



Law: Fiction substantiates case law in the study of biomedical ethics

A course entitled "Biomedical Ethics and the Law" by Dr. Dena S. Davis, Cleveland-Marshall College of Law, Cleveland State University (1997)

Course Design:

The study of biomedical ethics is based upon the stories of the patients in the leading cases. Accordingly, Dr. Davis uses short fiction in her upper-level course "Biomedical Ethics and the Law" to add a deeper understanding of the often vague guidelines of existing case law. Fiction enables students to share an experience without the constraints that exist in discussions of real people. The protagonists' decisions can be analyzed and criticized without fear of causing offense, and the personal yet pertinent details of the case can be discussed without embarrassment. The course addresses numerous gender issues the details of which, were it not for the use of fiction, would create a distracting level of discomfort in the class. Using fiction also enables students to examine cases other than those that end up in court, situations that might be resolved privately either satisfactorily or unsatisfactorily.

For example, in a week-long study of the concept of informed consent, Dr. Davis uses Sharon Schwartz' *So You're Going to Have a New Body!* The short story, which addresses the extent to which a physician is responsible for informing the patient of procedures and their possible effects, is used to help students understand the implications of the vague language in *Canterbury v. Spence*, the leading case. After analyzing the roles of the doctor and the patient in this particular situation, students discuss the short story in terms of the guidelines established by the case law and clarify their understanding of the central concepts and ambiguities of the precedents.

Higher Level Learning:

Short fiction offers students a medium through which they can examine in greater depth the central concepts of biomedical ethics addressed by current case law (**Thinking**). Reflection upon and discussion of the specifics of the fictional circumstances serve to highlight ambiguities in the case law and to link these ambiguities with questions of possible patient and doctor roles and with predictions regarding the evolution of the field of biomedical ethics (**Connecting**). Using fiction

also reveals to students that as professionals they will need to be able to make use of a full range of resources in order to effectively address the legal implications of biomedical ethics (**Learning**).

Active Learning:

Dr. Davis models for students the use of fictional material to add depth to an analysis of legal precedents (**Observing**), and students refine their ability to determine the implications of case law (**Doing**). Extensive and detailed class discussions (**Dialogue with Others**), enhanced by the relative safety of fictional texts, add depth to students' analysis of the field.

Davis, D. S. (1997). Tell me a Story: Using Short Fiction in Teaching Law and Bioethics. Journal of Legal Education, 47 2 (pp.240-245)