Research Involving Third Parties), and Workshops: “Creating a ‘Culture of Conscience’ Not Just a ‘Culture of Compliance’ in a Research-Intensive Institution,” “Privacy and Confidentiality in Social Science Research: Ethical Issues in Ethnographic Research,” and “Privacy and Confidentiality Issues When Conducting Research in Different Cultural Contexts (Special Populations)” at: Conflicts of Interest, Privacy/Confidentiality, and Tissue Repositories: Protections, Policies and Practical Strategies, Public Responsibility in Medicine and Research, Association of American Medical Colleges, National Institutes of Health, Partners HealthCare System, Inc., Boston, MA (May, 2004).

“The Services of Bioethics,” Cleveland Clinic Foundation, Cleveland, OH (April, 2004).

“Ethical Issues in Human Subjects Research: The Evolving Landscape,” Duke University School of Medicine, Durham, NC (January, 2004).

“Novel Approaches to Teaching Clinical Research Ethics,” and “Psychological Dynamics of IRBs: The Exercise of Power and Other Foibles,” and “The Concept of Minimal Risk and Greater than Minimal Risk as It Applies to Pediatric Research, Including Discussions Regarding Subpart D 407 Panels,” and “What To Do with Unanticipated Findings in Research? Is the Duty to Warn in Conflict with the Concept of Consent?” 2003 Annual IRB Conference, Public Responsibility in Medicine and Research, Washington, DC (December, 2003).

Scientific Plenary Panel: “Protecting Research Subjects in Clinical Trails,” Annual Scientific Meeting, National Marrow Donor Association, Minneapolis, MN (November, 2003).

“Ethical, Legal, and Regulatory Involvement in Pediatric Research,” Bioethics Across Borders, Joint Meeting of the American Society for Bioethics and Humanities and the Canadian Bioethics Society, Montreal, Canada (October, 2003).

Keynote Address: “The Evolution of Human Subjects Protections,” Annual Research Conference, Tufts University Medical Center, Boston, MA (September, 2003).

“Research Ethics in the Aftermath of Disaster,” Kansas Public Health Association, Kansas City, KS (September, 2003).

“From Compliance to Conscience,” IRB Grand Rounds, Cedars-Sinai Medical Center, Los Angeles, CA (July, 2003).

“Human Subjects Protections and the Life Sciences,” Luncheon Address, Missouri Life Sciences Summit, Osage Beach, MO (July, 2003).

“Policy Approaches to Perinatal Substance Abuse,” Duke University School of Medicine and College of Arts and Sciences, Durham, NC (June, 2003).

Keynote Address: “Emerging Issues in Human Subjects Protections,” George Washington University School of Medicine, Washington, DC (June, 2003).

“Ethics and Biodefense,” Biotechnology 2003 Annual Forum, Washington, DC (June, 2003).

“Ethical Issues in the Use of Placebo in Human Subjects Research,” ,” International Collegium on Ethical Issues in Biomedical Research, Council of Europe, Secretary-General of Poland, Warsaw, Poland (April, 2003).

“Crisis and Response: The Evolution of the Ethics of Research,” Annual Sigma Xi Lecture, Kansas State University, Manhattan, Kansas (April, 2003).

Plenary, “How Ethics Are Changing the Way We Do Research,” Wichita Medical Research and Education Foundation Annual Meeting, Wichita, Kansas (April, 2003).

Panelist, “Trials and Tribulations – Protecting Subjects vs. Providing Information,” Exploring the Western Edge of Health Care, Fourth National Conference, Association of Health Care Journalists,” San Francisco, CA (March, 2003).

Moderator: “Government Up-Date on Medical Research Funding and Regulation,” and Panelist: “The Dryvax Vaccine Case: A Discussion of the OHRP 407,” Third Annual Medical Research Summit, Washington, DC (March, 2003).

Moderator and Panelist, “A Time for Reform: Human Subjects’ Protections,” AAAS Annual Meeting, Denver, CO (February, 2003).

“Risks and Benefits of Participating in Disaster-Focused Research Studies,” Invitational Meeting: Ethical Issues Pertaining to Research in the Aftermath of Disaster, New York Academy of Medicine/National Institute of Mental Health, New York, NY (January, 2003).

Panel 1, “Protecting Research Subjects: Mechanisms, Experiences, and Opportunities;”
Panel 6, “How Does an IRB Evaluate Risk and Benefit in Social and Behavioral Science

and Humanities Research;” Workshop, Implementing the Ethical Principles of Research in IRB Practice;” Workshop, “The New Institute of Medicine Report on Protecting Human Subjects;” and Didactic Session, “A NHRPAC Report,” Public Responsibility in Medicine & Research, Annual IRB Conference, San Diego, CA (November, 2002).

“The Ethics of Research in the Face of Bioterrorism” American Society for Bioethics and Humanities Panel presentation, Annual Meeting, Association of American Medical Colleges, San Francisco, CA (November, 2002).

“Emerging Issues in Human Subjects Research,” Office of Research Integrity, Rockville, MD (October, 2002).

Annual Cope Lecture, “Ethical Issues in Human Subjects Research” William Jewell College, Liberty, MO (September, 2002).

Research Seminar, “Defining Events in the Evolution of Research Ethics,” The Stowers Institute for Biomedical Research, Kansas City, MO (September, 2002).

“Moving Away from the Bench – Ethical Issues in Basic and Applied Research,” Annual Retreat, Biology Department, University of Missouri at Columbia, Columbia, MO (August, 2002).

Keynote Address: “From Protection to Promotion: The Evolving Approach to Research with Children,” Current Ethical and Regulatory Issues in Research Involving Children, Office for Human Research Protections, Food and Drug Administration, St. Jude’s Children’s Research Hospital, Memphis, TN (June, 2002).

Plenary, “Should IRBs be Accredited,” and “The Role of the Office for Human Research Protections,” Ethics of Research with Humans: Past, Present, & Future, University of Washington School of Medicine, Seattle WA (June, 2002).

Keynote Address: “Research with Children – The New Arena,” and “As the Pendulum Swings: New Approaches to Research with Children,” The Fourth National Ethics Conference, Ethics of Research with Children, Friends’ Research Institute, Inc. San Francisco, CA (May, 2002).

“Practical Barriers to Informed Consent,” and “Role of the IRB in Assuring Responsible Conduct of Research,” Promoting Integrity in Clinical Research, Department of Bioethics, Cleveland Clinic Foundation and Office of Research Integrity, DHHS, Cleveland, OH (May, 2002).

“The Evolution of the Ethics of Research,” International Collegium on Ethical Issues in Biomedical Research, Council of Europe, Secretary-General of Poland, Warsaw, Poland (April, 2002).

Keynote Address: “Ethical Conduct of Research,” Annual IACUC Conference, Dealing With Differences: Decisions on Animal Care and Use, Public Responsibility in Medicine and Research and Applied Research Ethics National Association, Boston, MA (March, 2002).

Plenary Address: “The New National Human Research Protections Advisory Committee’s Role in Protecting Human Subjects,” The Second Annual Medical Research Summit, Price Waterhouse Coopers and Davis Wright Tremaine, LLP, Washington, DC (March, 2002).

“The Ethics of Biomedical Research: Financial and Non-Financial Conflicts of Interest,” Department of Biological Physics, Eotvos University, Budapest, Hungary (March, 2002).

“Ethical Issues in Biomedical Research: Balancing Self-Interest and Research Integrity,” The Walter S. Sutton Ethics Lecture, Kansas University International Center for Ethics in Business, Lawrence, KS (March, 2002).

“Fetal Rights and the Maternal Fetal Relationship: Lessons Learned from *Ferguson v. City of Charleston*,” Medical Center Hour, University of Virginia Health Sciences Center, Charlottesville, VA (March, 2002).

“Ethical Issues in Stem Cell Research,” Molecular Biology Week, the University of Missouri, Columbia, MO (March, 2002).

“Research on Human Subjects,” Pesticide Testing in Humans: Ethics and Public Policy, The New York Academy of Medicine and Mount Sinai Center for Children’s Health and the Environment, New York, NY (February, 2002).

“Third Parties as Research Subjects,” Secretary’s Advisory Committee on Genetic Testing, Bethesda, MD (February, 2002).

Panel: “Creating Crises: Crack Moms, Drunk Babies, and Welfare Queens,” Maternal-State Conflicts: Claims of Fetal Rights & the Well-being of Women and Families, Mt. Sinai Clinical Education Initiative New York, NY (January, 2002).

Plenary Address: “The Evolution of an Ethics of Research: Moving Beyond Crisis and Response,” 15TH Annual ARENA Meeting, Boston, MA (December, 2001).

Moderator: “Financial Relationships and Conflicts of Interest in Human Subjects Research,” Annual Meeting: Association of American Medical Colleges, Washington, DC (November, 2001).

Annual Human Investigation Lecture: “Scandal, Protectionism and the Evolving Ethics of Human Subjects Research,” University of Virginia Health Sciences Center, Charlottesville, VA (October, 2001).

“Human Subjects Protections: Issues at the Forefront,” Council on Government Relations, Washington, DC (June, 2001).

“Bioethics and Genome Research: Genetic Screening” Government-Academic-Industrial Partnerships: FASEB Spring Policy Conference, Bethesda, MD (May, 2001).

Courtney M. Townsend, Sr. Lecture in Medical Humanities, “Evolving Issues in Research Ethics,” Institute for the Medical Humanities, University of Texas Medical Branch at Galveston, Galveston, TX (May, 2001).

Plenary Address: “The Responsible Investigator: Bridging the Gap Between Ethics and Regulations,” Seventh Annual Resident Research Forum, St. Joseph Mercy Hospital, Ann Arbor, MI (April, 2001).

Annual Research Lecture: “Research Issues at the Forefront: From Genomics to Cybernetics,” Johnson County Community College, Overland Park, KS (April, 2001).

Ethical Issues in Cybernetics Research, Department of Biological Physics, Eotvos University, Budapest, Hungary (April, 2001).

Plenary Address: “The National Human Research Protections Advisory Committee’s Role in Protecting Human Subjects,” The Medical Research Summit, sponsored by PriceWaterhouseCoopers and Ernst & Young, Washington, D.C. (March, 2001).

“Ethical, Legal, and Social Issues in Electronic Medical Records,” Information Technology & Health Care: Ethical, Legal and Social Issues, Brody School of Medicine, East Carolina University, Greenville, NC (March, 2001).

“The Human Genome: Getting to Know All About You,” Annual Ethics Lecture Series, Trinity Lutheran Hospital, Kansas City, MO (November, 2000).

“Into the Future: Ethical Issues in Cybernetics Research,” and Panel Moderator: Emerging Issues in Human Subjects Research with panel members Greg Koski, Paul Wolpe, and David Doukas, Annual Meeting: Association of American Medical Colleges, Chicago, IL (October, 2000).

Moderator: “Faculty Under Siege: Supporting Career Development,” Council of Academic Societies/Women In Medicine Breakfast, Annual Meeting: Association of American Medical Colleges, Chicago, IL (October, 2000).

Fellow’s Seminar, *Ferguson v City of Charleston et al*: Women’s Law & Public Policy Fellowship Program, Georgetown University Law Center, Washington, D.C. (October, 2000).

“From Genomics to Cybernetics: Emerging Ethical Issues in Human Subjects Research,” Grand Rounds, Department of Medicine, University of Missouri, Kansas City, MO (September, 2000).

“Substance Abuse Research in Minority Women,” Ethical Research in the New Millennium: What *The Belmont Report* Didn’t Anticipate: Office for Protection from Research Risks and Center for Ethics in Health Care, Oregon Health Sciences University, Portland, OR (August, 2000).

“Research Ethics and Substance Abuse: A New Population of Vulnerable Subjects?” Cultural Diversity in Clinical Research, Co-Sponsored by The University of South Florida and the Office of Protection from Research Risks, National Institutes of Health, Orlando, FLA (May, 2000).

“Exploring the Human Condition Through Literature and Film,” The Humanities in Medical Education, The University of South Carolina, Columbia, SC (April, 2000).

“Roundtable on Human Research Subject Protections,” Council of Academic Societies, The American Association of Medical Colleges, Savannah, GA (March, 2000).

“An Experimental Study of Web-Based Clinical Ethics Instruction,” American Society for Bioethics and Humanities Annual Meeting, Philadelphia, PA (October, 1999).

Moderator and Speaker: “Teaching Professionalism in Clinical Research,” ASBH Plenary Session, “Professionalism, Bioethics and Humanities: Teaching Professionalism and Meeting the Challenge of Managed Care,” Association of American Medical Colleges Annual Meeting, Washington, D.C., (October, 1999).

“South Carolina’s Unprecedented Experiment on Drug Addicted Women,” Alcohol & Drug Problems Association of North America: 13th Annual Women’s Issues Conference, Charleston, SC (October, 1999).

“Taking the Next Steps,” Plenary Address, Health Care Ethics in South Carolina, Second Annual Statewide Ethics Committee Fall Seminar and Workshop, Columbia, SC (September, 1999).

“Teaching Professionalism in Medical Education,” Conference on Medicine and the Humanities, School of Medicine, University of Illinois, Chicago, IL (June, 1999).

“Ethical Issues in Biotechnology,” The Second International Conference on Ethical Issues in Biomedical Engineering, Clemson University, Clemson, SC (May, 1999).

“Medico-legal Issues of Substance Using Mothers and Their Children,” Stop the Hurt Seminar, Bureau of Maternal and Child Health, Charleston, SC (April, 1999).

“The Role of the Consumer Advocate in Clinical Ethics,” Annual Carolina Society for Health Care and Consumer Advocacy, Charleston, SC (April, 1999).

“Hot Topics Session: Medical Students Facing Ethical Dilemmas,” Physicians and Social Responsibility Meeting, AAMC –Southern Region Group on Student Affairs – Minority Affairs Section – Organization of Student Representatives – and Southeastern Association of Advisors for the Health Professions, Charleston, SC (March, 1999).

“Ethics of Liver Transplantation and Organ Allocation,” Fourth Annual Liver Disease and Transplantation Symposium, Charleston, SC (February, 1999).

“Speaking Truth to Power,” Presidential Address, American Society for Bioethics First Annual Meeting, Houston TX (November, 1998).

“Privacy and Confidentiality of Health Care Information,” 109th Annual Meeting American Association of Medical Colleges, New Orleans, LA (November, 1998).

“Substance Abuse and Public Health Policy: A Crossroads,” Office of Protection from Research Risks, National Institutes of Health, Bethesda, MD (September, 1998).

“Physician Assisted Suicide” Medical Grand Rounds, Conway Hospital, Conway, SC (September, 1998).

“Ethical Analysis of Coercive Interventions in Perinatal Substance Abuse,” Robert Wood Johnson Foundation Investigator MiniMeeting, Washington, D.C. (August, 1998).

“Ethical Issues in End-of-Life Decision Making,” Clinical Dietary Intern Program, MUSC, Charleston, SC (August, 1998).

“The Expanding Legal Concept of Fetuses as Persons,” Personhood Congress Pelicier, XXIIIrd International Congress on Law and Mental Health, Paris, France (June, 1998).

“Henry David Aiken: A Framework for Clinical Ethics Decision-Making,” First Annual International Bioethics Retreat, Versailles, France (June, 1998).

“Situation Ethics Revisited,” University of Southern Indiana, Evansville, IN (April, 1998).

“Coercive Approaches to Perinatal Substance Abuse,” Graduate School of Public Health, San Diego State University, San Diego, CA (Teleconference, March, 1998).

“Ethical Issues in Critical Care,” Eighth Annual Pulmonary and Critical Care Symposium, Charleston, SC (March, 1998).

“Bioethics and Disabilities,” Center for Developmental Disabilities, School of Medicine, University of South Carolina, Charleston, SC (March, 1998)

“Ethical Issues in Umbilical Cord Blood Banking,” Pediatric Grand Rounds, Clemson University/Greenville Hospital System, Greenville, SC (December, 1997).

“An Ethical Framework for Policy Approaches to Perinatal Substance Abuse,” Santa Clara University, San Francisco, CA (October, 1997).

“Ethical Issues in Umbilical Cord Blood Banking,” The First International Conference on Ethical Issues in Biomedical Engineering, Clemson University, Clemson, SC (September, 1997)

“Privacy and Confidentiality in the Clinical Setting,” 90th Anniversary Convention, South Carolina Nurses Association, Columbia, SC (September, 1997).

“The Role of Medical Ethics Committees: the Physician’s Best Friend or Worst Enemy?” and “JCAHO Standards on Hospital Ethics Committees/Activities,” A Reality Check-- Reinstilling the Public’s Trust: 17th Annual Conference for Trustees, Administrators and Physicians, SCHA and SCMA, Hilton Head, SC (September, 1997).

“Medical Decision Making and Quality of Life Issues,” Winning the War Against Cancers in Women: New Directions in Diagnosis, Treatment and Prevention, Healthy Women 2000; PHS Office on Women’s Health, U.S. Public Health Service and DHHS, Washington, D.C. (September, 1997).

“Living Up to Patients’ Rights and Organization Ethics Standards,” Group on Business Affairs, Association of American Medical Colleges, Asheville, NC (July, 1977).

“Perinatal Substance Abuse: The Implications of *Whitner* for Health Care Clinicians in South Carolina,” Board of Directors, Planned Parenthood of South Carolina, Columbia, SC (April, 1997).

“Ethical Issues in Caring for the Disabled,” Center for Developmental Disabilities, School of Medicine, University of South Carolina, Columbia, SC (April, 1997).

“What the *Whitner* Decision Means for Professional Norms: Reporting and Prosecuting Substance Abuse During Pregnancy,” Perspectives Lecture Series, Department of Medical Humanities and Bioethics Center, East Carolina School of Medicine, Greenville, NC (February, 1997).

“The Nuremberg Trials and the Doctrine of Informed Consent,” Student Medical History Club, The Waring Library Society, MUSC, Charleston, SC (January, 1997).

“Coercive Interventions in Perinatal Substance Abuse: An Ethical and Legal Analysis,” Robert Wood Johnson Substance Abuse Policy Research Foundation, San Francisco, CA (December, 1996).

“Physician Assisted Suicide,” Ninth Annual Health Law Seminar, S.C. Bar Association, Columbia, SC (September, 1996).

“Clinical Reasoning Gone Wrong: The Unhealthy Alliance Between Health Care and Criminal Justice,” 10th Annual Conference of the European Society of Philosophy of Medicine and Health Care, Vienna, Austria (August, 1996).

“Decision Making at the End of Life,” Tri-County Medical Society, Allendale, SC (July, 1996).

“Clinical Ethics and Hospital Policies on Umbilical Cord Blood Banking,” Working Group on Ethical Issues in Umbilical Cord Blood Banking, Duke University Medical Center, Durham, NC (June, 1996).

“Bioethics Services and Perinatal Practice,” Region IV 10th Annual Perinatal Seminar, Folly Beach, SC (June, 1996).

“Theoretical Approaches to Clinical Bioethics,” Health Care Law Committee, South Carolina Bar Association, Columbia, SC (February, 1996).

“The South Carolina Study of Pregnant Women and Drug Use,” Human Research Ethics Group, The Project on Informed Consent of the Center for Bioethics, University of Pennsylvania Medical Center, Philadelphia, PA (January, 1996).

“Analyzing Trainees’ Ethical Dilemmas and Recommended Policy Changes,” Conference on Students’ & Residents’ Ethical and Professional Development of the Association of American Medical Colleges, Washington, D.C. (October, 1995).

“Young/New Bioethicists Roundtable,” The State of American Bioethics: Current Controversies, Future Directions, The American Association of Bioethics, Philadelphia, PA (September, 1995).

Plenary Address: “Theory and Practice in Clinical Bioethics,” Annual Meeting of the South Carolina Hospital Association, Pastoral Care Section, Asheville, NC (July, 1995).

“Should Ethics Consultants Have a Code of Ethics?” with Ellen Fox, James Tulskey, Stuart Youngner and Bill Winslade, Bioethics Summer Retreat, Seattle, WA (June, 1995).

“Legal and Ethical Issues in the Care of Substance Abusing Pregnant Women,” Legal and Ethical Aspects of Health Care, University of California at San Diego, School of Law, San Diego, CA (March, 1995) (Teleconference).

“Ethical Decision Making for Clergy and Physicians,” Conference on Medicine and Ministry of the Whole Person, 23rd Annual Meeting, Kanuga Conference Center, Hendersonville, NC (November, 1994).

“Substance Abusing Pregnant Women,” Plenary Session on Starting Life, The First Concurrent Meeting: American Society of Law, Medicine, and Ethics, Society for Health and Human Values, Society for Bioethics Consultation, and American Association of Bioethics, Pittsburgh PA (October, 1994).

Session Chair, “Historical Relativism in Bioethics: Can We Judge the Standards and Conduct of Those Who Preceded Us?” Bioethics Summer Retreat, Bar Harbor, MA (June, 1994).

“Punitive Medicine: Treating Substance Abusing Pregnant Women,” First World Congress on Medicine and Philosophy: Sciences, Technologies and Values, Paris, France (May, 1994): Presentation abstract accepted; unable to present due to pending MUSC lawsuit.

“Establishing a Full Fledged Bioethics Program,” Aspetti etici delle professioni sanitarie, Policlinico S. Matteo, Università di Pavia, Pavia, Italy (June, 1994).

“Ethical Issues in *Ex Utero* Human Embryo Research,” NIH Human Embryo Research Panel, Bethesda, MD (May, 1994).

Panelist: “The Oregon Health Plan: Creating Moral Authority in Public and Private Health Insurance” (with John Kitzhaber) and “Oregonian Health Insurance Contracts: Administrative Limits of Individual Care in Intensive Care Units” (with Michael Rie), University of Kentucky

Forum - "Health Care Rationing: Entitlements, Economics, and Health Care Practices," Lexington, KY (April, 1994).

COMMUNITY SERVICE

State Study Group: Guardianship and Conservatorship Issues
Minnesota Judicial Branch
St. Paul, MN (2008-2009)

Chair: Community Futility Policy Project (2007-2008)
Ethics Committee Network
Minneapolis, MN

Children’s Hospitals & Clinics Ethics Committee (2006-)
Minneapolis, MN

Body Worlds Advisory Committee (2006)
Science Museum of Minnesota

National Association for the Advancement of Colored People
Charleston Chapter (1996-2000)
Committee on Legal Redress
Office Volunteer

Board of Directors (1998 -2000)
The Laureate Lectures of Charleston County
Charleston County Library

Member: Charleston Community Task Force on Futile Care (1995-1997)
Southern Poverty Law Center
Leadership Council

SELECTED COMMUNITY SPEAKING ENGAGEMENTS

[Ethical Decisionmaking at the End of Life \(with Jamison Bourque\), Emmanuel Episcopal Church, Greenwood, VA \(April, 2014\).](#)

[Ethical Issues at the End of Life, Church of Our Savior Episcopal Church, Charlottesville, VA \(March, 2014\).](#)

“Ethical Issues in Clinical Care,” Secondary Technical Education Program, Anoka Secondary School, Anoka, MN (January, 2010).

“Ethical Issues in International HIV/AIDS Research,” HIV/AIDS undergraduate biology seminar, University of St. Thomas, Minneapolis, MN (January, 2010).

Panelist: Non-Transplantable Tissues: Changing Regulation, Minnesota Commission of the Procurement and Use of Anatomical Donations, LifeScience Alley, St. Paul, MN (February 7, 2008).

Science Buzz: Scientist on the Spot, Science Museum of Minnesota, St. Paul, MN (July7-August7, 2006).

Panelist: Stiff Morality: The Ethics of Using Bodies in The Body on Display: Controversies and Conversations AHC lecture series, University of Minnesota (July, 2006).

Boundaries and Bodies: Cultural and Religious Perspectives in The Body on Display: Controversies and Conversations AHC lecture series, University of Minnesota (July, 2006).

Ethical Issues and the BodyWorlds Exhibit, training session for BodyWorlds exhibit volunteer staff, Science Museum of Minnesota, St. Paul, MN (May, 2006)

Bioethics and Stem Cell Research, Northeast Metro AAUW, White Bear Lake, MN (March, 2006).

Anatomy Bequest Memorial Service, University of Minnesota (November, 2005).
“Ethical Issues in Stem Cell Research,” Minnesota Women’s Economic Roundtable, Minneapolis Club, MPLS, MN (November, 2005).

“Research in the Aftermath of Bioterrorism,” Annual Research Lecture, Johnson County Community College (February, 2004).

“Current Issues in Bioethics,” Leawood Chamber of Commerce, Leawood, KS (July, 2003).

“Ethical Issues in Regenerative Medicine and Human Subjects Research,” Mini-Medical School, University of Kansas Medical Center, Kansas City, KS (October, 2002).

“Ethical Issues in Stem Cell Research and Cloning,” Annual Research Lecture: Johnson County Community College, Kansas City, KS (September, 2002).

“Ethical Issues in Human Subjects Research,” Center for Faith and Work, Kansas City, MO (April, 2002).

“Current Issues in Bioethics,” Club 13, Kansas City Rotary Club, Kansas City, MO (March, 2002).

“Emerging Guidance in Research with Children,” Grand Rounds, Children’s Mercy Hospital, Kansas City, MO (January, 2002).

“Privacy in Health Care Ethics: Ethical, Legal and Social Issues in Electronic Medical Records,” St. Joseph Health Center, Kansas City, MO (October, 2001).

“Ethical Challenges to Personal Integrity,” National Association for the Advancement of Colored People, Charleston, SC (May, 1999).

“Perinatal Substance Abuse: What *Whitner* Means for South Carolina,” The Secular Humanist Society, Charleston, SC (February, 1999).

“Breathtaking Decisions: A Spiritual Response to End-of-Life Questions,” Healing and Wholeness Series, Grace Episcopal Church, Charleston, SC (October, 1998).

“Perinatal Substance Abuse: The Implications of *Whitner* for Health Care Clinicians in South Carolina,” Board of Directors, Planned Parenthood of South Carolina, Columbia, SC (April, 1997).

“Advance Directives and End-of-Life Decision Making,” South Carolina Nursing Home Association, Charleston, SC (July, 1997).

“Ethical Issues in Late-Term Abortion,” Board of Directors, Planned Parenthood of South Carolina, Charleston, SC (January, 1997).

“An Argument in Favor of Physician-Assisted Dying,” Charleston County Medical Society, Charleston, SC (May, 1996).

Keynote Address: “Ethical Issues in Caring for the Disabled,” First Annual Charleston Forum on Disabilities, “Disabilities and the Community,” sponsored by The Advocacy Coalition for People with Disabilities, Charleston, SC (August, 1995).

PUBLICATIONS

Advisory Reports:

Minnesota Department of Health

1. Debra A. DeBruin, Mary Faith Marshall, Elizabeth Parilla, Joan Liaschenko, J.P. Leider, Donald A. Brunnquell, J. Eline Garrett, Dorothy E. Vawter, Implementing Ethical Frameworks for Rationing Scarce Health Resources in Minnesota During Severe Influenza Pandemic, Report Minnesota Department of Health, 2010).
2. Dorothy E. Vawter, J. Eline Garrett, Karen G. Gervais, Angela Witt Prehn, Debra A. DeBruin, Carol A. Tauer, Elizabeth Parilla, Joan Liaschenko, Mary Faith Marshall, For the Good of Us All: Ethically Rationing Health Resources in Minnesota in a Severe Influenza Pandemic, 2010.

American College of Obstetrics and Gynecology Committee on Ethics

3. Marshall MF and DeBruin D (Primary Authors), Committee Opinion Number 563: Ethical Issues in Pandemic Influenza Planning Concerning Pregnant and Postpartum Women, ACOG Committee on Ethics, Obstetrics and Gynecology May 2013. Vol 121, No.5:1138-1143.
4. Marshall, MF, (Primary Author), Forming a Just Health Care System, ACOG Committee on Ethics Opinion Number 456 American College of Obstetricians and Gynecologists. Obstetrics and Gynecology, 2010: 115:672-7.
5. (Marshall, MF, reviewer and contributor) Lyster AD and Childress JF Primary Authors: The Limits of Conscience in Reproductive Medicine, ACOG Committee Opinion Number 385 American College of Obstetricians and Gynecologists. Obstetrics and Gynecology 2007; 110:1203-8.

Department of Health and Human Services:

6. Dubler N, Barnes, Marshall et al, Report of the Subpart C Subcommittee to SACHARP (April, 2005)

Expert Panel Review of Research Involving Prisoners under Subpart C of 45 CFR §46

7. Marshall MF, Report: “Evidenced-Based Treatment for Bipolar Disorder,” (September, 2003).

Expert Panel Reviews of Research Involving Children under Subpart D of 45 CFR §46.407

8. Marshall MF, Report: “HIV Replication and Thymopoiesis in Adolescents,” (July, 2003).
9. Marshall MF, Report: “Sleep Mechanisms in Children: Role of Metabolism” (May, 2003).
10. Marshall MF, Report: “Characteristics of Mucus and Mucins in Broncheolar Lavage Fluids from Infants with Cystic Fibrosis” (May, 2003).
11. Marshall MF, Report: “ A Multicenter, Randomized Dose Response Study of the Safety, Clinical and Immune Responses of Dryvax Administered to Children 2 to 5 Years of Age,” (October, 2002).

National Human Research Protections Advisory Committee Documents:

12. Marshall MF et al, Report from NHRPAC on Informed Consent and the Decisionally Impaired (July, 2002).
13. Marshall MF et al, Final NHRPAC Recommendations on Confidentiality and Research Data Protections, (July, 2002).
14. Marshall MF et al, Illustrative Overview of Federal Confidentiality Statutes and Codes, (July, 2002).
15. Marshall MF et al, Report from NHRPAC Clarifying Specific Portion of 45 CFR 46 Subpart D that Governs Children’s Research (July, 2002).
16. Marshall MF et al, FDA’s Decision to Adopt HHS 45 CFR 46 Subpart D, Excluding §46.408-C, (November, 2001). Clarification of the Status of Third Parties when Referenced by Human Subjects in Research, (April, 2002).
17. Marshall MF et al, NHRPAC Comment Letter on HIPPA/NPRM, (April, 2002).
18. Marshall MF et al, National Human Research Protections Advisory Committee Response to DHHS Financial Relationships Draft Interim Guidance, (August, 2001).

Institute of Medicine Reports:

19. Federman D et al, Responsible Research: A Systems Approach to Protecting Research Participants, Committee on Assessing the System for Protecting Human Research Participants, Board on Health Sciences Policy, Institute of Medicine, National Academy Press, Washington, D.C. (2002).

20. Federman D et al, Preserving Public Trust: Accreditation and Human Research Participant Protection Programs, Committee on Assessing the System for Protecting Human Research Subjects, Board on Health Sciences Policy, Institute of Medicine, National Academy Press, Washington, D.C. (2001).

Robert Wood Johnson Foundation Substance Abuse Policy Report:

21. Nelson LJ, Marshall MF, An Ethical and Legal Policy Analysis of State Compelled Loss of Liberty as an Intervention to Manage the Harm of Prenatal Substance Abuse and Drug Addiction, Robert Wood Johnson Foundation Substance Abuse Policy Research Program Report (July, 1998).

Amicus Briefs:

22. Nelson LJ, Marshall MF, Bioethics Amicus Curiae Brief in support of Appellant Ina Cochran in Cochran v. Commonwealth of Kentucky before the Kentucky Supreme Court, filing February 20, 2009. Brief presents a new legal theory on personhood and prenatal humans.
23. Orentlicher D and Girod J, Amicus Curiae Brief in support of defendant Bei Bei Shuai in State of Indiana, County of Marion v Bei Bei Shuai before the Marion Superior Court, Criminal Division, Cause No. 49G03-1103-MR-014478; First Brief and Second Amended Brief *Amici Curiae* of American College of Obstetricians and Gynecologists, American Congress of Obstetricians and Gynecologists, American Medical Women's Association, National Asian Pacific American Women's Forum, National Perinatal Association, National Women's Health Network, Wendy Chavkin MD, MPH, Leslie Hartley Gise, MD, Ann Drapkin Lysterly, MD, Mary Faith Marshall, Ph.D., Jeffrey M. Rothenberg, MD, Douglas David Scudamore, MD, Nada L. Stotland, MD, MPH, and Linda M. Worley, MD., filing March 30, 2011.

Online Educational Modules:

24. MF Marshall, Consultant and Co-Author. (2010) Module 1: Introduction to Ethical Frameworks for Public Health Emergencies and Disasters. University of Minnesota Center for Public Health Preparedness. Available at: <http://www.sph.umn.edu/ce/umncphp/>
25. MF Marshall, Consultant and Co-Author. (2010) Module 2: Applying Ethical Frameworks During a Severe Influenza Pandemic. University of Minnesota Center for Public Health Preparedness. Available at: <http://www.sph.umn.edu/ce/umncphp/>

Peer Reviewed Journal Articles:

26. **Marshall MF**. Editorial (invited). Improving Guardianship Processes for Unrepresented Adult Patients Who Lack Decisional Capacity: An Ethical and Institutional Imperative. In press for September, 2014 with *The Joint Commission Journal on Quality and Patient Safety*.
27. **Marshall MF**. Book Review (invited). Five Days at Memorial by Sherri Fink. In press with *Journal of Nursing Regulation*.

28. Minkoff H, **Marshall MF**, Liaschenko J. The Fetus, the “Potential Child” and the Ethical Obligations of Obstetricians. *Obstetrics and Gynecology*, 123(5):1100-1103, May 2014.
29. Hurst AR, Mahanes D, **Marshall MF**. Dax’s Case Redux: When Comes the End of the Day? 2014. In press with *Narrative Inquiry in Bioethics*, Johns Hopkins University Press.
30. Wandling LJG, Wandling GR Jr, **Marshall MF**, Lee MS. Truthelling and Deception in the Management of Nonorganic Vision Loss. Submitted to *Ophthalmology* (4/30/14).
31. Mickelsen R, Bernstein D, Marshall M F, Miles S H. The Barnes Case: Taking Difficult Futility Cases Public. *Journal of Law, Medicine and Ethics*, spring 2013:374-378.
32. Debra DeBruin, Joan Liaschenko, and Mary Faith Marshall. Social Justice in Pandemic Preparedness. *American Journal of Public Health*: April 2012, Vol. 102, No. 4, pp. 586-591. doi: 10.2105/AJPH.2011.300483
33. Liaschenko J, DeBruin D, Marshall MF. The Two-Patient Framework for Research During Pregnancy: A Critique and a Better Way Forward. *American Journal of Bioethics*; 2011; 11(5): 66.
34. DeBruin D, Liaschenko J, Marshall MF. Commentary on “Risky Business,” *Hastings Center Report*. July-August 2010; 40(4): http://muse.jhu.edu/journals/hastings_center_report/v040/40.4article_sub03.html
35. Minkoff H, Marshall MF. Government Scripted Consents: When Law and Bioethics Collide. *Hastings Center Report* September/October 2009; 39(5):21-23.
36. DeBruin DA, Scholder SL et al, Educational Approaches to the Responsible Conduct of Clinical Research: An Exploratory Study. *Academic Medicine* (2007) 82(1):32-39.
37. Marshall MF, Death of a Bioethics Pioneer: What Really Happened? *American Journal of Bioethics*, (2004): 1(4): W12.
38. Marshall MF, The Placebo Effect in Popular Culture. *Journal of Science and Engineering Ethics*, 10 (2004): 37-42.
39. Marshall MF, Vulnerable Subjects and Civic Professionalism: Would Six-Sigma Research and Research Ethics Consultation Solve the Vulnerability Problem? *American Journal of Bioethics* 4 (2004):54-55.
40. Jos P, Marshall MF, Perlmutter M, Substance Abuse During Pregnancy: Clinical and Public Health Approaches. *Journal of Law, Medicine & Ethics*, 31 (2003):340-350.
41. Marshall MF, Menikoff J, Emerging Data on IRB Members and Potential Conflicts of Interest: More Questions Than Answers. *Medical Research Law and Policy Report*, Bureau of National Affairs, 2 (2003): 646-648.
42. Marshall MF, Menikoff J, Paltrow LM, Perinatal Substance Abuse and Human Subjects Research: Are Privacy Protections Adequate? *Mental Retardation and Developmental Disability Research Review*, 9 (2003): 54-58.
43. Marshall MF, Barnes M, The Partnership for Human Research Protection: Setting the Standard for Safety. *Medical Research Law and Policy Report*, Bureau of National Affairs, 2 (2003): 862-864.
44. MF Marshall, Born in Scandal: The Evolution of Clinical Research Ethics. *Science (Science’s Next Wave)*, (26 April, 2002).

45. Marshall MF, Taking the "I" Out of IRB - And Putting Community Back In. Bioethics Forum, (2001) 16:4; 7-12.
46. Lipman A J, Sade RM, Glotzbach AL, Lancaster CJ, Marshall MF, The Incremental Value of Internet-Based Instruction as an Adjunct to Classroom Instruction: A Prospective Randomized Study, Academic Medicine (2001) 76:72-76.
47. Marshall MF, Mal-Intentioned Illiteracy, Willful Ignorance, and Fetal Protection Laws: Is There a Lexicologist in the House? Journal of Law, Medicine & Ethics, 27 (1999): 343-46.
48. Webb SA, Boettcher F, Perlmutter M, Marshall MF, Refusal of Treatment by an Adolescent: The Deliverance of Different Consciences. HEC Forum 1998; 10(1):9-23.
49. Moreno J, Caplan A, Wolpe PR, et al, Updating Protections for Human Subjects Involved in Research [Marshall MF]. JAMA 1998; 280:1951-1958.
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Exhibit

B

ACOG

Committee on
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Committee Opinion



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Maternal Decision Making, Ethics, and the Law

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***ABSTRACT:** Recent legal actions and policies aimed at protecting the fetus as an entity separate from the woman have challenged the rights of pregnant women to make decisions about medical interventions and have criminalized maternal behavior that is believed to be associated with fetal harm or adverse perinatal outcomes. This opinion summarizes recent, notable legal cases; reviews the underlying, established ethical principles relevant to the highlighted issues; and considers six objections to punitive and coercive legal approaches to maternal decision making. These approaches 1) fail to recognize that pregnant women are entitled to informed consent and bodily integrity, 2) fail to recognize that medical knowledge and predictions of outcomes in obstetrics have limitations, 3) treat addiction and psychiatric illness as if they were moral failings, 4) threaten to dissuade women from prenatal care, 5) unjustly single out the most vulnerable women, and 6) create the potential for criminalization of otherwise legal maternal behavior. Efforts to use the legal system to protect the fetus by constraining pregnant women's decision making or punishing them erode a woman's basic rights to privacy and bodily integrity and are not justified. Physicians and policy makers should promote the health of women and their fetuses through advocacy of healthy behavior; referral for substance abuse treatment and mental health services when indicated; and development of safe, available, and efficacious services for women and families.*

Ethical issues that arise in the care of pregnant women are challenging to physicians, politicians, lawyers, and ethicists alike. One of the fundamental goals of medicine and society is to optimize the outcome of pregnancy. Recently, some apparent attempts to foster this goal have been characterized by legal action and policies aimed at specifically protecting the fetus as an entity separate from the woman. These actions and policies have challenged the rights of pregnant women to make decisions about medical interventions and have criminalized maternal behavior that is believed to be associated with fetal harm or adverse perinatal outcomes.

Practitioners who care for pregnant women face particularly difficult dilemmas when their patients reject medical recommendations, use illegal

drugs, or engage in a range of other behaviors that have the potential to cause fetal harm. In such situations, physicians, hospital representatives, and others have at times resorted to legal actions to impose their views about what these pregnant patients ought to do or to effect particular interventions or outcomes. Appellate courts have held, however, that a pregnant woman's decisions regarding medical treatment should take precedence regardless of the presumed fetal consequences of those decisions. In one notable 1990 decision, a District of Columbia appellate court vacated a lower court's decision to compel cesarean delivery in a critically ill woman at 26 weeks of gestation against her wishes, stating in its opinion that "in virtually all cases the question of what is to be done is to be decided by the patient—the pregnant woman—on behalf of herself and the fetus" (1). Furthermore, the court stated that it could think of no "extremely rare and truly exceptional" case in which the state might have an interest sufficiently compelling to override a pregnant patient's wishes (2). Amid often vigorous debate, most ethicists also agree that a pregnant woman's informed refusal of medical intervention ought to prevail as long as she has the ability to make medical decisions (3, 4).

Recent legislation, criminal prosecutions, and legal cases much discussed in both courtrooms and newsrooms have challenged these precedents, raising the question of whether there are circumstances in which a woman who has become pregnant may have her rights to bodily integrity and informed consent overridden to protect her fetus. In Utah, a woman who had used cocaine was charged with homicide for refusing cesarean delivery of a fetus that was ultimately stillborn. In Pennsylvania, physicians obtained a court order for cesarean delivery in a patient with suspected fetal macrosomia. Across the country, pregnant women have been arrested and prosecuted for being pregnant and using drugs or alcohol. These cases and the publicity they have engendered suggest that it is time to revisit the ethical issues involved.

The ethics of caring for pregnant women and an approach to decision making in the context of the maternal–fetal relationship have been discussed in previous statements by the American College of Obstetricians and Gynecologists (ACOG) Committee on Ethics. After briefly reiterating those discussions, this opinion will summarize recent, notable cases; review the underlying, established ethical

principles relevant to the highlighted issues; consider objections to punitive and coercive legal approaches to maternal decision making; and summarize recommendations for attending to future ethical matters that may arise.

Recent Cases

In March 2004, a 28-year-old woman was charged with first-degree murder for refusing to undergo an immediate cesarean delivery because of concerns about fetal well-being and later giving birth to a girl who tested positive for cocaine and a stillborn boy. According to press reports, the woman was mentally ill and intermittently homeless and had been brought to Utah by a Florida adoption agency to give birth to the infants and give them up. She ultimately pled guilty to two counts of child endangerment.

In January 2004, a woman who previously had given birth vaginally to six infants, some of whom weighed close to 12 pounds, refused a cesarean delivery that was recommended because of presumed macrosomia. A Pennsylvania hospital obtained a court order to perform the cesarean delivery and gain custody of the fetus before and after delivery, but the woman and her husband fled to another hospital, where she reportedly had an uncomplicated vaginal delivery of a healthy 11-pound infant.

In September 2003, a 22-year-old woman was prosecuted after her son tested positive for alcohol when he was born in Glens Falls, New York. A few days after the birth, the woman was arrested and charged with two counts of child endangerment for "knowingly feeding her blood," containing alcohol, to her fetus via the umbilical cord. Several months later, her lawyers successfully appealed her conviction.

In May 1999, a 22-year-old woman who was homeless regularly used cocaine while pregnant and gave birth to a stillborn infant in South Carolina. She became the first woman in the United States to be tried and convicted of homicide by child abuse based on her behavior during pregnancy and was given a 12-year prison sentence. The conviction was upheld in the South Carolina Supreme Court, and the U.S. Supreme Court recently refused to hear her appeal. At a postconviction relief hearing, expert testimony supported arguments that the woman had had inadequate representation, but the court held that there was no ineffective assistance of counsel and that she is not entitled to a new trial. This decision is being appealed.

Ethical Considerations

Framing Ethics in Perinatal Medicine

It is likely that the interventions described in the preceding cases were motivated by a shared concept—that a fetus can and should be treated as separable and legally, philosophically, and practically independent from the pregnant woman within whom it resides. This common method of framing ethical issues in perinatal medicine is not surprising given a number of developments in the past several decades. First, since the 1970s, the development of techniques for imaging, testing, and treating fetuses has led to the widespread endorsement of the notion that fetuses are independent patients, treatable apart from the pregnant women upon whom their existence depends (5). Similarly, some bioethical models now assert that physicians have moral obligations to fetal “patients” that are separate from their obligations to pregnant women (6). Finally, a number of civil laws, discussed later in this section, aim to create fetal rights separate from a pregnant woman’s rights.

Although frameworks that treat the woman and fetus as separable and independent are meant to simplify and clarify complex issues that arise in obstetrics, many writers have noted that such frameworks tend to distort, rather than illuminate, ethical and policy debates (7). In particular, these approaches have been criticized for their tendency to emphasize the divergent rather than shared interests of the pregnant woman and fetus. This emphasis results in a view of the maternal–fetal relationship as paradigmatically adversarial, when in fact in the vast majority of cases, the interests of the pregnant woman and fetus actually converge.

In addition, these approaches tend to ignore the moral relevance of relationships, including the physically and emotionally intimate relationship between the woman and her fetus, as well as the relationships of the pregnant woman within her broader social and cultural networks. The cultural and policy context, for example, suggests a predominantly child-centered approach to maternal and child health, which has influenced current perspectives on the fetus. The prototype for the federal Maternal and Child Health Bureau dates back to 1912, when the first organization was called into existence by reformers such as Florence Kelley, who stated that “the U.S. should have a bureau to look after the child crop,” and Julia Lathrop, who said that “the final

purpose of the Bureau is to serve all children, to try to work out standards of care and protection which shall give to every child his fair chance in the world.” The current home page of the Maternal and Child Health Bureau web site cites as its “vision” an equally child-centered goal (8).

At times, in the current clinical and policy contexts, when the woman and fetus are treated as separate individuals, the woman and her medical interests, health needs, and rights as moral agent, patient, and research subject fade from view. Consider, first, women’s medical interests as patients. Researchers performing “fetal surgery”—novel interventions to correct fetal anatomic abnormalities—have been criticized recently not only for their tendency to exaggerate claims of success with regard to fetal and neonatal health, but also for their failure to assess the impact of surgery on pregnant women, who also undertake the risks of the major surgical procedures (9). As a result, several centers performing these techniques now use the term “maternal–fetal surgery” to explicitly recognize the fact that a woman’s bodily integrity and health are at stake whenever interventions directed at her fetus are performed. Furthermore, a study sponsored by the National Institute of Child Health and Human Development comparing maternal–fetal surgery with postnatal repair of myelomeningocele (the Management of Myelomeningocele Study) is now assessing maternal as well as fetal outcomes, including measurement of reproductive and health outcomes, depression testing, and economic and family health outcomes in women who participate in the clinical trial.

Similarly, new civil laws that aim to treat the fetus as separate and independent have been criticized for their failure both to address the health needs of the woman within whose body the fetus resides and to recognize the converging interests of the woman and fetus. In November 2002, a revision of the state child health insurance program (sCHIP) that expanded coverage to “individual(s) under the age of 19 including the period from conception until birth” was signed into law. The program does not cover pregnant women older than 18 years except when medical interventions could directly affect the well-being of their fetuses. For example, under sCHIP, intrapartum anesthesia is covered, according to the U.S. Department of Health and Human Services, only because “if a woman’s pain during a labor and delivery is not reduced or properly

relieved, adverse and sometimes disastrous effects can occur for the unborn child” (10).

Furthermore, for beneficiaries of sCHIP, many significant women’s health issues, even those that are precipitated by pregnancy (eg, molar gestation, postpartum depression, or traumatic injury from intimate partner violence not impacting the fetus), are not covered as a part of routine antenatal care (11). This approach has been criticized not only for its failure to address the health needs of women, but also for its failure to achieve the narrow goal of improving child health because it ignores the fact that maternal and neonatal interests converge. For instance, postpartum depression is associated with adverse effects in infants, including impaired maternal–infant interaction, delayed cognitive and emotional development, increased anxiety, and decreased self-esteem (12, 13). Thus, the law ignores the fact that a critical component of ensuring the health of newborns is the provision of comprehensive care for their mothers.

Likewise, in April 2004, the Unborn Victims of Violence Act was signed into law, creating a separate federal offense if, during the commission of certain federal crimes, an individual causes the death of, or bodily injury to, a fetus at any stage of pregnancy. The law, however, does not categorize the death of or injury to a pregnant woman as a separate federal offense, or create sentence enhancement for those who assault or murder a woman while pregnant. The statute’s sponsors explicitly rejected proposals that had virtually identical criminal penalties but recognized the pregnant woman as the victim, despite the fact that murder is responsible for more pregnancy-associated deaths in the United States than any other cause, including hemorrhage and thromboembolic events (14, 15).

Beyond its impact on maternal and child health, a failure to recognize the interconnectedness of the pregnant woman and fetus has important ethical and legal implications. Because an intervention on a fetus must be performed through the body of a pregnant woman, an assertion of fetal rights must be reconciled with the ethical and legal obligations toward pregnant women *as women*, persons in their own right. Discussions about rights of the unborn often have failed to address these obligations. Regardless of what is believed about fetal personhood, claims about fetal rights require an assessment of the rights of pregnant women, whose personhood within the legal and moral community is indisputable.

Furthermore, many writers have noted a moral injury that arises from abstracting the fetus from the pregnant woman, in its failing to recognize the pregnant woman herself as a patient, person, and rights-bearer. This approach disregards a fundamental moral principle that persons never be treated solely as means to an end, but as ends in themselves. Within the rhetoric of conflict and fetal rights, the pregnant woman has at times been reduced to a vessel—even a “fortress” holding the fetus “prisoner” (16). As George Annas aptly described, “Before birth, we can obtain access to the fetus only through its mother, and in the absence of her informed consent, can do so only by treating her as a fetal container, a nonperson without rights to bodily integrity” (3).

Some writers have argued that at the heart of the distorting influence of the “two-patient” model of the maternal–fetal dyad is the fact that, according to traditional theories that undergird medical ethics, the very notion of a person or a patient is someone who is physically separate from others. Pregnancy, however, is marked by a “particular and particularly thoroughgoing kind of intertwinement” (17). Thus, the pregnant woman and fetus fit awkwardly at best into what the term “patient” is understood to mean. They are neither physically separate, as persons are understood to be, nor indistinguishably fused. A framework that instead defines the professional ethical obligations with a deep sensitivity to relationships of interdependency may help to avoid the distorting influence of the two-patient model as traditionally understood (18). Although this opinion does not specifically articulate a novel comprehensive conceptual model for perinatal ethics, in the discussion that follows, the Committee on Ethics takes as morally central the essential connection between the pregnant woman and fetus.

Ethics Committee Opinions and the Maternal–Fetal Relationship

In the context of a framework that recognizes the interconnectedness of the pregnant woman and fetus and emphasizes their shared interests, certain opinions previously published by the ACOG Committee on Ethics are particularly relevant. These include:

- “Informed Consent” (19)
- “Patient Choice in the Maternal–Fetal Relationship” (20)
- “At-Risk Drinking and Illicit Drug Use: Ethical Issues in Obstetric and Gynecologic Practice” (21)

One fundamental ethical obligation of health care professionals is to respect patients' autonomous decision making and to adhere to the requirement for informed consent for medical intervention. In January 2004, the Committee on Ethics published a revised edition of "Informed Consent" in which the following points are defended:

- "Requiring informed consent is an expression of respect for the patient as a person; it particularly respects a patient's moral right to bodily integrity, to self-determination regarding sexuality and reproductive capacities, and to the support of the patient's freedom within caring relationships."
- "The ethical requirement for informed consent need not conflict with physicians' overall ethical obligation to a principle of beneficence; that is, every effort should be made to incorporate a commitment to informed consent within a commitment to provide medical benefit to patients and thus respect them as whole and embodied persons."

Pregnancy does not obviate or limit the requirement to obtain informed consent. Intervention on behalf of the fetus must be undertaken through the body and within the context of the life of the pregnant woman, and therefore her consent for medical treatment is required, regardless of the treatment indication. However, pregnancy presents a special set of issues. The issues associated with informed refusal of care by pregnant women are addressed in the January 2004 opinion "Patient Choice in the Maternal-Fetal Relationship" (20). This opinion states that in cases of maternal refusal of treatment for the sake of the fetus, "court-ordered intervention against the wishes of a pregnant woman is rarely if ever acceptable." The document presents a review of general ethical considerations applicable to pregnant women who do not follow the advice of their physicians or do not seem to make decisions in the best interest of their fetuses. Although the possibility of a justifiable court-ordered intervention is not completely ruled out, the document presents several recommendations that strongly discourage coercive measures:

- "The obstetrician's response to a patient's unwillingness to cooperate with medical advice . . . should be to convey clearly the reasons for the recommendations to the pregnant woman,

examine the barriers to change along with her, and encourage the development of health-promoting behavior."

- "[Even if] a woman's autonomous decision [seems] not to promote beneficence-based obligations (of the woman or the physician) to the fetus, . . . the obstetrician must respect the patient's autonomy, continue to care for the pregnant woman, and not intervene against the patient's wishes, regardless of the consequences."
- "The obstetrician must keep in mind that medical knowledge has limitations and medical judgment is fallible" and should therefore take great care "to present a balanced evaluation of expected outcomes for both [the woman and the fetus]."
- "Obstetricians should consider the social and cultural context in which these decisions are made and question whether their ethical judgments reinforce gender, class, or racial inequality."

In addition to revisiting questions of how practitioners should address refusal of treatment in the clinic and delivery room, the four cases outlined previously illustrate punitive and coercive policies aimed at pregnant women who engage in behaviors that may adversely affect fetal well-being. The 2004 opinion "At-Risk Drinking and Illicit Drug Use: Ethical Issues in Obstetric and Gynecologic Practice" (21) specifically addresses addiction and the prosecution of women who use drugs and alcohol during pregnancy and recommends strongly against punitive policies:

- "Addiction is not primarily a moral weakness, as it has been viewed in the past, but a 'brain disease' that should be included in a review of systems just like any other biologic disease process."
- "Recommended screening . . . connected with legally mandated testing or reporting . . . endanger[s] the relationship of trust between physician and patient, place[s] the obstetrician in an adversarial relationship with the patient, and possibly conflict[s] with the therapeutic obligation."
- Punitive policies "are unjust in that they indict the woman for failing to seek treatment that actually may not be available to her" and in that they "are not applied evenly across sex, race, and socioeconomic status."

- Physicians must make a substantial effort to “treat the patient with a substance abuse problem with dignity and respect in order to form a therapeutic alliance.”

Finally, recent legal decisions affirm that physicians have neither an obligation nor a right to perform prenatal testing for alcohol or drug use without a pregnant woman’s consent (22, 23). This includes consent to testing of the woman that could lead to any form of reporting, both to legal authorities for purposes of criminal prosecution and to civil child welfare authorities.

Against Coercive and Punitive Legal Approaches to the Maternal–Fetal Relationship

This section addresses specifically the ethical issues associated with the cases outlined previously and delineates six reasons why restricting patients’ liberty and punishing pregnant women for their actions during pregnancy that may affect their fetuses is neither wise nor justifiable. Each raises important objections to punishing pregnant women for actions during pregnancy; together they provide an overwhelming rationale for avoiding such approaches.

1. Coercive and punitive legal approaches to pregnant women who refuse medical advice fail to recognize that all competent adults are entitled to informed consent and bodily integrity.

A fundamental tenet of contemporary medical ethics is the requirement for informed consent, including the right of competent adults to refuse medical intervention. The Committee on Ethics affirms that informed consent for medical treatment is an ethical requirement and is an expression of respect for the patient as a person with a moral right to bodily integrity (19).

The crucial difference between pregnant and nonpregnant individuals, though, is that a fetus is involved whose health interests could arguably be served by overriding the pregnant woman’s wishes. However, in the United States, even in the case of two completely separate individuals, constitutional law and common law have historically recognized the rights of all adults, pregnant or not, to informed consent and bodily integrity, *regardless of the impact of that person’s decision on others*. For instance, in 1978, a man suffering from aplastic anemia sought a court order to force his cousin, who was the only compatible donor available, to submit

to bone marrow harvest. The court declined, explaining in its opinion:

For our law to compel the Defendant to submit to an intrusion of his body would change every concept and principle upon which our society is founded. To do so would defeat the sanctity of the individual and would impose a rule which would know no limits. . . . For a society that respects the rights of one individual, to sink its teeth into the jugular vein or neck of its members and suck from it sustenance for another member, is revolting to our hard-wrought concepts of jurisprudence. Forcible extraction of living body tissues causes revulsion to the judicial mind. Such would raise the specter of the swastika and the Inquisition, reminiscent of the horrors this portends. (24)

Justice requires that a pregnant woman, like any other individual, retain the basic right to refuse medical intervention, even if the intervention is in the best interest of her fetus. This principle was challenged unsuccessfully in June 1987 with the case of a 27-year-old woman who was at 25 weeks of gestation when she became critically ill with cancer. Against the wishes of the woman, her family, and her physicians, the hospital obtained a court order for a cesarean delivery, claiming independent rights of the fetus. Both mother and infant died shortly after the cesarean delivery was performed. Three years later, the District of Columbia Court of Appeals vacated the court-ordered cesarean delivery and held that the woman had the right to make health care decisions for herself and her fetus, arguing that the lower court had “erred in subordinating her right to bodily integrity in favor of the state’s interest in potential life” (1).

2. Court-ordered interventions in cases of informed refusal, as well as punishment of pregnant women for their behavior that may put a fetus at risk, neglect the fact that medical knowledge and predictions of outcomes in obstetrics have limitations.

Beyond its importance as a means to protect the right of individuals to bodily integrity, the doctrine of informed consent recognizes the right of individuals to weigh risks and benefits for themselves. Women almost always are best situated to understand the importance of risks and benefits in the context of their own values, circumstances, and concerns. Furthermore, medical judgment in obstetrics itself has limitations in its ability to predict outcomes. In this document, the Committee on Ethics has argued that overriding a woman’s autonomous choice, whatever its potential consequences, is neither ethi-

cally nor legally justified, given her fundamental rights to bodily integrity. Even those who challenge these fundamental rights in favor of protecting the fetus, however, must recognize and communicate that medical judgments in obstetrics are fallible (25). And fallibility—present to various degrees in all medical encounters—is sufficiently high in obstetric decision making to warrant wariness in imposing legal coercion. Levels of certainty underlying medical recommendations to pregnant women are unlikely to be adequate to justify legal coercion and the tremendous impact on the lives and civil liberties of pregnant women that such intervention would entail (26). Some have argued that court-ordered intervention might plausibly be justified only when certainty is especially robust and the stakes are especially high. However, in many cases of court-ordered obstetric intervention, the latter criterion has been met but not the former. Furthermore, evidence-based medicine has revealed limitations in the ability to concretely describe the relationship of maternal behavior to perinatal outcome. Criminalizing women in the face of such scientific and clinical uncertainty is morally dubious. Not only do these approaches fail to take into account the standards of evidence-based medical practice, but they are also unjust, and their application is likely to be informed by bias and opinion rather than objective assessment of risk.

Consider, first, the limitations of medical judgment in predicting birth outcomes based on mode of childbirth. A study of court-ordered obstetric interventions suggested that in almost one third of cases in which court orders were sought, the medical judgment was incorrect in retrospect (27). One clear example of the challenges of predicting outcome is in the management of risk associated with shoulder dystocia in the setting of fetal macrosomia—which is, and should be, of great concern for all practitioners. When making recommendations to patients, however, practitioners have an ethical obligation to recognize and communicate that accurate diagnosis of macrosomia is imprecise (20). Furthermore, although macrosomia increases the risk of shoulder dystocia, it is certainly not absolutely predictive; in fact, most cases of shoulder dystocia occur unpredictably among infants of normal birthweight. Given this uncertainty, ACOG makes recommendations about when cesarean delivery may be considered, not about when it is absolutely indicated. Because of the inability to determine with certainty when a situation is harmful to the fetus or pregnant woman and

the inability to guarantee that the pregnant woman will not be harmed by the medical intervention, great care should be exercised to present a balanced evaluation of expected outcomes for both parties (20). The decision about weighing risks and benefits in the setting of uncertainty should remain the pregnant woman's to make in the setting of supportive, informative medical care.

Medical judgment also has limitations in that the relationship of maternal behavior to pregnancy outcome is poorly understood and may be exaggerated in realms often mistaken to be of moral rather than medical concern, such as drug use. For instance, recent child development research has not found the effects of prenatal cocaine exposure that earlier uncontrolled studies reported (28). It is now understood that poverty and its concomitants—poor nutrition and inadequate health care—can account for many of the effects popularly attributed to cocaine. Before these data emerged, the criminal justice approach to drug addiction during pregnancy was fueled to a great degree by what is now understood to be the distorting image of the “crack baby.” Such an image served as a “convenient symbol for an aggressive war on drug users [that] makes it easier to advocate a simplistic punitive response than to address the complex causes of drug use” (29). The findings questioning the impact of cocaine on perinatal outcome are among many considerations that bring sharply into question any possible justification for a criminal justice approach, rather than a public health approach, to drug use during pregnancy. Given the incomplete understanding of factors underlying perinatal outcomes in general and the contribution of individual behavioral and socioeconomic factors in particular, to identify homeless and addicted women as personally, morally, and legally culpable for perinatal outcomes is inaccurate, misleading, and unjust.

3. Coercive and punitive policies treat medical problems such as addiction and psychiatric illness as if they were moral failings.

Regardless of the strength of the link between an individual's behaviors and pregnancy outcome, punitive policies directed at women who use drugs are not justified, because these policies are, in effect, punishing women for having a medical problem. Although once considered a sign of moral weakness, addiction is now, according to evidence-based medicine, considered a disease—a compulsive disorder

requiring medical attention (30). Pregnancy should not change how clinicians understand the medical nature of addictive behavior. In fact, studies overwhelmingly show that pregnant drug users are very concerned about the consequences of their drug use for their fetuses and are particularly eager to obtain treatment once they find out they are pregnant (31, 32). Despite evidence-based medical recommendations that support treatment approaches to drug use and addiction (21), appropriate treatment is particularly difficult to obtain for pregnant and parenting women and the incarcerated (29). Thus, a disease process exacerbated by social circumstance—not personal, legal, or moral culpability—is at the heart of substance abuse and pregnancy. Punitive policies unfairly make pregnant women scapegoats for medical problems whose cause is often beyond their control.

In most states, governmental responses to pregnant women who use drugs have upheld medical characterizations of addiction. Consistent with longstanding U.S. Supreme Court decisions recognizing that addiction is an illness and that criminalizing it violates the Constitution's Eighth Amendment prohibitions against cruel and unusual punishment, no state has adopted a law that specifically creates unique criminal penalties for pregnant women who use drugs (33). However, in South Carolina, using drugs or being addicted to drugs was *effectively* criminalized when the state supreme court interpreted the word “child” in the state's criminal child endangerment statute to include viable fetuses, making the child endangerment statute applicable to pregnant women whose actions risk harm to a viable fetus (23). In all states, women retain their Fourth Amendment freedom from unreasonable searches, so that pregnant women may not be subject to nonconsensual drug testing for the purpose of criminal prosecution.

Partly on the basis of the understanding of addiction as a compulsive disorder requiring medical attention, medical professionals, U.S. state laws, and the vast majority of courts do not support unique criminal penalties for pregnant women who use drugs.

4. *Coercive and punitive policies are potentially counterproductive in that they are likely to discourage prenatal care and successful treatment, adversely affect infant mortality rates, and undermine the physician–patient relationship.*

Even if the aforementioned ethical concerns could be addressed, punitive policies would not be justifi-

able on utilitarian grounds, because they would likely result in more harm than good for maternal and child health, broadly construed. Various studies have suggested that attempts to criminalize pregnant women's behavior discourage women from seeking prenatal care (34, 35). Furthermore, an increased infant mortality rate was observed in South Carolina in the years following the *Whitner v State* decision (36), in which the state supreme court concluded that *anything* a pregnant woman does that might endanger a viable fetus (including, but not limited to, drug use) could result in either charges of child abuse and a jail sentence of up to 10 years or homicide and a 20-year sentence if a stillbirth coincides with a positive drug test (23). As documented previously (21), threats and incarceration have been ineffective in reducing the incidence of alcohol and drug abuse among pregnant women, and removing children from the home of an addicted mother may subject them to worse risks in the foster care system. In fact, women who have custody of their children complete substance abuse treatment at a higher rate (37–39).

These data suggest that punishment of pregnant women might not result in women receiving the desired message about the dangers of prenatal substance abuse; such measures might instead send an unintended message about the dangers of prenatal care. Ultimately, fear surrounding prenatal care would likely undermine, rather than enhance, maternal and child health. Likewise, court-ordered interventions and other coercive measures may result in fear about whether one's wishes in the delivery room will be respected and ultimately could discourage pregnant patients from seeking care. Encouraging prenatal care and treatment in a supportive environment will advance maternal and child health most effectively.

5. *Coercive and punitive policies directed toward pregnant women unjustly single out the most vulnerable women.*

Evidence suggests that punitive and coercive policies not only are ethically problematic in and of themselves, but also unfairly burden the most vulnerable women. In cases of court-ordered cesarean deliveries, for instance, the vast majority of court orders have been obtained against poor women of color (27, 40).

Similarly, decisions about detection and management of substance abuse in pregnancy are fraught

with bias, unfairly burdening the most vulnerable despite the fact that addiction occurs consistently across race and socioeconomic status (41). In the landmark case of *Ferguson v City of Charleston*, which involved selective screening and arrest of pregnant women who tested positive for drugs, 29 of 30 women arrested were African American. Studies suggest that affluent women are less likely to be tested for use of illicit drugs than poor women of color, perhaps because of stereotyped but demonstrably inaccurate assumptions about drug use. One study found that despite similar rates of substance abuse across racial and socioeconomic status, African-American women were 10 times more likely than white women to be reported to public health authorities for substance abuse during pregnancy (42). These data suggest that, as implemented, many punitive policies centered on maternal behaviors, including substance use, are deeply unjust in that they reinforce social and racial inequality.

6. Coercive and punitive policies create the potential for criminalization of many types of otherwise legal maternal behavior.

In addition to raising concerns about race and socioeconomic status, punitive and coercive policies may have even broader implications for justice for women. Because many maternal behaviors are associated with adverse pregnancy outcome, these policies could result in a society in which simply being a woman of reproductive potential could put an individual at risk for criminal prosecution. For instance, poorly controlled diabetes is associated with numerous congenital malformations and an excessive rate of fetal death. Periconceptional folic acid deficiency is associated with an increased risk of neural tube defects. Obesity has been associated in recent studies with adverse pregnancy outcomes, including preeclampsia, shoulder dystocia, and antepartum stillbirth (43, 44). Prenatal exposure to certain medications that may be essential to maintaining a pregnant woman's health status is associated with congenital abnormalities. If states were to consistently adopt policies of punishing women whose behavior (ranging from substance abuse to poor nutrition to informed decisions about prescription drugs) has the potential to lead to adverse perinatal outcomes, at what point would they draw the line? Punitive policies, therefore, threaten the privacy and autonomy not only of all pregnant women, but also of all women of reproductive potential.

Recommendations

In light of these six considerations, the Committee on Ethics strongly opposes the criminal prosecution of pregnant women whose activities may appear to cause harm to their fetuses. Efforts to use the legal system specifically to protect the fetus by constraining women's decision making or punishing them for their behavior erode a woman's basic rights to privacy and bodily integrity and are neither legally nor morally justified. The ACOG Committee on Ethics therefore makes the following recommendations:

- In caring for pregnant women, practitioners should recognize that in the majority of cases, the interests of the pregnant woman and her fetus converge rather than diverge. Promoting pregnant women's health through advocacy of healthy behavior, referral for substance abuse treatment and mental health services when necessary, and maintenance of a good physician-patient relationship is always in the best interest of both the woman and her fetus.
- Pregnant women's autonomous decisions should be respected. Concerns about the impact of maternal decisions on fetal well-being should be discussed in the context of medical evidence and understood within the context of each woman's broad social network, cultural beliefs, and values. In the absence of extraordinary circumstances, circumstances that, in fact, the Committee on Ethics cannot currently imagine, judicial authority should not be used to implement treatment regimens aimed at protecting the fetus, for such actions violate the pregnant woman's autonomy.
- Pregnant women should not be punished for adverse perinatal outcomes. The relationship between maternal behavior and perinatal outcome is not fully understood, and punitive approaches threaten to dissuade pregnant women from seeking health care and ultimately undermine the health of pregnant women and their fetuses.
- Policy makers, legislators, and physicians should work together to find constructive and evidence-based ways to address the needs of women with alcohol and other substance abuse problems. This should include the development of safe, available, and efficacious services for women and families.

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