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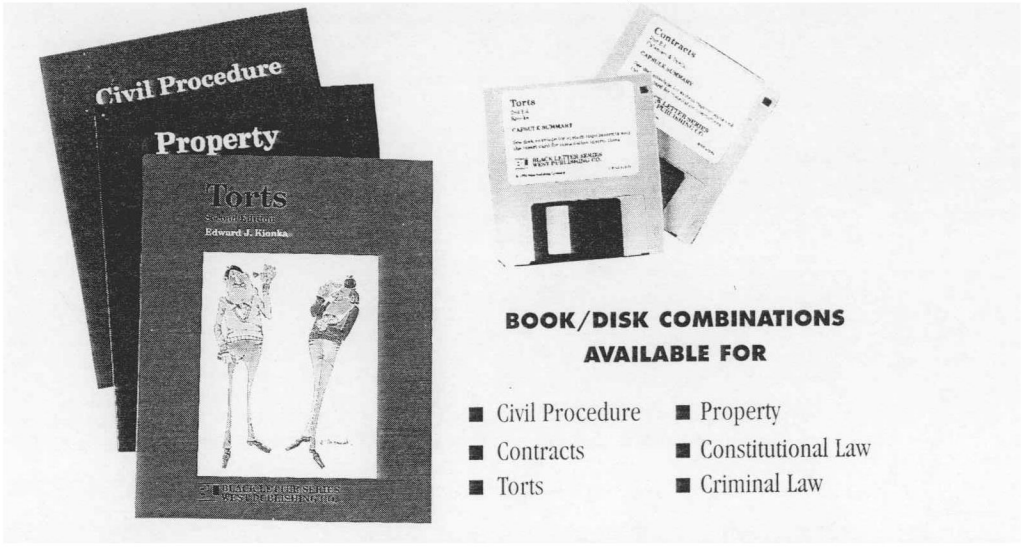

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THE LAW OF MEDICAL LIABILITY

IN A NUTSHELL

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To Syl and Janet

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PREFACE

The need for a Nutshell book on medical liability appears to arise approximately every ten years. The first Nutshell book on medical malpractice was written in 1977 by Professor Joseph H. King, Jr. He expressed the view that the law of medical malpractice was, for many years, an esoteric field into which few ventured with confidence. He also expressed the hope that his book would remove some of the mystery. That first edition fulfilled his wish and presented a sense of order to a then complex field.

The second edition to that Nutshell book was published in 1986. It continued the effort to bring understanding and symmetry to the trends which developed since the date of the first edition. New areas had arisen, such as the broadened theory of informed consent. Some legislative reforms had been inaugurated, but it did not appear to stem the proliferation of malpractice actions.

Now, some ten years later, it has become apparent that another edition will not suffice. It has become necessary to write a new text in a field which has attracted enormous attention from the Congress, state legislatures, physicians and trial lawyers. The field has become identified clearly enough to warrant the inclusion of a variety of medical liability courses in the curricula of many law schools.

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PREFACE

This Nutshell is not intended to cover every aspect of the field of medical liability. While its scope is narrower, the authors express the hope that law students and members of the legal profession will benefit from it. It has been written, as well, for health care professionals, such as physicians, legislators and administrators of hospitals and other health care organizations.

We are indebted to a number of individuals for their involvement in our endeavor. Suffolk University law students, in particular, provided us with research and writing assistance. Our deepest appreciation is extended to Kristin Bullwinkel, Mary Balsamo, Karen Fabiszewski, Amy Farrell and Matthew Kraunelis, law students who worked diligently for a period of two years, providing us not only with assistance, but also with guidance. Professor Elias's secretary at Suffolk, Melba Leyva-Hernandez, provided her usual high-quality skills, willingly and cheerfully.

While this is a new text, we wish to express our debt to Professor King for leading and illuminating the way.

MARCIA MOBILIA BOUMIL
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Boston, Massachusetts

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