

Medical Law
A Very Short Introduction

By Charles Foster

Questions for thought and discussion

- Who should set the standards by which doctors should be judged? The law, or the doctors themselves?
- Which is the senior partner: medical law or medical ethics?
- Should doctors face criminal prosecution for negligent mistakes?
- Should parents have the final word over what's done or not done to their children?
- Should the embryo/fetus ever have any rights? If so, should they ever trump the mother's rights?
- Is it ever justifiable to kill X to save Y? And is it different if X is an embryo?
- When should doctors breach patient confidentiality?
- An entirely capacitous man comes to see a surgeon. 'Please cut off my arms and legs', he says. 'Limbs are so last century.' Should the surgeon do the operation?
- A doctor knows that a Jehovah's Witness would not want to have a blood transfusion. Nonetheless she gives the transfusion, so saving the patient's life. Should she be sued or prosecuted?
- In deciding for patients who can't decide for themselves, which test is preferable: best interests or substituted judgement?
- How might one justify keeping alive a patient in Permanent Vegetative State?
- *"...the court's high respect for the sanctity of human life imposes a strong presumption in favour of taking all steps capable of preserving it, save in exceptional circumstances..."* Taylor LJ in *Re J (a minor) (wardship: medical treatment)* [1991] Fam 33 at 52. Is it unacceptably theological for a judge to rely on the notion of the sanctity of life?
- Is there any real difference between bringing about someone's death by withdrawing or withholding life sustaining treatment, and killing them by giving them a lethal injection?
- What do you want to know about the medical treatment you are given?
- 'Just do what you think is right, doctor', says a patient. How should the doctor respond?
- Young children can't consent to medical research. Yet if research isn't done on them, future generations of children may be denied life-saving treatment. Does this justify painful, disabling or potentially lethal research on children?
- In a state-funded healthcare system, should smokers be given free treatment for smoking-related diseases?
- Is sedation to the point of unconsciousness an acceptable alternative to euthanasia in cases of otherwise uncontrollable pain?
- My only remaining asset is my body. If I don't sell a kidney and both my corneas, my house will be repossessed and my wife and daughters will be forced into prostitution. Should the law stop me? Would it make any difference if I were expected to die in days, and made arrangements for my organs to be harvested and sold immediately after my death?
- Does anyone own the semen in a used condom?

Other books by Charles Foster

Human Dignity in Bioethics and Law (Hart, 2011)

Choosing Life, Choosing Death: The Tyranny of Autonomy in Medical Law and Ethics (Hart, 2009)

For a complete list, see www.charlesfoster.co.uk

Further reading

M. Brazier and E. Cave *Medicine, Patients and the Law* (Penguin, 2011)

Peter de Cruz *Comparative Healthcare Law* (Cavendish, 2001)

Jonathan Glover *Causing Death and Saving Lives* (Penguin, 1990)

Andrew Grubb, Judith Laing and Jean McHale (Eds.) *Principles of Medical Law*, 3rd Ed. (Oxford University Press, 2010)

Jonathan Herring, *Medical Law and Ethics* 3rd Ed. (Oxford University Press, 2010)

Richard Huxtable, *Law, Ethics and Compromise at the Limits of Life: To Treat or Not to Treat?* (Routledge Cavendish, 2012)