

very useful as an introduction for students without any prior knowledge of this area.

*Brooke Thomas\**

## **Health Care and the Law**

**Meg Wallace**

**Third Edition, Lawbook Co, 2001, pp 714, \$64.70**

There are few areas of the law where the repercussions of the law itself are more acutely felt than in health care. Opinions regarding the appropriate relationship between health care and the law are vast and varied due to its inherent interrelationship with religious, moral, political and ethical factors. In recent years, increased patient knowledge and expectations regarding health care practice, in combination with major biotechnological advances, have meant an explosion in health care legislation.

Meg Wallace is a registered nurse and senior legal adviser for the Department of Justice and Community Safety in the Australian Capital Territory. This publication is able to mesh both the practical and legal aspects of health care practice in which the author is experienced. This work has been written to cater for all health care practitioners as an introductory guide and to prompt towards other references of interest.

There are many good features of this book. The logical progression from chapter to chapter, checklists and elements summarising relevant points, and regular illustrative case studies make for easy reading. A further reference section is available at the end of each chapter. Flow diagrams simplify many complex areas, such as steps involved in ethical decision making. The only frustrating feature about this book is the lack of a chapter outline at the commencement of each chapter. The appendices are an excellent quick reference guide, along with the 'Basic sources for research' section in assisting health care workers to find legal material.

The first three chapters provide a basic overview of the legal system. An outline of the structure, types of courts, tribunals and commissions involved, and the legal process is given. The next two chapters deal with consent and related issues. Chapter 4 deals with consent to health care by a competent adult. A short summary of the law of consent for the medical practitioner is provided. There are checklists

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for when informed consent is required and guidelines for giving information for client decision making. The latter suggests that clearer guidelines need to be available to health carers in general. Chapter 5 deals with consent for those who cannot legally do so, such as children, those with an intellectual disability or temporary decision making incapacity, consent by a spouse, guardianship and the validity of advance directives. Interestingly, blanket labelling of a person as incompetent (in this sense) is a basic denial of their legal and human rights. For advance directives there is no Australian precedent and they may not be legally binding. A section on mental illness and psychosurgery is also included.

The following chapter explores negligence. Claims involving medical negligence have increased by 50 per cent, but only a small percentage of patients who suffer adversely actually sue in negligence. The major elements of negligence are outlined, and effective communication is recommended as a means of preventing adverse incidents from occurring. A section on vicarious liability is included. When a practitioner feels incapable of providing a patient with reasonable care, if proper notice is given, the onus may be shifted to the principal.

Chapter 7 explores privacy issues regarding information gained in the process of providing health care, such as ownership of records, carer's duty of confidentiality, and defamation. The next chapter looks at drugs in health care, noting that between 10 and 15 per cent of all hospital admissions were the result of adverse reactions to prescribed drugs. Chapter 9 outlines the rights and responsibilities surrounding the patient's property in the hands of the health carer.

The following two chapters analyse contracts between the patient and the health care worker, and contracts to provide health care services. The client undertakes to pay a fee and the practitioner undertakes to provide a reasonable standard of care for the agreed treatment. Enforceability, discharge of contracts, and remedies for breach are outlined, as is the distinction between an employee and an independent contractor.

Chapters 12 and 13 describe internal matters. Actions as a result of accidents and injuries of health care workers during the course of their employment, possibly leading to workers compensation, are described. Internal regulatory bodies' registration and practice are outlined in the next chapter, with particular attention to disciplinary action in the event of unprofessional conduct.

The following two chapters cover criminal law issues. There is an overview of criminal law and defences, then a section on substantive offences particularly relevant to health care, such as abortion and

euthanasia. Issues such as ending of life, voluntary euthanasia and quality of life are analysed along with state involvement in birth and death. Next, the state's involvement in health and welfare, particularly maintenance of public health and domestic violence, are covered.

The final three chapters include a discussion of human tissue transplants and reproductive technology, human rights and 'Decision making: law and ethics'. Donation of tissue by living and dead persons and reproductive technology issues are raised. A guideline regarding how to make decisions in the event of an ethical dilemma is proposed. The concise manner in which *Health Care and the Law* is written makes it a valuable starting point for students and health care practitioners interested in medical law issues.

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### **Law on the Internet**

**Cate Banks and Heather Douglas**

**Second Edition, The Federation Press, 2002, pp 168, \$38.50**

From its outset, *Law on the Internet* makes no attempt to comprehensively cover legal resources on the Internet – such a task is obviously impossible, overly onerous and actually unhelpful. This book instead seeks to provide readers with a small list of the most pertinent sites of inquiry for particular areas of legal interest, in addition to providing assistance with initial Internet usage and terminology.

The portion of the book which actually consists of significant author input is the opening chapters on Internet usage – concise, understandable explanations of often bypassed technological jargon and facts 'taken for granted' by those with Internet familiarity. For an ostensibly legal text, the definitions and assistance provided herein serve as a strong introduction to what the Internet is, its uses, its functions and its abilities.

Advice proffered on search engine usage is especially well explained and of assistance; the differing abilities of particular services are outlined, their alternatives in approach and evaluation of results explained. Such strong examination of these tools is perhaps more effective in encouraging Internet usage and research than the remainder of the text; as Internet proliferation ensures world wide web resources are ever-expanding, the ability for a user to find what it is

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