Bioethics Newsletter
Summer 2013

INSIDE

Editorial Notes From Dr. David Taylor

Welcome to the Summer 2013 Bioethics Newsletter.

In this issue, Shelley Sullivan, Esq. discusses medical decision making when patients are unable to direct their own care. Along with reviewing Louisiana law, she uses real-life examples to make the principles more memorable.

To follow up on the LaPOST article in the spring newsletter, Joe Breault, MD presents a series of questions and answers to outline important points. The Ochsner Bioethics website has several additional resources that are very helpful in understanding this new legislation and how to use it in your clinical practice.

This year marks the first time since its 1987 release that the Hastings Center has updated *Guidelines for Decisions on Life-Sustaining Treatment and Care Near the End of Life*. I encourage anyone with an interest in bioethics to review this very readable book that sets the standard in the field.

Ochsner is fortunate to have Dan Larriviere, MD in our Neurology Department. As Chair of the Ethics, Law, and Humanities Committee of the American Academy of *Neurology*, he has coauthored a fascinating review of pediatric neuroenhancement that was published in the journal Neurology. The paper discusses the ethics of pharmacologic treatment of ADHD in children and adolescents.

Debbie Bourgeois, APRN summarizes the 3rd Annual Clinical Ethics Symposium held at Ochsner on May 11, 2013. More than 60 attendees heard experts discuss several elements of palliative care and spirituality. The symposium concluded with reviews of challenging clinical cases from the ethical perspective of truth telling.

I encourage you to go to the Ochsner Bioethics website at www.ochsner.org/bioethics to review past newsletters, videotaped presentations, and other resources related to bioethics. I also remind our readers that bioethics consultations can be requested at this same site.

Keep your eyes open for future announcements about the Annual Bioethics Grand Rounds in November. Have a great summer!!

Bioethics at Ochsner

- **Annual Bioethics Grand Rounds**—Held the last Tuesday of November, noon, Monroe Hall; videoconferenced to all available sites within Ochsner
- **Annual Clinical Ethics Symposium**—Held the second Saturday morning of May in the Brent House Conference Center
- **Quarterly Bioethics Newsletter**—Sent via email in March, June, September, and December
- ***The Ochsner Journal* Bioethics Columns**—Printed quarterly in the journal and posted online at www.ochsnerjournal.org
- **Bioethics Consult Service**—See the last page of this newsletter for contact information.
- **Bioethics Webpage**—www.ochsner.org/bioethics

Have **YOU** made your living will or assigned a healthcare power of attorney? See the resources on the last page of this newsletter to help you with it. Give a copy to HIM (Health Information Management, the old medical records department) to scan into Epic.

Ochsner Health System

HCPOA v Next of Kin –
Who Gets to Make Decisions When the Patient No Longer Can?

Shelley Sullivan, Esq.

Ochsner's legal staff often gets calls from clinical staff asking who can make decisions when a patient is no longer competent to make decisions. Many times, the caller's first statement is that the patient has no Health Care Power of Attorney (HCPOA) but a family member is present. While having an HCPOA is encouraged, it is not required by law. An HCPOA is encouraged because it is a declaration made by the patient, when competent, about who can make decisions on his/her behalf when s/he is no longer competent to make the decisions. Having an HCPOA in place can eliminate confusion or disagreement among friends and family members.

The reality is that many patients do not have such a legal declaration of their wishes. Consequently, Louisiana law sets forth the categories of people who can make decisions on behalf of an incompetent patient. There is a legal hierarchy of family members that health care providers can turn to for decision-making purposes: the spouse, adult children of the patient, parents, siblings, or patient's other ascendants or descendants (grandparents, aunts, uncles, nieces, nephews, cousins). If more than one person in the class is eligible to make the declaration, a good-faith effort must be made to locate and consult with all members of the class. This effort should be documented in the medical record. This requirement does not, however, require the health care team to become part-time private investigators to locate long-lost family members.

Family dynamics are oftentimes not as simple as going down a list. Let's go through a few scenarios:

What do you do if the spouse of the patient and the adult children disagree about the plan of care? Technically, the law says that the provider must follow the directives of the spouse. However, it is best if you can get everyone on the same page before taking action, especially in end-of-life situations. Consensus may be accomplished through a variety of avenues such as a family meeting, palliative care consult, or ethics consult.

What do you do when multiple adult children are involved? We know that the patient has 3 adult children. All are local and have been visiting the patient. You must get consensus from all of the siblings before taking any action.

What if the patient's wife is deceased but he has been in a long-term relationship with another woman for 15 years? They are not married but have been living together. The adult son of the patient disagrees with the plan of care of the patient's girlfriend. What do you do? The girlfriend has no legal rights. You must go to the son for decision making.

What if the patient has no family at all—immediate or extended? A patient has been living on her own in the same house for 20 years. She has suffered a stroke and was discovered by her long-time friend and neighbor. **Can you go to the neighbor to make decisions for the patient?** No. The law does not permit someone in a nonfamilial relationship with the patient to make decisions in the absence of an HCPOA or other legal designation. If you run into a situation where there appears to be no one to make decisions for the patient, contact the legal department.

Determining who is the appropriate decision maker in the absence of an HCPOA can be tricky. Do not hesitate to call the legal department at 504-842-4003 if you have questions.

Ochsner's 3rd Annual Clinical Ethics Symposium

Deborah Bourgeois, APRN, ACNS-BC, ACHPN

Ochsner's 3rd Annual Clinical Ethics Symposium, sponsored by the Bioethics Committee, was conducted on Saturday, May 11, 2013. This year's program topic was palliative care ethics, and Christopher Blais, MD served as program director. Dr. Blais is a member of the Bioethics Committee, the Medical Director of Palliative Medicine, and Chair of the Infectious Disease Department.

Dr. Blais opened the well-attended symposium with an ***Introduction to Palliative Care Ethics***. He reviewed the general application of the principles of medical ethics to palliative medicine and discussed how the principles can be applied in a variety of clinical situations. He also reviewed the major ethical principles shaping palliative medicine decision making, illustrated different conflicts that arise in the field, and demonstrated how to apply ethical principles in conflict resolution.

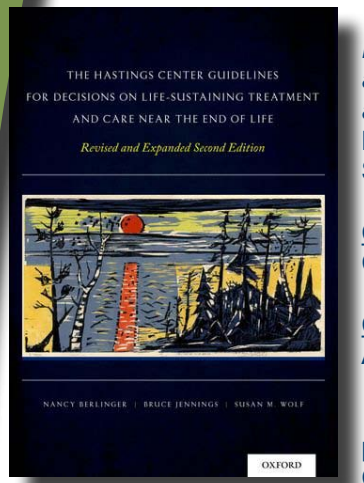
A presentation on ***Spirituality & Aging: Meaning and Purpose*** by Rev. Anthony De Conciliis, PhD described spirituality and its relationship to life's meaning and purpose, as well as the religious experience of the transcendent. Father Anthony discussed the ways spiritual coping is manifested throughout an illness. He further examined the ways that spirituality can complicate and facilitate end-of-life care and grief, provided examples of different coping mechanisms, and discussed how developmental psychologists have discovered religion and spirituality to be valuable in promoting the healing process.

The morning's final presentation, ***The Whole Truth & Nothing But the Truth: Truth Telling in the Palliative Care Setting***, was offered by Deborah Bourgeois, APRN and Abdul M. Khan, MD. The speakers discussed the ethical principle of veracity (truth telling) and how it is utilized within the concept of relational ethics to communicate with patients and loved ones in the palliative care setting. They analyzed different truth-telling strategies and depicted effective communication techniques, including hope management. Dr. Khan, who recently completed an elective palliative medicine rotation, concluded the morning by discussing challenging cases and shared evidence-based research pertaining to medical students and their perceptions of truth telling in end-of-life care.

Slides of all of these presentations are available for review at the Bioethics website www.ochsner.org/bioethics in the ***Clinical Ethics Symposium*** section.

The 4th Annual Clinical Ethics Symposium is in the early planning phase, and suggestions for topics are encouraged. Please send your suggestions to Dr. Joe Breault jbreault@ochsner.org.

Highly Recommended!



The Hastings Center Guidelines for Decisions on Life-Sustaining Treatment and Care Near the End of Life: Revised and Expanded Second Edition
Nancy Berlinger, Bruce Jennings, Susan M. Wolf

Click here to read the Table of Contents.

Click here to order a copy from Amazon.

"Like its 1987 ground-breaking predecessor, this new set of Hastings Center Guidelines will be a major and influential reference work for health care organizations, professionals, ethics committee members, and administrators as they aim to standardize and improve clinical practices, educational efforts, and policies and procedures related to end-of-life decision-making. The Guidelines are a superb summary, under one cover, of consensus points related to end-of-life care. Sections and subsections of the Guidelines can be read as 'stand-alone,' and therefore the work can be used as a kind of reference book according to immediate questions and needs. The writing style is very accessible for health care professionals and administrators, and avoids overly clinical jargon for an educated lay readership."
– Marty Smith, Director of Clinical Ethics, Department of Bioethics, Cleveland Clinic

"This second edition of the classic Guidelines for Decisions on Life-Sustaining Treatment and Care Near the End of Life is a gem. The coverage of issues related to the care of children is a welcome addition, and now makes the document a truly comprehensive textbook for ethical, legal, institutional, and psychosocial aspects of end-of-life care. The format is particularly attractive, allowing the reader to absorb concise 'bullet points' on each topic with easy access to more detailed discussion in the text. This excellent organizational format, plus the searchable ebook, makes these Guidelines a uniquely practical resource for all who care for patients near the end-of-life."
– Robert Truog, Professor of Medical Ethics, Anesthesiology, & Pediatrics and Director of Clinical Ethics, Harvard

Ochsner's own Dr. Dan Larriviere coauthored *Pediatric neuroenhancement: Ethical, legal, social, and neurodevelopmental implications* published 3/26/2013 in *Neurology*.

In addition to serving as Acting Chair of Neurology at Ochsner, Dr. Larriviere is an active member of Ochsner's Bioethics Committee and Chair of the American Association of Neurologists' Ethics, Law and Humanities Committee. He contributed an article on neuorethics, *Confronting the Challenges of Advances in Neuroscience*, to the Winter 2012 edition of this Bioethics Newsletter.

Abstract

The use of prescription medication to augment cognitive or affective function in healthy persons—or neuroenhancement—is increasing in adult and pediatric populations. In children and adolescents, neuroenhancement appears to be increasing in parallel to the rising rates of attention-deficit disorder diagnoses and stimulant medication prescriptions, and the opportunities for medication diversion. Pediatric neuroenhancement remains a particularly unsettled and value-laden practice, often without appropriate goals or justification. Pediatric neuroenhancement presents its own ethical, social, legal, and developmental issues, including the fiduciary responsibility of physicians caring for children, the special integrity of the doctor-child-parent relationship, the vulnerability of children to various forms of coercion, distributive justice in school settings, and the moral obligation of physicians to prevent misuse of medication. Neurodevelopmental issues include the importance of evolving personal authenticity during childhood and adolescence, the emergence of individual decision-making capacities, and the process of developing autonomy. This Ethics, Law, and Humanities Committee position paper, endorsed by the American Academy of Neurology, Child Neurology Society, and American Neurological Association, focuses on various implications of pediatric neuroenhancement and outlines discussion points in responding to neuroenhancement requests from parents or adolescents. Based on currently available data and the balance of ethics issues reviewed in this position paper, neuroenhancement in legally and developmentally nonautonomous children and adolescents without a diagnosis of a neurologic disorder is not justifiable. In nearly autonomous adolescents, the fiduciary obligation of the physician may be weaker, but the prescription of neuroenhancements is inadvisable because of numerous social, developmental, and professional integrity issues.

Bioethics Resources: LaPOST

Dr. Joe Breault

Ann Koppel introduced the LaPOST document in the last Bioethics Newsletter. It functions as **a portable physician's order** that should be followed when a patient arrives with one, even if it was signed by a non-Ochsner physician. Here are the answers to some of the common questions about LaPOST:

Q: What is LaPOST?
A: LaPOST is the first statewide, uniform physician order that is recognized across care settings.

Q: Is a LaPOST order appropriate for everyone?
A: No, it is for those with life-limiting illnesses (typically when you would not be surprised if they were not alive in a year) regardless of age. In contrast, an advance directive is appropriate for every adult.

Q: What is the easiest way to learn all I need to know about LaPOST?
A: Watch the video of a presentation Dr. Susan Nelson gave in Monroe Hall. It can only be viewed from the intranet inside Ochsner.

Q: I want a brief document that explains LaPOST. Where can I get one?
A: The LaPOST Handbook for Health Care Professionals summarizes the basics we need to know in 12 pages. It includes the following example many will find useful:

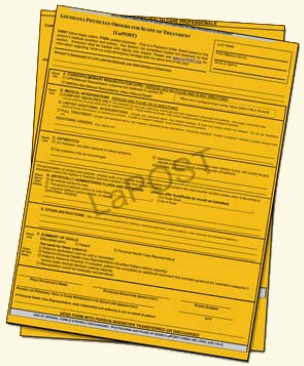
A sample conversation with a patient about LaPOST may sound like this:
"I'd like to talk with you today about what is going on with you which will help me understand how to best care for you or your family member. We will need to discuss the types of treatments available, what will work, what might work and what will not work, and what your goals of care are. After we have that conversation, we will be able to complete a LaPOST document which is a physician's order that outlines the plan of care we discussed. This order will communicate this important information to other members of the health care team so they know how to best care for you during your illness. This document will transfer with you across care settings (hospital to home to nursing home to hospice). The LaPOST document can be changed or adjusted at any time as long as it represents your wishes and goals of care."

Q: Where does the LaPOST document live after it is created?
A: It travels with the patient across health care settings. The patient keeps the original. Electronic medical records or medical record systems may contain of a copy of it, but the original is kept by the patient.

Q: What is the difference between an advance directive (living will) and a LaPOST order?
A: The LaPOST order is a specific physician's order that is to be immediately followed. An advance directive is a broad outline of a patient's wishes that requires interpretation and translation into a physician's order.

Q: Can the LaPOST orders be changed by the patient?
A: Yes, details are in the LaPOST handbook cited above. The competent patient may draw a line through Sections A through D and write "VOID" in large letters. This change must be signed and dated. The patient can then complete another LaPOST document with his/her physician.

Q: Where is the LaPOST document so I can review it?
A: It is available at the LaPOST website, and a copy is reproduced on the next pages. It has been approved by the Ochsner Health System Forms Committee.



HIPAA PERMITS DISCLOSURE OF LaPOST TO OTHER HEALTH CARE PROVIDERS AS NECESSARY

LOUISIANA PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

(LaPOST)

FIRST follow these orders, **THEN** contact physician. This is a Physician Order Sheet based on the person's medical condition and wishes. Any Section not completed implies full treatment for that section. Everyone shall be treated with dignity and respect. Please see www.La-POST.org for information regarding "what my cultural/religious heritage tells me about end of life care"

LAST NAME

FIRST/MIDDLE INITIAL

DATE OF BIRTH

PATIENT'S DIAGNOSIS OF LIFE LIMITING DISEASE AND IRREVERSIBLE CONDITION:

Check One

A. CARDIOPULMONARY RESUSCITATION (CPR): PERSON HAS NO PULSE AND IS NOT BREATHING

☐ CPR/Attempt Resuscitation (requires full treatment in section B)

☐ DNR/Do Not Attempt Resuscitation (Allow Natural Death)

When not in cardiopulmonary arrest, follow orders in **B, C**, **D** and **E.**

Check One

B. MEDICAL INTERVENTIONS: PERSON HAS PULSE OR IS BREATHING

☐ COMFORT MEASURES ONLY Use medication by any route, positioning, wound care and other measures to relieve pain and suffering. Use oxygen, oral suction and manual treatment of airway obstruction as needed for comfort. *Patient prefers no transfer: EMS contact medical control to determine if transport indicated.*

☐ LIMITED ADDITIONAL INTERVENTIONS: Includes care described above. Use medical treatment, IV fluids and cardiac monitor as indicated. Do not use intubations, advanced airway interventions, or mechanical ventilation. Transfer to hospital if indicated. Avoid intensive care unit if possible.

☐ FULL TREATMENT: Includes care described above. Use intubation, advanced airway interventions, mechanical ventilation. Transfer to hospital if indicated, Includes intensive care unit.

ADDITIONAL ORDERS: *(e.g. dialysis, etc.)*

Check One

C. ANTIBIOTICS

☐ No antibiotics. Use other measures to relieve symptoms.

☐ Use antibiotics if life can be prolonged.

☐ Determine use or limitation of antibiotics when infection occurs, with comfort as goal. (Benefit of treatment should outweigh burden of treatment)

ADDITIONAL ORDERS:

The administration of nutrition and hydration, whether orally or by invasive means, shall always occur except in the event another condition arises, which is life-limiting or irreversible in which the nutrition or hydration becomes a greater burden than benefit to Patient.

Check One in Each Column

D. ARTIFICIALLY ADMINISTERED FLUIDS AND NUTRITION: **(Always offer food/fluids by mouth as tolerated)**

☐ No artificial nutrition by tube.

☐ Trial period of artificial nutrition by tube (Goal :_____)

☐ Long-term artificial nutrition by tube. (If needed)

☐ IV fluids (Goal :_____)

☐ No IV fluids

ADDITIONAL ORDERS:

E. OTHER INSTRUCTIONS: (May include additional guidelines for starting or stopping treatments in sections above or other directions not addressed elsewhere.)

Check One

F. SUMMARY OF GOALS:

DISCUSSED WITH: ☐ Patient ☐ Personal Health Care Representative

The basis for these orders is:

Check All That Apply

☐ Patient's declaration (can be oral or nonverbal)

☐ Patient's Personal Health Care Representative (Qualified Patient without capacity)

☐ Patient's Advance Directive, if indicated, patient has completed an additional document that provides guidance for treatment measures if he/she loses medical decision-making capacity.

☐ Resuscitation would be medically non-beneficial.

PRINT PHYSICIAN'S NAME | **PHYSICIAN SIGNATURE (MANDATORY)** | **PHONE NUMBER**

PATIENT OR PERSONAL HEALTH CARE REPRESENTATIVE SIGNATURE (MANDATORY) | **DATE**

If Personal Health Care Representative, state relationship and authority to act on behalf of patient:

SEND FORM WITH PERSON WHENEVER TRANSFERRED OR DISCHARGED

USE OF ORIGINAL FORM IS STRONGLY ENCOURAGED. PHOTOCOPIES AND FAXES OF SIGNED LaPOST FORMS ARE LEGAL AND VALID.

DIRECTIONS FOR HEALTH CARE PROFESSIONALS

COMPLETING LaPOST

- Must be completed by a physician based on patient preferences and medical indications.
- **LaPOST** must be signed by a physician to be valid. Verbal physician orders are acceptable with follow-up signature by physician in accordance with Louisiana law.
- Use of original form is strongly encouraged. Photocopies and faxes of signed **LaPOST** are legal and valid.

USING LaPOST

- Any section of **LaPOST** not completed implies full treatment for that section.
- A semi-automatic external defibrillator (AED) should not be used on a person who has chosen "Do Not Attempt Resuscitation".
- Even if a patient chooses "no artificial nutrition by tube" or "no IV fluids" or "trial period of artificial nutrition by tube," the administration of nutrition and hydration, whether orally or by invasive means, shall always occur except in the event another condition arises which is life limiting and irreversible in which nutrition and hydration by any means becomes a greater burden than benefit to Patient.
- When comfort cannot be achieved in the current setting, the person, including someone with "comfort measures only," should be transferred to a setting able to provide comfort (e.g. pinning of a hip fracture).
- A person who chooses either "comfort measures only" or "limited additional interventions" should not be entered into a Level I trauma system.
- A parenteral (IV/Subcutaneous) medication to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only."
- Treatment of dehydration is a measure which may prolong life. A person who desires IV fluids should indicate "Limited Interventions" or "Full Treatment."
- A person with capacity or the personal representative (if the patient lacks capacity) can revoke the **LaPOST** at any time and request alternative treatment based on the known desires of the individual or, if unknown, the individual's best interests.
- Please see links on www.La-POST.org for "what my cultural/religious heritage tells me about end of life care"

The duty of medicine is to care for patients even when they cannot be cured. Physicians and their patients must evaluate the use of technology available for their personal medical situation. Moral judgments about the use of technology to maintain life must reflect the inherent dignity of human life and the purpose of medical care.

REVIEWING LaPOST

This **LaPOST** should be reviewed periodically such as when the person is transferred from one care setting or care level to another, or there is a substantial change in the person's health status, . A new **LaPOST** should be completed if the patient wishes to make a substantive change to their treatment goal (e.g. reversal of prior directive). When completing a new form, the old form must be properly voided and retained in the medical chart.

To void the **LaPOST** form, draw line through "Physician Orders" and write "VOID" in large letters. This should be signed and dated.

REVIEW OF THIS LaPOST FORM

REVIEW DATE AND TIME	REVIEWER	LOCATION OF REVIEW	REVIEW OUTCOME
			☐ No Change ☐ Form Voided and New Form Completed
			☐ No Change ☐ Form Voided and New Form Completed
			☐ No Change ☐ Form Voided and New Form Completed
			☐ No Change ☐ Form Voided and New Form Completed
			☐ No Change ☐ Form Voided and New Form Completed

SEND FORM WITH PERSON WHENEVER TRANSFERRED OR DISCHARGED

USE OF ORIGINAL FORM IS STRONGLY ENCOURAGED. PHOTOCOPIES AND FAXES OF SIGNED LaPOST FORMS ARE LEGAL AND VALID.

Bioethics Resources for You

How to Request a Bioethics Consult at any Ochsner Facility

- Request a consult online - http://academics.ochsner.org/bioethicsform.aspx
- Call an Ochsner Chaplain 504-842-3286
- Call Risk Management 504-842-4003
- Contact your OMC local bioethics coordinator

Any Clinic	Contact Chaplain's Office
OMC-Eastbank	Contact Chaplain's Office
OMC-Westbank	Contact Chaplain's Office
OMC-Kenner	Dawn Puente, MD
OMC-Baptist	Gretchen Ulfers, MD
OMC-BR	Ralph Dauterive, MD
OMC-St. Anne's	Marsha Arabie, RN
OMC-Elmwood	Contact Chaplain's Office
OMC-Slidell	James Newcomb, MD

"...most hospitals in the USA provide clinical ethics consultation that is mainly due to the requirement of The Joint Commission for Accreditation of Healthcare Organizations—in 2007 renamed the Joint Commission—that accredited hospitals must have a method for addressing ethical issues that arise." From http://www.iep.utm.edu/bioethic/

Bioethics Q&A

What is a bioethics consult?

- Medical Ethics Website http://academics.ochsner.org/bioethics.aspx
- Bioethics Consultations and Resources http://www.ochsnerjournal.org/doi/pdf/10.1043/1524-5012-11.4.357

What is sometimes helpful prior to a bioethics consult?

- Asking the chaplain to come visit
- Holding a family conference http://www.atsjournals.org/doi/pdf/10.1164/rccm.2501004
- Requesting a palliative care consult http://ochweb/page.cfm?id=2429
- Having a discussion with Risk Management http://ochweb/page.cfm?id=3325

Bioethics Education Program

- **Annual Clinical Ethics Symposium** - Saturday, May 10, 2014
- **Bioethics Website (consults) -** http://academics.ochsner.org/bioethics.aspx
- **Bioethics Website (resources) -** http://ochsner.org/bioethics
- **Quarterly Bioethics Newsletter -** http://ochsner.org/bioethics
- ***The Ochsner Journal* Bioethics column -** http://www.ochsnerjournal.org
- **Schwartz Rounds**

End-of-Life Resources

- **5 Wishes** http://academics.ochsner.org/bioethicsdyn.aspx?id=54656
- **Advance Directives, Living Wills, & Healthcare Power of Attorney** http://ochweb/page.cfm?id=3919 scroll down to Miscellaneous Forms
- **Palliative Care** http://ochweb/page.cfm?id=2429
- **State Living Will Declarations** http://www.sos.la.gov/tabid/208/default.aspx
- **UpToDate: Ethical Issues Near the End of Life** http://www.uptodate.com/contents/ethical-issues-near-the-end-of-life
- **Katy Butler: Slow Medicine** http://katybutler.com/site/slow-medicine/
- **Dr. Atul Gawande: Letting Go** http://www.newyorker.com/reporting/2010/08/02/100802fa_fact_gawande?currentPage=all
- **LaPOST: Handbook for Health Care Professionals** http://lhcqf.org/images/stories/LaPOST/LaPOST-Handbook-for-Health-Care-Professionals-2013.pdf
- **LaPOST: State Website** https://lhcqf.org/lapost-home
- **LaPOST video: Using the LaPOST Document to Improve Advance Care Planning (intranet only)** http://mediasite.ochsner.org/mediasite50/Viewer/?peid=b54700807b474e1e8fe96113ca985e4b
- **Respecting Choices Training** http://respectingchoices.org/training_certification

Please support the Bioethics Committee's educational work by donating to the Bioethics Fund. Employees can use Lawson during the annual giving campaign each year and click on the Bioethics Fund in the dropdown box. Anyone can also click on the Donate Now button at http://www.ochsner.org/lp/bioethics_fund/ where there is more information about the Bioethics Fund and the educational work it supports. Every donation, however small, is deeply appreciated and is used to develop an endowment fund whose interest can permanently support bioethics programs. Thank you for your donations and pledges of $9,665 during the fund's initial year of 2012.