



# THE LEGAL LIABILITY OF HOSPITALS

*by*

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*Every man has an absolute right  
to the absolute security of his own person  
by the hand of every other man  
except the Higher Hand*

‘... the right of absolute security of the person.’  
*Stoffberg v. Elliott* 1923 CPD 148, Watermeyer J.

*This book is based on an unpublished  
thesis approved for the LL.D. degree  
in the Faculty of Law, Criminal Law  
and Medical Law Department at the  
University of the Orange Free State.  
Promotor: Prof. Dr. T. Verschoor*

Maresa Cronjé-Retief  
2000

## Preface

This book was compiled in order to enable professionals to establish an international perspective on the **legal liability of hospitals**. It is a comprehensive international work of reference on the topic and is aimed at the market of medico-legal practitioners, healthcare management officials and academic lawyers.

The book presents, from an international legal perspective, research on the legal liability of hospitals in the USA, CANADA, the UNITED KINGDOM, AUSTRALIA, and SOUTH AFRICA.

Chapter 1 presents a general introduction. In Chapter 2, the health care systems of various countries are discussed. In Chapter 3 the *hospital* is then researched in various contexts. The origin and history of medicine and hospitals and the history of the law pertaining to the malpractice liability are also discussed in this chapter. Chapter 4 deals with a general discussion of the legal grounds of hospital liability, and presents an invaluable *Comparative Diagram*. In Chapters 5–9, every individual consecutive chapter on hospital liability of the above-mentioned countries is introduced by a short discussion of their unique health care systems and hospitals. Thereafter, from every legal system's unique perspective, legal principles, doctrines and legal grounds for the liability of hospitals are identified with full reference to their case law. Chapter 10 and the *Summary* conclude the book.

The book covers a wide range of topics: health care; health care systems; hospitals (state and private); hospital companies; the hospital industry; the history of hospitals; medicine and medical law. This wide range of subjects will be of benefit to a large range of legal and medical professionals.

*In toto*, it will be useful to all lawyers and all those involved in the medico-legal profession to be able to consult an international reference on the legal liability of hospitals. It could facilitate court proceedings and proposed legislative interventions and could also assist the establishment of a concise hospital liability law worldwide.

It should be noted that the legal principles set out in this book, were also successfully applied to the liability of AIRLINES and SHIPPING COMPANIES and other groups. The exposition of and the clear distinction between legal grounds which can establish GROUP LIABILITY were also expounded.

Whilst perfection is not readily achieved in human matters such as the writing of a book, I sincerely believe that this book will facilitate the professional's search for clarity on this vast subject.

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