

Law, Neuroethics and Brain Policies
UH Law Center
Health Law and Policy Institute
Course Syllabus – Fall 2012

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Course Description:

This course will address recent legal and ethical issues concerning brain development and defects, brain functioning, and brain imaging. Topics will include:

- Mild, moderate and severe brain injury
- Disorders of consciousness, such as vegetative states and minimal consciousness
- Recent controversies concerning sports injuries, such as concussions, chronic traumatic encephalopathy (CTE), etc.
- Brain injury or defect and behavior related to criminal responsibility
- Brain treatments such as psychosurgery or deep brain stimulation, and brain research
- Brain loss such as Alzheimer's Disease and other dementias
- Brain death policies

Texts:

- All readings will be provided by the instructor. Supplemental readings will be recommended.

Requirements:

Seminar paper of at least 25 pages exclusive of footnotes is required. There will also be a required oral presentation of the seminar paper in class. Details of the presentation will be discussed in class. The papers may be based on legal cases, statutes or regulations. You may also assess current or proposed brain policies and practices in treatment or research. Interdisciplinary research on specific issues connecting law, ethics and brain policies is also acceptable.

Class Schedule

August 30: Traumatic Brain Injury

- Documentary: *Battered Brains* (To be shown in class)
- Reading assignment: Tovino, S.A. and Winslade, W.J., "A Primer on the Law and Ethics of Treatment, Research, and Public Policy in the Context of Severe Traumatic Brain Injury". Pages 1-31
- Suggested reading: Winslade, W.J. "Confronting Traumatic Brain Injury" (copies are on reserve at the HLPI Library)

September 6: Consciousness and the Brain

- Glannon, W., "Our Brains Are Not Us"
- Owen, A.M., "Detecting Awareness in the Vegetative State and Comments"
- Groopman, J., "Silent Minds"

September 13: Vegetative and Minimally Conscious States

- "In the Matter of Karen Quinlan", 70 N.J. 10, 355 A.2d 647 (1976)
- Laureys, S. "Eyes Open, Brain Shut"
- Johnson, S. , "Quinlan and Cruzan"
- Address of John Paul II to the Participants in the international congress on "Life-sustaining treatments and vegetative state: Scientific advances and ethical dilemmas"
- Lepore, J., "The Politics of Death"
- "Conservatorship of Robert Wendland", 26 Cal. 4th 519 (2001)
- Annas G., "Culture of Life" Politics at the Bedside – The case of Terri Schiavo
- Goodnough, A., Shiao "Autopsy Says Brain Withered, Was Untreatable"
- Boggan, S., "Reborn"

September 20: Sports Injuries

- Blum, D., "Will Science Take the Field?"
- Winslade, W. and Goldberg, D., "The protection of athletes becoming an ethical issue"
- Schwarz, A., "Teaching Young Players a Safer Way to Tackle"
- Powell, J.W. and Barber-Foss, K.D., "Traumatic Brain Injury In High School Athletes"
- "Get Your Head in the Game"
- Sander, L., "Colleges Struggle to Protect Athletes from Concussion and Its Aftermath"
- Chisholm, N., and Gillet, G., "The patient's journey: Living with locked-in syndrome"
- Gladwell, M., "Offensive Play"

- Goldberg, D., “Concussions, Professional Sports, and Conflicts of Interest: Why the National Football League’s Current Policies are Bad for Its (Players’) Health”

September 27: *Brain Treatment and Research*

- Winslade, W.J., “Electroconvulsive Therapy: Legal Regulations, Ethical Concerns”
- Mashour, G.A, et al., “Psychosurgery: past, present, and future”
- Kenneally, C., “The Deepest Cut”
- Kaimowitz v. “Dept. of Mental Health”
- Washington v. Harper
- Fins, J.J, et al., “Neuroimaging and Disorders of Consciousness: Envisioning an Ethical Research Agenda”

October 4: *Crime and the Brain*

- Glannon, W., “Neuroscience, Free Will, and Moral Responsibility” & “What Neuroscience Can (and Cannot) Tell Us about Criminal Responsibility”
- Rosen, J., “The Brain on the Stand”
- Aronson, J., “The Law and Use of Brain Evidence”
- Eastman, N., and Campbell, C., “Neuroscience and Legal determination of Criminal responsibility”
- Giridharadas, A., “India’s Novel Use of Brain Scans in Courts is Debated”
- Goldberg, E., “Social Maturity, Morality, Law and the Frontal Lobes”
- Tancredi, L., “Bad without Conscience”
- Winslade, W.J., “The Criminal Brain: A View from the Bench”
- Winslade, W.J., “The Legal column: Traumatic brain injury and criminal responsibility”

October 11: *Guest Lecture: TBA*

- Topic: TBA

October 18: *Alzheimer’s disease and other Dementias*

- “A 100 Year Update on Alzheimer’s Disease and Related Disorders”
- Johnston, B., and Yaffe, K., “Types of Dementia”
- Kolata, G., “Tests Detect Alzheimer’s Risks, but should patients be told?”
- Marcus, A.D., “Key to Alzheimer’s: Waste in Cells”
- Kolata, G., “Money Woes can be Early clue to Alzheimer’s”
- Kolata, G., “When Alzheimer’s steals the mind, How Aggressively to treat the body?”
- Halpern, S., “The Gene Hunters”
- Canada, J., “Alzheimer’s Disease: Legal and Ethical Considerations of Competency in Decision Making”

- “Texas Advance Directive Planning for Important Healthcare Decisions”

October 25: *Dying, Death and Brain Death*

- Laureys, S., “Death, unconsciousness and the brain”
- Winslade, W., and Goldberg, D., “Dying in America: Legal Decisions, Ethical Conflicts, and the Kinetics of Cultural Change”
- Wolff, M., “A Life worth ending”
- Hoffman, J., “The Last word on the Last Breath”
- Morales, N., “‘Dead’ man recovering after ATV accident”
- Halevy, A., and Brody, B., “Brain Death: Reconciling Definitions, Criteria, and Tests”
- Gordy, K.C, et al., “The Law and Ethics of Advance Planning Options in the United States”

November 1, 5, 15, and 29: *Seminar Paper Presentations.*

- Drafts are due on the date of your presentation.
- Final papers are due on _____.