

MEDICAL LAW AND

Medical Ethics

A focus on the interplay between medical law and medical ethics makes this refreshing new textbook the most balanced approach available to students of law and medicine. By offering a unique chapter structure which gives equal weight to both the legal and ethical issues, it allows for an appreciation of all factors at play in the field of medical law. In addition, its student-friendly writing style combined with critical analysis gives students the tools to engage with key issues and form their own understanding. Accompanying online case studies convey the law in practice, and encourage students to consider their own views and arguments in terms of legal analysis and ethical consideration. Coverage of recent judicial cases and statutes, with a good balance of factual detail and critical analysis, allows students to engage with this evolving discipline.

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PREFACE

This book is not aimed at one group in particular. Despite the fact that it considers the law, it is not designed to cater solely for lawyers any more than the fact that it considers the ethics should limit it to philosophers. Rather, we have attempted to make both the legal and ethical discussions as accessible to all disciplines as possible. That said, the ethical discussion will relate to the legal rules, and so provide something of an ethical commentary surrounding the law. This approach results in several consequences. First, we do not claim to consider each and every issue in detail within each legal topic. Rather, we concentrate on those with an ethical component and those that we feel are the most important. Moreover, we have tried to avoid legal minutiae, which we feel would have the effect of making the book less accessible to non-lawyers in particular. We do, however, provide suggested further reading for both law and ethics at the end of each chapter to direct readers towards more detailed consideration of the topics.

We have also tried not to use more cases than we need to – we want this book to be about issues rather than cases, and there are already several other textbooks available that provide a comprehensive account of case law, and we do not wish to merely repeat what they have done, particularly since they have done it very well. Nevertheless, we do of course cover the major cases. Again, the further reading suggested at the end of each chapter will direct readers who wish to look at more case law to sources where this is provided for.

Indeed, it is crucial that students in particular realise that this book – as with *all* textbooks – is not seen as the beginning and end of what must be read. Textbooks are merely a jumping-off point, and their function is usually to give the reader a basic knowledge of the area so that when they read more specific, challenging material later they have a broad knowledge base that helps them to understand it. In other words, it is merely the base camp at the bottom of the mountain that lays the foundation that will make possible the climb to the top. That is certainly the way in which we have designed this book, and how we envision it being used. We hope that readers will leave with an appreciation of the general legal rules, and some of the legal controversies, and also with an appreciation of the ethical

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difficulties and debates that surround those rules. For those who wish to seek out more detail, the suggested further reading will cater for that. Above all, however, we hope that readers will share our fascination with medical law and ethics, and that the book helps them to appreciate the controversies and inspires them to delve deeper.

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All errors, of course, remain our own.

Hannover and Leicester

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ABBREVIATIONS

AG	Attorney General
AHA	Area Health Authority
ANH	artificial nutrition and hydration
ART	assisted reproductive technology
BMA	British Medical Association
<i>BMC Medical Ethics</i>	<i>Biomedcentral Medical Ethics</i>
<i>BMC Medicine</i>	<i>Biomedcentral Medicine</i>
<i>BMJ</i>	<i>British Medical Journal</i>
BPAS	British Pregnancy Advisory Service
CPS	Crown Prosecution Service
DCA	Department for Constitutional Affairs
DNAR	do not attempt resuscitation
DoH	Department of Health
DPP	Director of Public Prosecutions
ECHR	European Convention on Human Rights
ECT	Electro Convulsive Therapy
ECtHR	European Court of Human Rights
EMA	European Medicines Agency
EU	European Union
GCP	good clinical practice
GMC	General Medical Council
GMP	good manufacturing practice
GP	general practitioner
HA	Health Authority
hESC	human embryonic stem cell
HFEA	Human Fertilisation and Embryology Act
HSR	health service research
HTA	Human Tissue Authority
HTA 2004	Human Tissue Act 2004
ICSI	intracytoplasmic sperm injection

 xx Abbreviations

- ICU intensive care unit
- ILPA Infant Life (Preservation) Act 1929
- IMP investigational medicinal product
- IRB institutional review board
- IUI intrauterine insemination
- IVF in vitro fertilisation
- LPA lasting powers of attorney
- MCA Mental Capacity Act 2005
- MCS minimally conscious state
- Med. L. Rev.* *Medical Law Review*
- MHRA Medicines and Healthcare Products Regulatory Agency
- MLR* *Modern Law Review*
- MMR Measles, Mumps, Rubella
- NHS National Health Service
- NICE National Institute for Health and Clinical Excellence
- OAPA Offences Against the Person Act 1861
 - OJ Official Journal (of the European Union)
- PGD pre-implantation genetic diagnostics
- PVS persistent vegetative state
- QALYs Quality Adjusted Life Years
- RCN Royal College of Nursing
- RCOG Royal College of Obstetricians and Gynaecologists
- REC research ethics committee
- RHA Regional Health Authority
- RLF retrolental fibroplasia
- SOP standard operating procedure
- STD Sexually transmitted disease
- vCJD variant Creutzfeldt-Jacob disease
- WMA World Medical Association