

## BOOK REVIEW

### Medical law - text with materials

Ian Kennedy and Andrew Grubb  
London: Butterworths, 1994. Second edition. Pp. 1423. (344.20441 - 82466)

Note: This volume is available at the library of the British Council Division of the British Deputy High Commission, Bombay. Figures in brackets refer to the call number at this library for this book.

### Introduction

'Medical law is still a comparatively young subject. It has emerged in English law over the last decade or so as a distinct subject...' This volume, in its second edition, 'remains embedded in English law' and is, thus, most useful to those in Britain.

'We are acutely aware of the fact that the book is long - longer even than the previous edition.' An attempt at embodying as much as possible from a wide variety of sources upto 1 August 1993 made this necessary so that 'the reader has the opportunity to choose what to read and rely on'.

The human touch visible throughout the volume - dry-as-dust legal accounts notwithstanding - makes its appearance in the preface as well. 'Since AG moved from Cambridge to King's College, London, any sense of nostalgia on the completion of this edition is confined to memories of the Pineapple Pub and the Italian Sandwich Bar in Kentish Town. Nevertheless, the collaboration remained great fun. Once again, Josie, AG's dog, slept or chewed contentedly on discarded drafts throughout our work.'

The issues discussed include respect for autonomy, consent, truth-telling, confidentiality, respect for personhood and persons, respect for dignity and respect for justice, the unifying theme being human rights. The book also discusses the wide range of issues raised by recent developments in genetics. 'The pursuit of knowledge which goes to the very essence of being is bound both to inspire and to trouble all of us.'

The introduction foreshadows the eighteen chapters that follow in format as well. Where necessary extensive extracts from seminal works are reproduced in fine print as part of the text with a commentary by the authors at its end. Here we encounter George Annas on the human genome project, the Canadian Law Reform Commission on Human dignity and genetic heritage, the Report of the Committee on the Ethics of Gene Therapy and others.

### Plan of the book

The complex subject of medical law, with an emphasis on the relationship between morality and the law (Warnock) is dealt with under the following headings:

#### Medical law: the general part

##### Consent

Consent by others (as in the case of incompetent patients)

Medical malpractice (pages 397-507)

Reforming the law of malpractice

Complaints and discipline

Medical records (pages 610-636)

Confidentiality

#### Medical law in action

##### A. The beginning of life

Contraception

Medically assisted reproduction

Abortion

Actions by children and parents arising from occurrences before birth (prenatal injury, the disabled child, congenital disabilities, wrongful conception...)

##### B. During life

Research (pages 1009-1080)

Donation and transplant of human tissue and fluids

##### C. The end(ing) of life (pages 1179-1406)

The end(ing) of life: the incompetent patient

The end(ing) of life: the competent patient

#### Death

An index completes the book.

Let us consider two sections in some detail to get the flavour of the text.

#### The section on research

The section on research has as its sub-heads:

Introduction (including accounts on the Nuremberg trials, the Helsinki declaration, a discussion on the impact of Helsinki and a note on terminology)

The regulation of research

Therapeutic research (including a discussion on the competent patient - with details on what constitutes competence, voluntariness, information, battery, negligence - the limits of research and the incompetent patient - child and adult)

Non-therapeutic research (including notes on patients, the competent and the incompetent volunteer)

Compensation innovative therapy

This section starts with a truism: for medical practice to develop and improve, research

must be carried out and such research must include research on human beings whether they are patients or are healthy.

Research is defined by an extract from Nicholson's Medical Research With Children. The next quotation is from Carolyn Faulder's *Whose body is it?* justifying the need for medical research and acknowledging that in a sense all medical treatment is experimental. The introductory note to this section ends with Faulder's provisos for the ethical conduct of any trial:

- patients or volunteers participating in any form of experiment are fully informed and freely give their consent
- the trials are well designed and conform to the conditions in the Declaration of Helsinki
- doctors participating in the trial always place the welfare of their subjects and individual patients above the interests of science and society.

Among other subjects discussed in this section is that of Ethics Committees (1032-1042). Mary Brazier's essay on Liability of ethics committees and their members should be made required reading for all those serving on such bodies in India and, more important, for those fighting for the rights of patients.

#### The section on death

Much of this section discusses circumstances under which life-support systems may be withdrawn, who can provide consent for such an act, the patient's right to self-determination vs the interest of society, details on such as issues as what constitutes extraordinary treatment and withdrawing or withholding treatment. The sanctity of human life is also discussed, religious and philosophical arguments being placed side by side with legal pronouncements.

The consideration of various ethical dilemmas in the context of the incompetent patient includes those concerning the patient in full possession of his senses. Examples of the 'Living Will' are reproduced on pages 1365-1368.

#### Conclusion

This is a work of reference of significance well beyond the British isles. An enormous amount of labour has been combined with discerning choice in reproduction of extracts from a vast quantity of published matter.

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