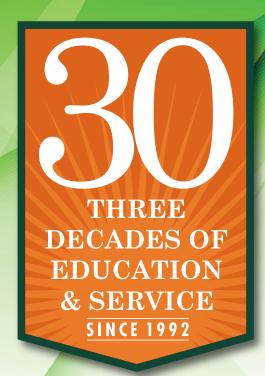




Florida Ethics: Debates, Decisions, Solutions



- The FBN at 30: Building Ethics Capacity for Florida's Hospitals, Hospices, and Nursing Homes
- The Role of Clergy on the Hospital **Ethics Service**
- Abortion Law in Florida



30TH ANNUAL CONFERENCE SPRING 2022

VIRTUAL CONFERENCE APRIL 29, 2022

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Acknowledgments

The University of Miami Institute for Bioethics and Health Policy and the Florida Bioethics Network gratefully acknowledge the following organizations for their generous support of this conference. *The conference would not be possible without this support*. Organizations and individuals interested in supporting bioethics education should contact UM Bioethics Institute at ethics@miami.edu or FBN@med.miami.edu for opportunities to support ethics education in Florida.

- Arsht Ethics Initiatives
- Health Council of South Florida, Inc.

Health Care Institutions

- UHealth-University of Miami Health System: UTower, University of Miami Hospitals and Clinics, Sylvester Comprehensive Cancer Center, and the Bascom Palmer Eye Institute/Ann Bates Leach Eye Hospital
- Jackson Memorial Health System and Jackson Children's Hospital, Miami-Dade County Public Health Trust
- Baptist Health South Florida: Baptist Hospital of Miami, South Miami
- HCA Florida JFK Medical Center
- Cleveland Clinic Florida
- Broward Health Medical Center
- Florida Hospice and Palliative Care
- Jupiter Medical Center
- Miami Jewish Health
- Miami VA
- Mount Sinai Medical Center
- Nicklaus Children's Health System
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University of Miami/Florida Bioethics Network Present

30th Annual Florida Bioethics Conference: Debates, Decisions, Solutions

Friday, April 29, 2022

Welcome and Introduction, 12:30 - 12:45 p.m.

 Kenneth W. Goodman, PhD, Director, Florida Bioethics Network;
 Professor and Director, University of Miami Miller School of Medicine Institute for Bioethics and Health Policy

<u>Session One, 12:45 – 1:30 p.m.</u>| The FBN at 30: Building Ethics Capacity for Florida's Hospitals, Hospices, and Nursing Homes

 Ray Moseley, PhD, FBN Founder; Ethics Service Director, UF Health Shands Hospital; Program in Bioethics, Law & Medical Professionalism, University of Florida College of Medicine, Gainesville

Session Two, 1:30 - 2:30 p.m.| The Role of Clergy on the Hospital Ethics

- Rev. David Anderson, DBS, Senior Pastor, Faith Baptist Church, Sarasota
- Rev. Jaqueline Kelley, DMin, Director of Pastoral Care and Clinical Pastoral Education, Jackson Health System, Miami
- Rabbi Claudio Kogan, MD, Director of Bioethics, Baptist Health System, Miami

Session Three, 2:30 - 3:45 p.m.| Abortion Law in Florida

- Tracey L. Cohen, JD, MS, Distinguished Visiting Scholar, University of Miami Miller School of Medicine Institute for Bioethics & Health Policy | Moderator
- Caroline Mala Corbin JD, Professor of Law, University of Miami School of Law, Coral Gables
- Ciara Torres-Spelliscy, JD, Professor of Law, Stetson University College of Law, Gulfport
- Danaya C. Wright, PhD, JD, Professor of Law, University of Florida Levin College of Law, Gainesville

Florida Pediatric Bioethics Consortium, 3:45 - 4:45 p.m.

 Jeffrey P. Brosco, MD, PhD, Professor of Clinical Pediatrics, UM Miller School of Medicine; Associate Director, Associate Chair, Population Health, Department of Pediatrics, Mailman Center for Child Development | Moderator





1.1 About FBN

The Florida Bioethics Network (FBN) is dedicated to the understanding and resolution of ethical and legal problems arising in health care and research in Florida's hospitals, hospices, nursing homes, managed care organizations and teaching institutions. The FBN can help with a variety of health care organization ethics education needs.

FBN Assistance

The FBN can assist you with an educational activity tailored to your institution's particular needs. These activities may include lectures for your staff or the community, workshops for your ethics committee, CME and CNE programs, and conferences.

- Some of the more popular topics include:
- Developing and Running a Hospital Ethics Committee
- Taking Patient Rights Seriously: The Value of a Comprehensive Patient's RightsProgram
- Effective Clinical Committee Consultations: Avoiding the Common Mistakes
- Reviving the Non-Functioning Ethics Committee
- Advance Directives: Avoiding the Problems
- Privacy and Confidentiality Making Practical Sense of HIPAA
- Using Social Worker Proxies for Medical Decisions
- The Recurring Ethical Problems Surrounding Withdrawal of Life-sustainingTreatment
- Effectively Addressing Gender and Ethnicity Issues in the Healthcare Setting
- Medical Futility: When Patients and Families insist on Medical Procedures that DoNot Work
- Stem Cell Research
- Lessons from the Schiavo Case

For assistance with conferences, workshops or presentations and for more information about possible topics, advice on developing an educational program, speaker availability and costs of educational activities please call or e-mail:

In South Florida, Ken Goodman at 305-243-5723 or FBN@med.miami.edu

In North Florida (Orlando and north), Ray Moseley at 352-258-6945 or rmoseley@ufl.edu

FBN Advisory Board Members

- David Anderson, DBS, Faith Baptist Church, Sarasota
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- Davis Tornabene, RN, BSN, Sarasota
- Raul E. de Velasco, MD, University of Miami Miller School of Medicine Institute for Bioethics and Health Policy



1.2 About the UM Bioethics Institute

The University of Miami Miller School of Medicine's Institute for Bioethics and Health Policy is an interdisciplinary entity dedicated to education, research and community service in bioethics and related fields. The Bioethics Institute seeks to foster links between and among university faculty members, researchers, students and community leaders in medicine, nursing, philosophy, law, health care administration, religion, international studies and other disciplines. The UM Bioethics Institute has been designated a World Health Organization Collaborating Center in Ethics and Global Health Policy.

Contributions to the Institute support its educational, research and service projects. A partial listing of these projects follows.

- □ Clinical and Research Ethics. Projects address end-of-life care; privacy and confidentiality; genetics; clinical research; evidence-based practice; health law; disability; etc.
- □ Ethics and Computing in Health Care. The increasing use of diagnostic expert systems, computerized outcome predictions, patient monitoring and other kinds of medical computing raises interesting and difficult ethical questions for clinicians and researchers.
- □ *International Initiatives.* This Program promotes educational exchanges, supports research on hemispheric and global issues, and undertakes other activities and projects.
- □ Ethics in Epidemiology and Public Health. Institute faculty and associates have developed the first courses in the nation to address ethical issues in epidemiology, epidemiological research and international health policy. This remains an area of research emphasis.
- □ Community Ethics Consulting Services. The Institute, in conjunction with the Florida Bioethics Network, has developed a program to provide training and consulting services in bioethics (including to institutional ethics committees and IRBs) and professional ethics. More information about these educational and consulting services is available on request.

http://www.ethics.miami.edu/

2. The FBN at 30: Building Ethics Capacity for Florida's Hospitals, Hospices, and Nursing Homes

Ray Moseley, PhD

FBN Founder; Director, UF Health Clinical Ethics Service Program in Bioethics, Law & Medical Professionalism, University of Florida College of Medicine, Gainesville

Dr. Moseley is a FBN Board member. He is the founder of the FBN and was the first President of the Florida Bioethics Network (FBN). He has played a key role in the development of the FBN as a significant statewide resource and as a model for other bioethics networks around the country. His research and publications focus on Advance Directives, Hospital based ethics committees and Clinical ethics consultation services, and Electronic informed consent forms and processes.

ABSTRACT

The Florida Bioethics Network is marking its 30th anniversary. It has grown into one of the largest and most active bioethics networks in the country. In this special session, FBN Director Ken Goodman will interview FBN Founder Ray Moseley on the evolution of the network, the state of bioethics in the third most populous state in the country and how best the network can continue to thrive and serve. Participants will have an opportunity to share what they have – and will – value in a statewide bioethics network.

❖ SELECTED READINGS

The Mission of the Healthcare Ethics Service

1.1 The Mission of the Healthcare Ethics Service

Ethics committees are but one component of a successful ethics service. These committees are different from most committees in health care institutions, and they have to contend with fairly distinctive issues. Ethics services in healthcare institutions are or should be designed to help, educate and advise health care professionals, patients and families and the institutions about ethical issues. Though many aspects of an ethics service are undertaken by "committees" and during committee meetings, many others are not.

The core mission of most ethics services is threefold: education about ethical issues in health care, development and review of relevant policies and procedures, and ethics consultations. Some ethics services also address issues involving organizational and business practices. Most recently, ethics services and committees contributed to public health emergency planning and response.

It is important to point out what is not among the missions of an institutional ethics service, as these missions are sometimes misunderstood by the very people they are intended to help. Part of the reason for this misunderstanding is a direct result of the term "ethics." Some services and committees that deal with ethics or have the term "ethics" in their name are generally misusing the term and are concerned, instead, with uncovering wrongdoing, enforcing professional and legal rules, dispensing judgments and penalties or providing institutional compliance. While such activities might be the role of "ethics committees" that investigate the behavior and actions of health care and other professionals, it is not what healthcare ethics committees are designed to do or should be doing.

One of the first tasks for a new ethics service and its committee is to develop a mission statement identifying which missions the unit will undertake. The actual mission statement may be a general statement of guiding principles and purposes, with a more detailed memo of understanding as to the committee's scope of work. The service's mission may expand as it matures or as institutional needs change. Initially, the service should be more involved in self-education, staff education and policy making. With greater experience, a committee may choose to perform case reviews and consultations. Specific ethics service activities include:

- 1. Education about ethical issues, ethical problem solving and institutional policies
 - Of the committee itself
 - Of the institution's staff
 - Of the institution's patients
 - Of the community served by the institution
- 2. Development and review of policies and procedures that involve ethical values and issues. These may include policies and procedures involving:
 - DNRs, pre-hospital DNRs, telephone DNRs
 - Withdrawing and withholding life-prolonging procedures
 - Allocation of scarce resources
 - Informed/valid consent and refusal
 - Pandemic and other emergency response
 - Access to care, including prioritization in public health emergencies
 - Clinical futility or nonbeneficial care
 - Determination of death by neurological criteria
 - Organ procurement and allocation
 - Privacy and confidentiality, including issues related to electronic health records and personal health records; and HIPAA

- Intercultural and diversity issues
- Conscientious refusal
- Reproductive health and medicine
- Patient safety initiatives
- 3. Clinical Ethics Consultations
 - Requested by health care professionals
 - Requested by patients
 - Requested by patient families or others
 - Requested by an institution
- 4. Grappling with issues and policies involving organizational ethics such as:
 - Conflicts of interest
 - Referral issues
 - Capitation
 - Accounting; gain sharing
 - Marketing and public relations
 - Data processing
 - Purchasing
 - Labor and employment issues

These activities will be discussed in depth in subsequent sections of the Guidelines.

3. The Role of Clergy on the Hospital Ethics Service

Rev. David Anderson, DBS Senior Pastor, Faith Baptist Church, Sarasota

A pastor for 44 years, David Anderson, DBS, has been actively involved in the field bioethics for the past 30 years serving on the Bioethics Committee of the Sarasota Memorial Hospital and the Advisory Board of the Florida Bioethics Network. His desire is to help people, both of faith or of a secular mindset, find understanding and points of acceptance when practices and procedures present an ethical conflict. Dr Anderson received his bachelor's and master's degrees from Liberty University and his doctorate from Bethany Theological Seminary, and serves as the senior pastor of the Faith Baptist Church in Sarasota, Florida.

Rev. Jaqueline Kelley, DMin Director of Pastoral Care and Clinical Pastoral Education, Jackson Health System, Miami

Rev. Jacqueline Kelley, MDiv, MS, DMin, is Director of Spiritual Care and Clinical Pastoral Education at Miami's Jackson Health System. She is an Elder in the United Methodist Church. Dr. Kelley is a Certified Educator in the Association for Clinical Pastoral Education, a Board Certified Chaplain, has served as an Adjunct Professor at Samford University/Beeson Divinity School in Birmingham, Alabama, a Grief Support Counselor at Community Grief Support in Birmingham, and was a Graduate Teaching Assistant at Virginia Commonwealth University/the Medical College of Virginia in Richmond, VA.

Rabbi Claudio Kogan, MD Director of Bioethics, Baptist Health System, Miami

Rabbi Claudio J. Kogan, MD, MBE, is Director of Bioethics for the Baptist Health South Florida system. He was the founding director of the Institute of Bioethics and Social Justice and Associate Professor of the Department of Internal Medicine at the University of Texas Rio Grande Valley School of Medicine in Edinburg, Texas. He attended the University of Buenos Aires Medical School where he received his MD. He has master's degrees from the Hebrew Union College-Jewish Institute of Religion (Hebrew Letters and rabbinical ordination); Xavier University in Cincinnati (Education); and from the University of Pennsylvania Medical School (Medical Ethics).

❖ ABSTRACT

From their inception, hospital ethics services and committees have partnered with institutional chaplains. Hospital clergy have come to assume a significant role in most such services. In this special panel, three distinguished Florida clergy reflect on the role of clergy on ethics services and committees, including the missions of education, policy creation and consultation.

❖ SELECTED READINGS

• Spiritual Care and Bioethics Services and Committees, FBN Guidelines for Ethics Services and Committees, 2022.

From the *FBN Guidelines for Ethics Services and Committees*, 2022. Please do not copy or share without permission.

Spiritual Care and Bioethics Services and Committees

Elements of effective healthcare include medical and nursing science, philosophy, administration, law and faith. All of these disciplines should be represented on bioethics committees, and so it follows that specialists in faith and spirituality should be equal participants on these committees. It is nevertheless reasonable to ask, "to what extent and within what parameters should spirituality be considered?"

Bioethics continues to evolve and expand along with health science. Both disciplines demonstrate a growing awareness of the countless mechanisms of physical health that have yet to be discovered or fully understood. Many questions cannot be answered by empirical science. For example, the essence of human life and what makes it unique remain mysteries. Many perspectives on reproduction, terminal care and states of (un)consciousness cover a wide spectrum of positions and beliefs. Spiritual advisors are best equipped to help address these issues with patients and interpret them for ethics committees.

Moreover, prayer and meditation have been shown to improve recovery outcomes and overall patient welfare. The guidance and support of priests, pastors, rabbis, imams, chaplains, religious counselors, Native American healers and/or spiritualists has become essential to modern hospital operations. Well functioning ethics committees include one or more members from the faith community. To be sure, not all faiths can be either included or represented, but competent clergy can contribute across and serve several faith traditions. Larger institutions enjoy the service of clergy from several traditions.

That said, whenever scientific protocols and analysis are combined with spiritual perspectives and practices there is an inherent potential for conflict – both procedurally and personally. With open communication and mutual respect, these conflicts can not only be minimized, they might also lead to mutual enlightenment and understanding – and so better healthcare. This is especially the case when patients consider themselves persons of faith.

Not only can prayer and meditation aid in well-being and healing, they can also be a positive influence on the interactions between patients and caregivers. In hospital settings, science and spirituality can intersect whether those involved are aware of it, deny it or try to avoid it. A majority of U.S. patients have some degree of acceptance of spiritual realities or entities, even if they do not identify those spiritualities in traditional religious terms. A secular perspective that disregards the presence of spiritual influences can still embrace the powerful effect of controlled/directed thought, if not meditation. Psychological and spiritual specialists can aid in the resolution of ethical conflicts. Indeed, for patients of faith, conflicts can be minimized and managed. Mutual

enlightenment and understanding should be seen as components of high-quality health care.

Training, education and temperament are important factors in selecting committee members, regardless of their area of expertise. Appropriately trained hospital chaplains should be well-qualified to serve on a bioethics committee; and ethics services should not overlook local clergy and spiritual counselors who, though unfamiliar with bioethics as such, may through committee service and other professional development emerge as assets to the committee.

Indeed, clergy and religious leaders usually have trusting relationship with patients from their respective ministries. Because of those relationships, patients might more comfortably receive the more complex or confusing elements and ethical components of treatment options when augmented by local ministers.

To the extent that ethics services and their committees have chosen to undertake community education, clergy can also contribute to public understanding of issues in end-of-life care, access to care and the role of families in cases with an ethical dimension.

These *Guidelines* include several important recommendations to incorporate clergy in the operations of ethics committees.

David Anderson, DBSFaith Baptist Church
Sarasota



4. Abortion Law in Florida

Tracey L. Cohen, JD, MS University of Miami Miller School of Medicine Institute for Bioethics and Health Policy

Tracey L. Cohen is a Distinguished Visiting Scholar at the University of Miami Miller School of Medicine Institute for Bioethics & Health Policy. As a healthcare attorney, Ms. Cohen has represented national and Florida healthcare systems in regulatory compliance, peer-review, transactional and litigation matters. Ms. Cohen also has practiced as an intellectual property attorney, overseeing the intellectual property portfolios of major healthcare institutions, corporations, and individuals. Ms. Cohen served as an Adjunct Professor of Law at Nova Southeastern University Broad College of Law for six years, where she created curriculum and taught courses in intellectual property law. She is also a legal writer, and has published articles for Nolo, a division of Martindale-Hubbell. Ms. Cohen received her BA in Philosophy from Brandeis University, and her JD from the University of Florida Levin College of Law, where she was the recipient of a Book Award in Legal Research and Writing and sat on the Senior Editorial Board of the University of Florida Journal of Law and Public Policy. Ms. Cohen also holds a Master of Science in Bioethics from Columbia University, where she currently assists with a course in Global Ethics. Her bioethics work has appeared in bioethics and philosophy journals.

Caroline Mala Corbin, JD University of Miami School of Law

Caroline Mala Corbin is Professor of Law and Dean's Distinguished Scholar at the University of Miami School of Law. She teaches various constitutional law classes and her scholarship focuses on the First Amendment's speech and religion clauses, particularly their intersection with equality issues. Professor Corbin's articles have been published in the New York University Law Review, UCLA Law Review, Northwestern University Law Review, Boston University Law Review, and Emory Law Journal, among others. As well as writing for Take Care Blog, ACSblog, and NBC Think, Professor Corbin is a frequent commentator for local and national media on First Amendment questions. Professor Corbin joined the Miami law faculty in 2008 after completing a postdoctoral research fellowship at Columbia Law School. Before her fellowship, she litigated civil rights cases as a pro bono fellow at Sullivan & Cromwell LLP and as an attorney at the ACLU Reproductive Freedom Project. She also clerked for the Hon. M. Blane Michael of the United States Court of Appeals for the Fourth Circuit. Professor Corbin holds a B.A. from Harvard University and a JD from Columbia Law School.

Corbin, C.M. "DeSantis Signed Florida's 15-week abortion ban bill. He may be in for a rude awakening." NBC Think. April 14, 2022. Available at:

https://www.nbcnews.com/think/politics-policy/gov-desantis-rude-awakening-15-week-abortion-law-rcna24456

Corbin, C.M. "Abortion Distortions." Washington and Lee Law Review. 71:2:1175-1210 (2014). Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2375783

Ciara Torres-Spelliscy, JD Stetson University College of Law

Ciara Torres-Spelliscy is a professor of law at Stetson University College of Law, where she teaches courses in Election Law, Corporate Governance, Business Entities, and Constitutional Law. She is also currently a visiting Professor of Law at American University Washington College of Law in the Spring of 2022. Professor Torres-Spelliscy has testified before Congress, and state and local legislative bodies, as an expert on campaign finance reform. She has also helped draft legislation and Supreme Court briefs. She researches and speaks publicly on campaign finance law as well as judicial selection. Professor Torres-Spelliscy has spoken and written extensively on these and other topics, with her work appearing in numerous law reviews including Harvard Law & Policy Review, NYU Law Review Online and the University of Pennsylvania Law Review Online, among others. She has also been published and guoted in national media outlets such as The Washington Post, New York Times, L.A. Times, Boston Globe, Politico, and The Wall Street Journal, to name just a few. She is also the author of the book Corporate Citizen? An Argument for the Separation of Corporation and State (Carolina Academic Press, 2016), and the book Political Brands (Edward Elgar Publishing, 2019). Prior to joining Stetson's faculty, Professor Torres-Spelliscy was counsel in the Democracy Program of the Brennan Center for Justice at NYU School of Law, an associate at Arnold & Porter LLP, and a staffer for Senator Richard Durbin. Professor Torres-Spelliscy holds a bachelor's degree from Harvard University and a JD from Columbia School of Law.

Torres-Spellisy, C. "Follow the Money Behind Anti-Abortion Laws." Brennan Center for Justice. May 26, 2020. Available at: https://www.brennancenter.org/our-work/analysis-opinion/follow-money-behind-anti-abortion-laws

Torres-Spelliscy, C. "The Strange Legal Marriage of the Anti-choice Movement and Campaign Finance." Guernica. July 20, 2016. Available at: https://www.guernicamag.com/ciara-torres-spelliscy-the-strange-legal-marriage-of-the-anti-choice-movement-and-campaign-finance/

Danaya C. Wright, PhD, JD University of Florida Levin College of Law

Danaya C. Wright is the T. Terrell Sessums & Gerald Sohn Professor of Constitutional Law at the University of Florida's Levin College of Law. She speaks and has written extensively on a variety of constitutional law topics, including the Equal Rights Amendment, the Takings and Due Process Clauses, and Privacy. Her work has appeared in several book chapters and a diverse array of journals, including the lowa Law Review, the William & Mary Bill of Rights Journal, the Columbia Journal of Gender and the Law, Environmental Law, the Wisconsin Law Review, the Australia Journal of Legal History, and Hawwa: Journal of Women of the Middle East and Islamic Cultures. Professor Wright also serves as Co-Director of the Center for Governmental Responsibility, where she spearheads the Equality of Rights and Social Justice Initiative, which focuses in part on issues of equality of rights based on gender, sexual orientation, and gender identity and expression. Prior to joining the faculty at UF L. Professor Wright taught at the Arizona State University Law School, Indiana University School of Law at Indianapolis, and Georgetown Law Center. She received a B.A. in English Literature from Cornell University, an MA in English Literature from the University of Arizona, an MA. in Liberal Education from St. John's College, a JD from Cornell University, and a PhD in Political Science from Johns Hopkins University.

Wright, D.C. "'Great Variety of Relevant Conditions, Political, Social and Economic': The Constitutionality of Congressional Deadlines on Amendment Proposals under Article V." William & Mary Bill of Rights Journal. 28:1-56 (2019). Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3485675

Wright, D.C. "An Atrocious Way to Run a Constitution": The Destabilizing Effects of Constitutional Amendment Recissions." Duq. L. Rev. 59:12:1-53 (2021). Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3891842

Wright, D.C. "The Equal Rights Amendment: An Unprecedented Constitutional Movement." The Gender Policy Report. July 14, 2020. Available at: https://genderpolicyreport.umn.edu/the-equal-rights-amendment-an-unprecedented-constitutional-moment/

❖ ABSTRACT

Abortion remains one of the most divisive issues in contemporary bioethics – and in American law. Without recapitulating debates about abortion itself, but mindful of the effects of abortion law on health care and of recent, major changes to that law in Florida, this panel convenes three of the state's leading law professors to give accounts of recent legislation. They will address issues raised by the Florida and U.S. Constitutions, the role of "dark money" in the legislative process, and other topics.

5. Florida Pediatric Bioethics Consortium

Jeffrey P. Brosco, MD, PhD
Professor of Clinical Pediatrics, UM Miller
School of Medicine; Associate Director, Mailman Center for Child;
Associate Chair, Population Health, Department of Pediatrics

Dr. Brosco completed an M.D. and a Ph.D. at the University of Pennsylvania. He served as chief resident after training in pediatrics at Jackson Memorial Hospital, and he is board-certified in Pediatrics and in Developmental-Behavioral Pediatrics. He continues to teach and practice medicine at the University of Miami; his research focuses on ethics and health policy. Dr. Brosco has also served in some capacity in Florida state government for the last 20 years, including as Deputy Secretary of Health, Children's Medical Services. He is currently Florida's Title V Director for Children and Youth with Special Health Care Needs. Dr. Brosco is active in state and national health policy groups, including the Advisory Committee on Heritable Disorders in Newborns and Children (Department of Health and Human Services) and the National Workgroup on Standards for Systems of Care for Children and Youth with Special Health Care Needs (Association of Maternal and Child Health Programs/National Academy for State Health Policy).

For those invited to attend the Florida Pediatric Bioethics Consortium at 3:45pm, please click here and use the following details to join.

Meeting ID: 938 8512 5771

Passcode: 258507