

The 2018 Annual
University of Miami
Ethics Debate

Case Packet

*(Adapted from the Twenty-Second Intercollegiate Ethics
Bowl National Championship)*

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Case 1: Big Problems for Big Pharma

The United States is facing an opioid epidemic. In 2015 alone, 33,000 people within the United States died from an opioid related death. Opioids are narcotics that produce a morphine-like effect. They work by binding to opioid receptors within the body and reducing the body's ability to send pain messages to the brain. Common opioids include hydrocodone, morphine, fentanyl, and oxycodone. Over half of the opioid-related deaths are linked to prescription opioid use, while the remaining are credited to street drugs. According to a study published in *Medical Care*, the prescription opioid epidemic has introduced a "total economic burden of \$78.5 billion."

In early June of 2017, nine counties in Tennessee sued Big Pharma (specifically Purdue Pharma, Mallinckrodt and Endo Pharmaceuticals) for costs of fighting the epidemic. The suit declares that Big Pharma should be labeled as drug dealers, and accuses pharmaceutical companies of misleading consumers as to the addictive properties of the drugs and marketing the drugs as the miracle cure for all types of pain. Two weeks later, the Missouri Attorney General filed a similar suit against three large pharmaceutical companies, Janssen, Purdue, and Endo Pharmaceuticals, claiming they are pushing a "campaign of fraud and deception." The Attorney General is asking for "hundreds of millions of dollars" in both damages and civil penalties. The pharmaceutical companies replied to the suits stating they share concerns regarding the opioid crisis and they have "acted appropriately, responsibly, and in the best interest of patients regarding our opioid pain medications."

These lawsuits are unique as up to this point legal initiatives have primarily put responsibility for the epidemic on physicians, prescribers, and pharmacies, not pharmaceutical companies. Some claim physicians are the first line of defense and are over-prescribing opioids for pain which may be effectively managed with other non-addictive medications such as Ibuprofen. On the flip side, opioids may be the best choices for some patients, especially those having surgical procedures. According to data collected in 2009 at Stanford University, 48 million people underwent inpatient surgery in the United States alone. It is likely that all of those persons were not only prescribed, but truly needed opioids to manage postoperative pain.

Question: Should private companies be held liable for the negative externalities of their business practices? If not, then who should be held responsible?

Case 2: Death with Dignity

Charlie Gard, a child born in the UK in the fall of 2016, was diagnosed with an extremely rare genetic condition called mitochondrial DNA depletion syndrome. In this condition, the individual lacks the essential building blocks of DNA, depriving cells of energy and profoundly impairing normal growth and development. Parts of the body most affected are the muscles, liver, and brain. The condition left Charlie unable to move, see, hear, speak, cry, or swallow and dependent upon invasive life support.

The UK doctors wished to declare the child brain dead (i.e., clinically and legally dead) and remove him from life support. His parents refused and asked the European Court of Human Rights to grant them permission to bring Charlie to the United States where doctors at New York's Columbia University Medical Center offered to conduct an experimental treatment, nucleoside bypass therapy.

A High Court judge ruled against the trip to America stating the child should be able to “die with dignity.” Charlie’s parents appealed the decision declaring that the hospital was holding their child “prisoner” and that he was receiving “inhuman” care and treatment. Against the wishes of his parents, the UK High Court and other governing authorities ruled in opposition. Charlie was removed from life support in July 2017 and is now deceased.

Treatment for this condition is basically non-existent. The rarity of the disease means very few physicians are familiar with the condition or know of experimental interventions which may help the child. The US doctors stated the experimental treatment would have taken them into “uncharted territory.”

Question: Was the UK High Court justified in ruling against the wishes of Charlie’s parents? Should the rarity of Charlie’s condition be considered when making a moral decision?

Case 3: Foul Ball or Fair Play?

There's big money in college sports. A New York Times opinion piece from September 14, 2016, noted that in forty states, the highest paid public employee is a college coach. Yet, according to an article in the Cincinnati Enquirer of September 15, 2013, nearly all universities lose money on athletics and cover the shortfall through tuition and taxes. Schools direct to athletes resources that are not available to other students, siphoning money from academics and students' services. The Knight Commission reports that in 2010, Division I colleges with football teams spent seven times more on athletes than on other students, while Division I colleges without football teams spent three only times more on athletes than on other students.

Despite the resources designated for athletes, increasing concern is voiced about their exploitation. Many scholarship athletes come to college with dreams of a glorious college career, followed by a lucrative pro contract. Often these students are poorly prepared for the academic rigors of higher education, and their training and game schedules leave little time to study. The reality is that few are chosen by pro teams, and many leave college unprepared for careers.

One suggestion to address this concern is the creation of a college major in athletics, where students would earn a degree by training and playing. A second option would also include classes in sports- specific curricula that would prepare students for a career. Courses might include sports law, sports finance, broadcasting, team management, coaching, training, and public speaking. Another recommendation is to pay non-student athletes a professional salary and run athletics as a semi-pro revenue-producing side business that would provide the intangible value sports often bring to the college: pride, identity, and lifelong loyalty.

Some critics oppose a college major in athletics on the grounds that, in addition to failing the athletes who would graduate with limited marketable skills, this would undermine the fundamental purpose of higher education, and diminish the value of a college degree. Others are opposed to high tuition charged to non-athletes to support non-academic programs for athletes, or tax dollars used for sports entertainment already provided by pro teams.

Question: Are college sports an ethically compromising practice? How is your response affected by the financial implications of backing college sports?

Case 4: No Comparison (Shopping)

In a world where online sellers can use cut-rate pricing to beat the brains out of brick-and-mortar retailers, Amazon is making moves to change the game once again in its favor. Contrary to Amazon's reputation, however, the end result this time may not be lower prices for consumers.

Amazon has no doubt lured away millions of shoppers from traditional stores by offering discounted prices via smartphone searches as shoppers check out merchandise in physical store aisles, a practice known as "window shopping." This practice most likely played a role in Amazon's inexorable climb to the top of the online heap. But, now that the Internet goliath is opening its own brick-and-mortar bookstores in a number of cities and acquiring 465 physical grocery stores in its takeover of Whole Foods, it has developed a tool to keep customers from using its in-store Wi Fi to comparison shop.

Amazon's patent, The Physical Store Online Shopping Control (US 9,665,881 B1), describes a system that can identify a customer's Internet-connected device (when it connects through the store's Wi Fi) and sense when the customer is trying to access a competitor's website. Once the system discovers such an attempt, it identifies what item the consumer is trying to access. It could then do one of several things: redirect the customer's browser to Amazon's own site or to an approved site; send marketing material to the customer; alert a sales person to approach the customer on the floor; or simply block access.

Of course, having a patent doesn't mean Amazon will actually use it. But if it did, the customer's only choice would be to not use the in-store provided Wi Fi service.

Question: Is Amazon's patent "ethically problematic"?

Case 5: Pay or Penalize

In the 2016 US Presidential election, 55.7 percent of Americans eighteen years or older exercised their civic duty by voting. That percentage puts the United States in the bottom third of the world's developed countries in terms of participation by eligible voters.

In off-year or mid-term elections, the turnout is even lower. In primary races, the turnout rates drop into single digits, accounting perhaps for the shift to more polarized and polarizing candidates.

Opinion pieces in many newspaper editorial pages have lamented the lack of voter participation and offered suggestions of what to do about it. Eight states currently register citizens on their 18th birthday unless they decline. Other states are considering ways to make registering easier. Some even allow voters to register when they go to vote. Some allow voters to go to any polling place in their jurisdiction on election day, not just to the ones where they are registered.

No state has yet made voting mandatory. For that matter, neither has the US government. However, Australia and Belgium, two nations that lead the world in voter participation, require voters to exercise their civic duty at the polls. Australia even goes so far as to collect a \$20 penalty from those who don't.

Yale Law professor Stephen J. Carter has made a contrasting proposal: Pay citizens to vote. Perhaps that would help encourage more young people, minorities, and lower income voters to go to the polls.

Question: Is there anything morally wrong with making voter participation mandatory? If everyone involved benefits from the arrangement, is there any moral reason to oppose it?

Case 6: What Morals Should Drive Driverless Cars

Cars of the past required us to do everything manually, from shifting gears to locking doors and rolling down windows. Now we have cars that “can adapt their speed to the surrounding traffic automatically, maintain a safe distance from the vehicle ahead, keep within their own lane, even park themselves.” Tech companies like Google, Apple, and Uber are aiming for the ultimate autonomous driving experience—cars that can drive themselves—and driverless cars are already being tested on the roads. Even though we may be years away from their release to the public, concerns about driverless cars are already surfacing.

Driverless cars are poised to make life much easier and more convenient. Elderly people who have difficulty driving could regain freedom and independence using driverless cars. Busy parents would no longer need to drop off their children at school or take them to after-school activities. People with long commutes by car could use that time to focus on rest or work instead. Even more significantly, driverless cars could be much safer than human drivers. According to the National Highway Traffic Safety Administration, 94% of traffic accidents are attributed in part to human error. Driverless cars are designed to follow all traffic laws, including obeying speed limits and completely stopping at stop signs. If human drivers are taken out of the equation, we can imagine that our roads could be much safer. If driverless technology becomes reliable enough, we might even decide that human drivers should be outlawed and removed from the roads for the sake of overall safety.

In addition to the question of whether the aim of such technology should be to get rid of human drivers entirely (along with their dangerous potential for error), the question of what counts as safety also arises. What happens when there are no good options for a driverless car to choose? For example, imagine that a van with a family of five ahead of you suddenly brakes, and your driverless car can either brake but potentially hit the family of five, or it could swerve to the right where there is a school bus full of children, or it could swerve into the median rail on the left—in each case potentially endangering your life as well as or instead of the lives of others. In such situations, human drivers react in unpredictable and generally uninformed ways. Driverless cars, on the other hand, potentially allow us the capacity to be more intentional about how to react to unexpected accidents or emergencies on the road, but there is much disagreement about how to best use this new power.

Questions: What moral principles should guide us as we decide what to do about the possibility offered by driverless cars to be more intentional than ever before about reacting to unexpected dangerous situations? In the event of an accident who should bear the burden of responsibility?