# **Outline Contents**

Table	e of Cases	xxi
Table	e of Statutes	xxxvii
Table	e of Statutory Instruments	xli
Table	e of European and International Legislation	xlii
1	Ethics and Medical Law	1
2	The Structure of the National Health Service	
	and the Rationing of Healthcare Resources	55
3	Medical Negligence	109
4	Consent to Treatment	154
5	Children and Medicine	233
6	Mental Health Law	262
7	Confidentiality	304
8	Contraception, Abortion, and Pregnancy	. 351
9	Reproduction	451
10	Organ Donation and the Ownership of Body Parts	514
11	Dying and Death	576
Inde	ex	661

# **Detailed Contents**

Table of	f Cases	xxi
	f Statutes	xxxvii
	f Statutory Instruments	xli 
Table o	f European and International Legislation	xlii
1	Ethics and Medical Law	1
1	What is medical law?	2
2	The link between law and ethics	3
3	The nature of illness	5
4	The scope of medicine	8
5	Health statistics	12
6	General ethical principles	13
7	Principlism	20
8	Casuistry	26
9	Feminist medical ethics	27
10	Care ethics	28
11	Vulnerability	30
12	Virtue ethics	31
13	Communitarian ethics	32
14	Theology	33
15	Relativism	35
16	Personhood	36
17	Race and medicine	39
18	The notion of rights	41
19	Patients' obligations	44
20	COVID and medical law and ethics	46
21	Conclusion	50
QUE	STIONS	50
FUR	THER READING	51
2	The Structure of the National Health Service and the Rationing	
	of Healthcare Resources	55
1	What are the principles underpinning the NHS?	55
2	The structure of the NHS	61
3	Policymaking and central planning in the NHS	62
4	Quality control: regulation and inspection	64
5	Commissioning and planning services	65

6	Charging: community versus health care	65
7	The provision of services	67
8	Structural issues	68
9	Rationing	71
10	Health inequalities	102
11	Public health: prevention	103
12	Conclusion	104
QUE	STIONS	104
FURT	THER READING	106
3	Medical Negligence	109
1	The law and medical malpractice: an overview	110
2	Criminal law	111
3	The law of negligence	113
4	The law of contract	139
5	Why do people sue?	139
6	Medical malpractice litigation in practice	140
7	Costs	140
8	Criticisms of the current legal position	141
9	Learning lessons	145
10	The NHS Redress Act 2006	146
11	No fault	147
12	Matters other than compensation	150
13	Professional regulation	151
14	Conclusion	151
	ESTIONS	152
FUI	RTHER READING	152
4	Consent to Treatment	154
1	The consequences of treatment without consent	155
2	Criminal law and the non-consenting patient	155
3	The law of tort and the non-consenting patient	157
4	Who must provide the consent?	158
5	What is consent?	160
6	The capacity test	160
7	The form of the consent	174
8	1 Financial Computatory	
^	who does not consent	175
9	the state of particular and the state of the	180
10 11	F	180
12		197
LZ	Actions in negligence based on a failure to provide sufficient information	199

13	Ethics and autonomy	207
14	The United Nations Convention on the Rights of Persons	
	with Disabilities	213
15	Balancing protection and autonomy	215
16	Relational autonomy	216
17	Autonomy in practice	217
18	Nudging	218
19	Ethics and best interests	220
20	Ethical issues surrounding advance directives	222
21	Autonomy and the medical professional-patient relationship	225
22	Conclusion	226
QUE	ESTIONS	227
FUR'	THER READING	229
5	Children and Medicine	233
1	The medical treatment of children: basic principles	233
2	Parental responsibility and consent	234
3	Children with capacity	234
4	Orders of the court	239
5	The defence of necessity	239
6	Cases where children and parents disagree	239
7	Cases where the parents disagree	243
8	Cases where parents and doctors disagree	243
9	Limits on parental consent	255
10	Children and COVID vaccination	256
11	The ethics of child treatment	256
12	Conclusion	260
QUE	estions	260
FUR	THER READING	260
6	Mental Health Law	262
l	Statistics on mental health	263
2	The Mental Health Act 1983	264
3	Informal treatment	278
4	Codes of practice	279
5	The reforms to the law under the 2007 Act	280
6	Human rights	283
7	Liberty protection safeguards	285
8	Problems in mental health practice	287
9	Critics of mental health	292
10	Dangerousness	295
11	Paternalism as the ground for detention?	297

12	The United Nations Convention on the Rights of Persons	
	with Disabilities	299
13	The Independent Review of the Mental Health Act	300
14	Conclusion	301
QUE	ESTIONS	301
FUR	THER READING	302
7	Confidentiality	304
1	The legal basis of confidentiality	306
2	Breach of confidentiality	317
3	Justifying breach of confidence	320
4	The Data Protection Act 2018	331
5	Problem issues	332
6	Legal remedies in confidentiality cases	338
7	Access to information	339
8	The ethical issues	343
9	Informational privacy	346
10	Conclusion	347
QU	JESTIONS	348
FUI	RTHER READING	349
8	Contraception, Abortion, and Pregnancy	351
1	Contraception: its use and function	351
2	The availability of contraception	353
3	Teenage pregnancy rates	355
4	Abortion and contraception	355
5	Contraception and children	357
6	Contraception, sterilization, and those lacking capacity	358
7	Tort liability and contraception	366
8	Ethical issues concerning contraception	373
9	An introduction to abortion	375
10	Abortion: the law	377
11	Conscientious objection	388
12	Actions to prevent abortion	392
13	Abortion and adults lacking capacity	393
14	Abortion and minors	395
15	A right to abortion	396
16	Discussion of abortion law in the UK	398
17	Abortion: the reality	401
18	The legal status of the fetus	402
19	Abortion ethics	406
20	Particularly controversial abortions	431

21	Ectogenesis	435
22	Regulating pregnant women	436
23	Pregnancy and childbirth	438
24	Obstetric violence	440
25	Conclusions	445
QUE	STIONS	446
FUR1	THER READING	447
9	Reproduction	451
1	Infertility	452
2	The concept of reproductive autonomy	454
3	Criticisms of assisted reproduction	459
4	The different techniques	462
5	Regulation	464
6	Access to treatment	470
7	Parentage	476
8	Gamete donation: anonymity	481
9	Payment for gamete donation	484
10	Surrogacy	484
11	Preimplantation genetic screening	492
12	Cloning	499
13	Embryo research	500
14	Genetic enhancement and eugenics	504
15	Conclusion	508
QUE	STIONS	509
FURT	THER READING	511
10	Organ Donation and the Ownership of Body Parts	514
1	The Human Tissue Act 2004	514
2	Comments on the Human Tissue Act 2004	527
3	Transplanting of organs	534
4	Liability for mishaps from organ transplant	547
5	The lack of organs	547
6	Xenotransplantation	553
7	Selling organs	554
8	Novel transplants	560
9	The living body as property	561
10	Intellectual property	571
11	Conclusion	571
QUE	STIONS	571
FURT	THER READING	573

11	Dying and Death	576
1	What is death?	578
2	The law and the end of life	583
3	Applying the law in difficult cases	605
4	Alleged inconsistency in the present law	613
5	Ethical issues: euthanasia	619
6	Patients lacking capacity: ethical issues	646
7	Refusal of treatment: ethical issues	648
8	Palliative care and hospices	649
9	Reform of the law	652
10	Conclusion	654
QUE	STIONS	655
FURT	THER READING	657
Index		661