

# The American Judicature Society/Drake Law School

Co-Sponsored by the Drake University College of Pharmacy and Health Sciences



## 2007 Justice System Series



### *“Collisions of Conscience and Professional Responsibility: When Judges, Pharmacists, Lawyers, and Doctors Choose Not to Serve”*

#### **PROGRAM SUMMARY**

##### **“Balancing Access to Prescriptions and a Pharmacist’s Right to Conscientious Objection”**

Amy Haddad, PhD  
Director, Center for Health Policy and Ethics and  
Dr. C.C. and Mabel L. Criss Endowed Chair in Health Sciences  
Creighton University

The question of whether pharmacists have the right to exercise conscientious refusal is certainly a hot topic. Part of the debate focuses on the right of the pharmacist to refuse to fill prescriptions for agents whose use they find morally objectionable—abortifacients, contraceptives, and assisted suicide prescriptions versus the right of patients to convenient access to prescriptions whose use is legal in their state. Reconciling these two moral goods is where the problems arise. Ethical principles that underlie the right to refuse and those at stake when one does refuse will be reviewed. Various alternatives for striking a balance will be presented. Additionally, the duty of beneficent refusal is being threatened by proposed “must fill” laws/regulations. It will be argued that this basic duty to protect patients from potential harms is getting lost in the whole debate around conscientious objection.

##### **“Lawyers and Conscience: A Comparative Perspective”**

John Leubsdorf, JD  
Professor of Law and  
Judge Frederick B. Lacey Distinguished Scholar  
Rutgers University.

There are differing approaches of legal ethics in England, France and the United States to when a lawyer may reject a case, and what control the lawyer has over decisions. These differences are not random but reflect differing concepts of the lawyer's role. The discussion will include comments on when it is appropriate for law and professional rules to leave a profession greater leeway to be guided by conscience rather than by clearly defined legal duties or the wishes of clients.

## “Medicine, Society, and Conscientious Practice by Physicians”

Lauris C. Kaldjian, MD, PhD  
Associate Professor of Internal Medicine and  
Director, Program in Biomedical Ethics and Medical Humanities  
University of Iowa College of Medicine

Medicine is an inherently moral enterprise, and the moral frameworks used by its practitioners are situated within a pluralistic ethical landscape that has extensive common ground as well as areas of controversy. Physicians may at times face considerable challenges as they endeavor to integrate their personal ethical beliefs and their professional commitments while responsibly fulfilling their obligations to society. The need for such personal-professional integration is premised on the prerogatives of conscience and the relationship between moral action and personal identity in the physician's practice of medicine. Conscientious practice is presented as a vital professional resource that seeks to preserve the physician's integrity and promote the patient's good while navigating competing obligations and acknowledging responsibilities to society and the unique vulnerabilities of patients within the special context of illness and healthcare."

## “Judges at the Intersection of Conscience and Professional Duty”

Hon. Charles R. Wolle  
Sr. District Judge of the United States District Court  
For the Southern District of Iowa

Judges' professional duties are governed by codes of judicial ethics but may conflict with a judge's personal conscience, the sense of right or wrong within the individual judge. Many case scenarios can spark dilemmas, including the following examples: the Establishment Clause and how it governs the singing of the Lord's prayer at school commencement ceremonies; whether a woman can recover in a tort action for wrongful life stemming from a failed tubal ligation to prevent pregnancy; in sentencing convicted defendants under mandatory minimum statutes that may "shock the conscience"; in death penalty cases; and concerning environmental cases. Different conflicts can generate different courses of action available to the judge.

**This program has been approved for 1.75 hours of Iowa CLE credit,  
including 1.0 hours of ethics credit — activity #42178.**