

Contents

<i>Preface</i>		x
<i>Table of cases</i>		xiii
<i>Table of legislation</i>		xix
1 The scope and nature of medical law and ethics		3
1.1 Introduction		4
1.2 What is medical law?		4
1.3 Bioethics		13
1.4 Deontology		14
1.5 Consequentialism		15
1.6 Utilitarianism		17
1.7 Rights-based discourse		20
1.8 Principlism		23
1.9 Feminist ethics		31
1.10 Other ethical theories		32
1.11 The professional relationship		34
Summary		36
Exercises		37
Further reading		38
2 The contemporary health-care environment		41
2.1 Introduction		42
A The structure of the NHS		43
2.2 The modern NHS		43
2.3 Central control		44
2.4 Commissioning		45
2.5 Provision of services		46
2.6 Access to services		49
B Quality management in the NHS		51
2.7 Quality in the NHS		51
2.8 The NHS Constitution		51
2.9 National Service Frameworks		52
2.10 Risk management		52
2.11 Clinical governance		53
2.12 Clinical guidelines		54
C Patient safety		55
2.13 Safety culture		55
2.14 Reporting and learning from errors		57
2.15 Health-care-associated infections		58
2.16 Contemporary challenges		58
D Allocation of resources		60
2.17 Scarcity of resources		60
2.18 Statutory provisions		60

2.19	Judicial review	61
2.20	The Equality Act 2010	65
2.21	Effect of EU law	65
2.22	Resource allocation in practice	67
E	Confidentiality	69
2.23	The basis of confidentiality	69
2.24	Case law	69
2.25	The Data Protection Act 1998	71
2.26	Exceptions to confidentiality	72
2.27	The deceased patient	77
2.28	The patient who lacks capacity	78
2.29	Professional guidance	78
F	Managing doctors' performance	79
2.30	Understanding professional performance	79
2.31	Early recognition and local resolution	80
2.32	The role of NCAS	81
2.33	The role of the GMC	82
	Summary	83
	Exercises	86
	Further reading	86
3	Clinical negligence	89
3.1	Introduction	90
3.2	Duty of care	91
3.3	Breach of the duty of care	96
3.4	Causation	106
3.5	Damages	114
3.6	Institutional liability	116
3.7	Actions in contract	118
3.8	Reform of clinical negligence	118
3.9	Liability for medicines	122
3.10	Criminal negligence	123
	Summary	124
	Exercises	126
	Further reading	126
4	Capacity and consent to medical treatment	129
4.1	Introduction	130
A	Pervasive issues	130
4.2	General considerations of consent and medical law	130
4.3	Treatment without consent	131
4.4	What is consent?	133
B	The competent adult	139
4.5	Lack of consent and battery	139
4.6	Negligent consent	140
4.7	Insufficient warning and causation	148
4.8	Questions posed by patients	150
4.9	Withdrawal and refusal of consent	150
4.10	Consent: medical professionalism and public policy	153
C	The adult who lacks capacity	155
4.11	Capacity	156

4.12	Decisions made on best interests	164
4.13	Advance decisions	170
4.14	Decisions made by appointed proxies	176
	Summary	178
	Exercises	179
	Further reading	180
5	The beginning of life	183
5.1	Overview	184
A	Abortion	184
5.2	Introduction	184
5.3	Statistics	185
5.4	The ethics of abortion	185
5.5	The law	189
5.6	Grounds for legal abortion	193
5.7	Selective reduction	197
5.8	The living abortus	198
5.9	Contraception	198
B	Liability for negligent prenatal occurrences	199
5.10	Introduction	199
5.11	Terminology	200
5.12	Prenatal negligence leading to unwanted conception (wrongful conception actions)	201
5.13	Prenatal negligence leading to unwanted birth (wrongful birth actions)	202
5.14	Prenatal negligence resulting in injuries sustained before birth	208
5.15	Prenatal negligence resulting in the birth of a (less than able) child	210
C	Assisted reproduction	211
5.16	Ethics	211
5.17	Assisted reproductive procedures and technology	212
5.18	The overarching regulatory framework	214
5.19	Access to treatment	219
5.20	Use of gametes and embryos	222
5.21	Gametes	223
5.22	Embryos	225
5.23	Cloning	229
5.24	Pre-implantation genetic diagnosis	230
	Summary	233
	Exercises	236
	Further reading	236
6	Children	239
6.1	Introduction	240
6.2	The Children Act 1989	240
6.3	Children and rights	242
6.4	Consent	245
6.5	Refusal of treatment	253
6.6	Withholding and withdrawal of treatment	258
6.7	Conjoined twins	264
6.8	Research in children	265
6.9	Organs and tissue for transplantation	268

10.5	The debate around euthanasia and assisted suicide	403
10.6	Withdrawal of treatment	413
10.7	Discontinuation of treatment	419
10.8	Do not attempt resuscitation	422
10.9	Requests for treatment at the end-of-life	423
10.10	Futility	424
	Summary	426
	Exercises	428
	Further reading	428
11	Future challenges	431
11.1	Introduction	431
11.2	Embryonic stem cell debate	433
11.3	Human enhancement	437
11.4	Biomedical innovation	441
11.5	Neurosciences	444
11.6	Clinical genetics	446
	Summary	452
	Exercises	452
	Further reading	453
	<i>Bibliography and further reading</i>	454
	<i>Index</i>	469