



**Next Meeting Thursday, Nov 14, 2013**

Greater Los Angeles Veterans Affairs Medical Center  
Wadsworth Bldg. (500)11301 Wilshire Blvd. LA 90073  
Operator: 310-478-37116400 (6<sup>th</sup> floor), room 640  
SW corner San Diego Freeway (405) & Wilshire Blvd.  
Exit Wilshire Blvd West from San Diego Freeway,  
Immediate right on to campus west of freeway  
Free parking in visitor lots  
5:30PM dinner \$10 6:00 meeting, no RSVP needed  
Agenda: 1. The Frequency and Cost of Treatment  
Perceived to Be Futile in Critical Care  
Dr. Neil Wenger will elaborate on the findings of the  
research in which he participated regarding critical  
care utilization at the end of life which revealed  
substantial cost of perceived futile treatment  
2. Update on Bioethics Educational Programs at  
Loyola Marymount University, Dr. Roberto Dell'Oro  
3. Cases from the field 8:30 adjourns

**Ethics and THE LAW**

**HIPPA vs. Duty and Ethics of Public Safety**

*Is a physician duty bound to report the intentions  
stated by an HIV patient, who is working as an  
unprotected sex worker, to infect others?*

According to the Tarasoff Ruling by the CA  
Supreme Court in 1976, a physician is duty-bound to  
report a clear and specific threat to third parties. In the  
context of HIV+ individuals, the CA legislature  
determined that an infected individual's failure to  
inform sexual contacts of a known HIV positive status  
is a misdemeanor whereas intent to infect is a felony.

CA Health and Safety Code Section 121015  
clarifies, moreover, that no treating physician or  
surgeon who has the results of a confirmed positive  
HIV test of a patient in his or her care shall be held  
criminally or civilly liable for disclosing to a person  
reasonably believed to be the spouse, sexual partner,  
or a person with whom the patient has shared the use  
of hypodermic needles, **or to a local health officer,**  
that the patient has tested positive on a HIV test.

[www.cdph.ca.gov/programs/AIDS](http://www.cdph.ca.gov/programs/AIDS)

For additional perspectives:

*Evaluating the Impact of Criminal Laws on HIV Risk  
Behavior,* Lazzarini Z, Bray S, Burris S. J Law Med Ethics.  
June 2002; 30(2): 239-253.

**Privacy and Third Party Rights**

If Tarasoff law applies to the unborn, then actions  
designed to prevent harm from occurring to the fetus  
might be permissible, though objectionable to mom:  
drug testing, HIV testing and even HAART treatment  
against the will of mom is conceivable.

Weigh in with the Editor: [kfgorlitsky@gmail.com](mailto:kfgorlitsky@gmail.com)

**CME/ Conferences**

**Friday Nov 15, noon-2 California Hospital  
Keck Aud, Leavey Hall 320 W 15<sup>th</sup> St., 90015  
*Affordable Care Act: Addressing Holes  
in the Safety Net***

**M. Cousineau, PhD Price School of Public  
Policy**

**Ellen Rothman, M.D. Interim Director of  
multi-service Ambulatory Care, MLK  
Lunch and CME**

**\*\*\*\* Call For Presentations\*\*\*\***

**Coalition for Compassionate Care of CA  
In preparation for their 6<sup>th</sup> annual Conference  
"Exploring New Horizons in Palliative Care"  
4/10-11/2014 [info@coalitionccc.org](mailto:info@coalitionccc.org)**

**State Politics & Fate of the Safety Net**

"Only 2% of acute care hospitals nationwide are  
safety-net facilities, but they provide 20% of  
uncompensated care to the uninsured. Because most  
are in low-income communities, they typically  
generate scant revenue from privately insured patients.  
The Medicaid Disproportionate Share Hospital (DSH)  
program was established to help defray their costs for  
uncompensated care." But if the state governments  
that refused to expand Medicaid also refuse to rethink  
their approach to allocating DSH funds, there will be  
little money left to sustain their safety-net hospitals  
when the cuts deepen in 2017...and as a result,  
service reductions and facility closures ...are likely to  
have sweeping consequences.

With few state dollars supporting it, Congress could  
adopt a national formula determining hospital  
eligibility and Medicaid DSH payment amounts  
directed to facilities that serve important national  
health security interests, such as operating emergency  
departments, trauma care system, and disaster plans to  
help sustain the safety net. "The proposed DSH rule is  
a good start, but much remains to be done." For more on  
this see: Neuhausen K, Spivey M, Kellermann AL. [State politics  
and the fate of the safety net.](#) NEJM. 2013; 369:1675-1677.

**The Buzzzzz on the Web**

Recent discussion via email has centered around  
whether or not Bioethics Consults were called based  
on automatic triggers in various hospitals. Large  
quantities of blood usage, long stays in ICU, and  
unrepresented patients lacking capacity with no AD or  
POLST could trigger such consults in some facilities.  
Bioethics Committees themselves can self-generate a  
consult in some hospitals



## Highlights from October's ASBH Conference

Amy Guttmann, political scientist and former President of U. of Pennsylvania offered several reports by the Presidential Commission on Bioethics which she chairs including the STI experimentation in Guatemala in the 1940's, reminiscent of the Tuskegee debacle...poor or no informed consent. Another is about whether to test anthrax vaccine in children and the last is about whole genome sequencing

See [www.bioethics.gov](http://www.bioethics.gov),

## Brave New World?

Scientists estimate that 1 in every 200 women carries defects in her mitochondrial DNA (mtDNA). As many as 3,000 babies may be born each year with syndromes many of which have no treatment, and the affected child dies early in life. ...Research could produce an egg with healthy genetic material [mitochondrial DNA](#) (mtDNA) donated from another woman. The presumably healthy new egg could then be fertilized *in vitro* with the father's sperm, the resulting embryo transferred into the recipient's womb, the baby born with genes from three people: the father, the woman trying to have a healthy baby, and the egg/mtDNA donor.

[Mark Sauer](#) of the Columbia University Medical Center is a member of one of two teams of U.S. scientists pursuing research into the real possibility of such situations. A team of scientists in Oregon succeeded in breeding healthy baby monkeys. Now they want to try to make healthy human babies. The British government may allow medical researchers to try a related technique to replace the faulty mtDNA in eggs in humans...

"There are issues of identity that the child may experience later in life," says [Ronald Green](#), a bioethicist at Dartmouth College "By trying to fix one problem, might mistakes be inadvertently introduced into the human genetic code? "...children will inherit the mitochondria from that child, and we'll have [potentially] introduced new genetic diseases into the human population," Green says.

That's why this sort of thing has always been off-limits — even banned in many countries, according to [Marcy Darnovsky](#) of the Center for Genetics. Pursuing such techniques,...” would cross this bright line ...observed by scientists around the world.... that bright line says: 'We're not going to make genetic changes that are inheritable'..."

Altering mtDNA could also eventually lead to ...designer babies. "The problem is that once we start saying we're going to allow inheritable genetic changes to make healthier children, then the next step is,...to make children who are more intelligent or more athletic or have perfect pitch," Darnovsky says.

The Food and Drug Administration scheduled an [Oct. hearing](#) to consider the issues.

<http://www.npr.org/blogs/health/2013/10/09/229167219/proposed-treatment-to-fix-genetic-diseases-raising-ethics-issues>),

## ID the Question

Having a standardized framework for actually *doing* Ethics Consultation can be critical, especially when who actually provides this services rotates among members of an ethics committee. There are a number of organizations which have created standardized frames — The VA, for example, uses CASES (Clarify, Assemble relevant info, Synthesize info, Explain the synthesis, Support the process; see [www.ethics.va.gov/integratedethics/ecc.asp](http://www.ethics.va.gov/integratedethics/ecc.asp) for more information). CHA (Catholic Hospital Association) identifies 5 functions specifically designed to address the needs in Catholic institutions:

**Explain** practices, policies, or directives

**Recommend** ethical option

**Decide** if there is binding Church teaching, definitive norms or practice, or clearly stated institutional values

**Verify** or affirm decisions already made (if appropriate)

**Mediate** dissenting perspectives. (for more information about the CHCO strategy, see *From Call to Consult: A Strategy for Responding to an Ethics Request*,

available online ([www.chausa.org/docs/default-source/hceusa/from-call-to-consult-a-strategy-for-responding-to-an-ethics-request.pdf?sfvrsn=2](http://www.chausa.org/docs/default-source/hceusa/from-call-to-consult-a-strategy-for-responding-to-an-ethics-request.pdf?sfvrsn=2)). Whether using the VA, the

CHA, or other strategy, ethics consultation service are helped by having an approach consultants can readily follow.

## Credentialing Bioethics Consultants?

The American Society for Bioethics and Humanities is initiating a program that will help assess the preparedness of individuals furnishing ethics consultations at hospitals. As a pilot, ASBH is inviting individuals to submit portfolios that include case reviews, references, and a personal essay which will then be assessed by a panel of experts to determine the individual's qualifications for hospital consultation on clinical ethics issues. *Quality Attestation for Clinical Ethics Consultants: A two-step Model from the American Society for Bioethics and Humanities*, Koddish and Fins, Hasting Center Report Sept/Oct2013

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