

Book review

HEALTH CARE AND THE LAW, FIFTH EDITION

By Janine McIlwraith and Bill Madden

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Health Care and the Law has been written in the tradition and style of law texts. As such, many healthcare workers will find it a tough read, both because of its technical nature and their lack of familiarity with the subject. Notwithstanding this, it is clearly intended for healthcare workers seeking to understand the law, rather than the converse. It makes concessions to this group by providing clear but thorough and non-technical explanations of legal concepts, and thumbnail introductions into each area of law considered. So, for example, it provides synopses of tort and property law at relevant points. Where possible, these are illustrated with healthcare examples. As a doctor who has studied general law, I found these synopses useful. It may be, however, that they are of less interest and application to healthcare workers who have not studied law, and they may prefer to skim over these introductions to the bulk of the book, which considers the specific application of law to aspects of healthcare.

The text is well structured and covers all the areas of law that I have found relevant in healthcare administration: torts, privacy, employment, regulation, public health and transplant law. The depth of consideration of these areas varies; it is provided in-depth in those areas such as torts where the structure of Australian law allows this, but is necessarily more cursory and episodic where the law varies across jurisdictions, as in public health. There is good coverage of areas of particular importance in health-law, such as abortion, end-of-life care and advance-care directives, although I would also like more detailed coverage of the application of apprehended violence orders to protect the workplace. It is scrupulous in its consideration of jurisdictional differences and is thereby relevant across Australia. Different sections focus on the interests of administrators, employees, doctors and nurses, so that the needs of each of these significant perspectives are addressed. The last chapter considers ethical issues. This necessarily does not consider these issues in depth, and I felt it did not fit well with the overall book.

The authors balance the application of law to healthcare with practical advice intended to assist healthcare workers in real

situations. For example, the section on chemical restraints recognises the difficulty that healthcare workers face managing disturbed and sometimes violent patients, and the problems that this engenders in balancing patient and staff needs and safety with the requirements of the law. This demonstrates a level of understanding of the effect of legal issues on health service delivery on the ground. Check lists are provided, for example to assess the standard of care or to deal with a patient's property on admission. I expect that these duplicate policies in most institutional healthcare settings. A useful flowchart on consent in the impaired adult is provided.

Health Care and the Law is certainly up to date, but the evolving nature of both common law and statute, mean that there are areas where the law has developed even since publication. The most important of these is probably the emergence of AHPRA, the Australian Health Practitioners' Registration Authority, the associated *Good Medical Practice: A Code for Conduct for Doctors in Australia*, and legislation, which is foreshadowed appropriately. It notes the evolution of the common law loss doctrine of loss of chance in *Gett v. Tabet*, without being able to provide the outcome of the appeal to the High Court in that case. *Hunter New England Area Health Service v. A* is discussed, but, necessarily, the more recent South Australian case of *H Limited v. J* is not included. Material then for the sixth edition is already accruing!

I am not someone given greatly to detail, but found myself annoyed by a number of typos, for example: 'practise' rather than 'practice'; 'is' instead of 'this'; 'patient' is used when referring to legal clients; and confusion in the identity of protagonists in a case. Cases are highlighted, but the highlighting seems to be used inconsistently in respect of the subsequent commentary on these cases.

This is a generally well-written, comprehensive and up-to-date text. I imagine that it has been written with the intention of being the substantive text for a university course in health law, and it will serve this purpose well. It would serve equally as a reference for health workers who require specialist guidance about specific situations or reminding about finer aspects of the law.

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