

Parental Responsibility, Young Children and Healthcare Law

JO BRIDGEMAN

CAMBRIDGE

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YOUNG CHILDREN AND
HEALTHCARE LAW

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PARENTAL RESPONSIBILITY, YOUNG CHILDREN AND HEALTHCARE LAW

This book provides a critical analysis of the law governing the provision of healthcare to young and dependent children, identifying an understanding of the child as vulnerable and in need of protection, including from his or her own parents. The argument is made for a conceptual framework of relational responsibilities which would ensure that consideration is given to the needs of the child as an individual and to the experiences of parents gained as they care for their child, and the wider context, such as attitudes towards disability, public health issues or the support and resources available, is examined. This book will make an important contribution to understanding the law regulating the provision of healthcare to young and dependent children and to the development of a discourse on responsibility.

JO BRIDGEMAN is a Senior Lecturer at the Sussex Law School, University of Sussex. She has published widely in the fields of healthcare law and children.

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This book is the result of the natural development of my research from the law regulating the healthcare of adolescents and women to that governing the health of children which occurred, in part, due to the arrival of George and, a few years later, Arthur. It is also an attempt to develop a sustained analysis of the law from the perspective of the feminist ethic of care which for me continues to provide, intellectually and instinctively, a compelling critique of two central issues of law – the nature of the self and the resolution of dilemmas. It was important to me that I provide an academic argument for recognition of the care taken by the vast majority of parents for their children. It was my own mother, in a conversation about the concepts which defined parenthood, who identified responsibility as the central way of thinking about and experience of parenthood. That the law has defined the relationship of parent to child in terms of responsibility without giving it proper definition left the way open for an examination of the concept of parental responsibility through consideration of parents who take responsibility for meeting the healthcare needs of their child.

There are many people to thank for giving me support in the process of writing this book. Malcolm Ross, as Head of Department at the Sussex Law School, has been an enormous source of support and encouragement throughout as well as providing insightful and extremely useful comments upon an earlier draft of a substantial part of the book. The Child and Family Law Research Group in the department has provided an excellent forum for discussion of the concept of relational responsibility through comparison with other concepts of responsibility in the family. Colleagues have also read drafts of this work at various stages and by their contributions helped me to clarify my argument, for which I thank Craig Barker and Heather Keating.

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Parents, young children and healthcare law

Introduction

Being a parent brings with it manifold social, moral and legal responsibilities in relation to the physical, emotional and intellectual growth and development of the child as well as his or her safety, security, happiness and well-being. The purpose of this book is to examine the role of parents in caring for the health and well-being of young and dependent children. In the chapters which follow there is an examination of the range of care undertaken by parents from the everyday management of the health of children, to the demands placed upon parents whose child has a life-threatening illness or long-term disabilities, or whose future survival is uncertain due to disabilities arising from prematurity, complications during birth or accidental injury. In addition to undertaking an examination of the existing legal obligations imposed upon parents, this book makes the argument for a new conceptual framework to govern the role of parents in relation to the health of their children. Rather than argue for a legal framework firmly grounded in the rights of young and dependent children, as many commentators do, this book makes the argument for a legal framework situated within the responsibilities of parents and healthcare professionals for the management of children's health.

This book considers the responsibilities of parents and professionals in relation to the health of children who, by virtue of their age, or mental and physical impairments, are dependent upon others to ensure their health and well-being. Whilst newborn (up to twenty-eight days old) and infant (under the age of one) children are totally dependent upon others to interpret and meet their needs, at a young age – four or five, perhaps younger – children will, to varying extents, contribute to maintenance of their health and well-being. They will be able to take some responsibility for their daily care: for example, washing their hands and cleaning their teeth.