

UNLOCKING MEDICAL LAW AND ETHICS

2nd edition

Claudia Carr



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This book is dedicated to the memory of my brother,
Lloyd Carr (Aviv Carmel) z"l.

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In the Unlocking the Law books, all the essential elements that make up the law are clearly defined to bring the law alive and make it memorable. In addition, the books are enhanced with learning features to reinforce learning and test your knowledge as you study. Follow this guide to make sure you get the most from reading this book.

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Preface

The 'Unlocking' series is designed to make learning each subject area more accessible by focusing on learning needs, and by providing a range of different supporting materials and features.

All topic areas are broken up into 'bite-size' sections with a logical progression and extensive use of headings and numerous sub-headings. Each book in the series also contains a variety of charts, diagrams and key fact summaries to reinforce the information in the body of the text. Diagrams and flow charts are particularly useful because they can provide a quick and easy understanding of the key points, especially when revising for examinations. Key facts charts not only provide a quick visual guide through the subject but are useful for revision purposes also.

The books have a number of common features in their layout. Important cases are separated out for easy access and have full citation in the text as well as in the table of cases for ease of reference. The emphasis of the series is on depth of understanding, much more than breadth. For this reason each text also includes key extracts from judgments where appropriate. Extracts from academic comment from journal articles and leading texts are also included to give some insight into the debates on complex or controversial areas. In both cases these are indented to make them clear from the body of the text.

Finally, the books also include much formative 'self-testing', with a variety of activities including subject-specific comprehension and application of the law amongst others to help the student gain a good idea of his or her progress in the course.

Medical law and ethics is a relatively new area of law that is growing in complexity by the day. Controversial and contemporary, medical law and ethics often acts as a reflection of our own society, as it is hoped does the material in the book. Throughout the book, the medical professional is referred to as 'he' and the patient as 'she'. Whilst the stereotypical nature of the analogy is regretted, the descriptions are accepted and commonplace.

The book begins with an introduction to ethical theories in order that the reader gains an understanding of the issues which arise in most chapters. Thereafter the area of confidentiality is considered, a fundamental principle in the doctor-patient relationship. From there we move on to resource allocation and consider the Health and Social Care Act 2012 before moving on to a more detailed consideration of medical negligence. Thereafter consent is explored, before devoting a chapter to children and the law from a number of different perspectives. Mental health is a large and complex area in itself and it is hoped that the chapter will encourage the enquiring mind to read further. The book then moves on to bioethical issues from birth to death throughout this part of the book, and in assisted conception discusses cloning, pre-implantation genetic diagnosis (PGD), sex selection, 'saviour siblings' and surrogacy. These issues are contemporary, ongoing and steeped in ethical argument. After abortion we explore organ transplantation, an area brought to life by the question of whether it is ethically acceptable to sell a kidney. The Human Transplantation (Wales) Act 2013 is considered, as is the issue of presumed consent, as these are topical issues for the foreseeable future that are likely to directly concern many of us. End-of-life decisions and assisted suicide are never far from the gaze of the press, and the chapter on assisted suicide discusses the current law and ethics in as much depth as the book allows. The recent Supreme Court judgement of

Nicklinson and others 2014 UKSC 38 together with the Assisted Dying Bill is included in order to chart the development of the law in relation to assisted dying. It is hoped that the reader will find this area of the law fascinating and the book truly engaging.

The law is stated as we believe it to be on 1 June 2014.

Claudia R Carr

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Derbyshire HA <i>ex p</i> Fisher [1997] 8 Med LR 327	85–6, 88
Devi v West Midlands Health Authority (1981) CA Transcript 491 Unreported	153, 162
Donoghue v Stevenson [1932] AC 652	100, 104
Doogan v Greter Glasgow and Clyde Health Board and others [2013] CSIH 36	290
Dudley and Stephens (1884) 14 QBD 273 DC	198
E (A Minor) (Wardship: Medical Treatment), <i>Re</i> [1993] FLR 386	11, 18, 181–2, 188
E (Medical Treatment Anorexia) <i>Re</i> [2012] EWHC 1639 (COP)	172–3