

Clinical Negligence

This book is intended equally for students, lawyers, doctors and other members of the health care professions. It sets out in full, the legal arguments advanced through the various stages of *Montgomery v Lanarkshire Health Board* to its final conclusion in the Supreme Court.

Written by a team of 70 legal and medical practitioners, the fourth edition of *Clinical Negligence* provides exhaustive coverage of all aspects of UK clinical negligence claims. It identifies the practical difficulties in bringing an action for damages, shows how to prepare the medical evidence on liability, completes the medical reports on quantum, and provides guidance on the best way of presenting expert evidence in court. The book examines UK legal aspects of medical malpractice including complaints procedures, the powers of the General Medical Council, preparation of medical evidence, group actions, settlements, and trial. It also addresses the medical issues, covering the risks associated with particular areas of specialist medical practice.

Clinical Negligence, Fifth Edition remains the only text of its kind to cover both medical and legal aspects of medical negligence. Written by a team of 54 experts, it continues to provide the most comprehensive and authoritative guidance on all aspects of clinical negligence claims from bringing an action for damages to presenting expert evidence in court. It also includes detailed consideration of funding and cost implications. Those needing clear updated guidance to make the best possible preparations for an action will find all they need here. Updates in the fifth edition Some of the key developments covered in the new edition are: New funding regime under Legal Aid, Punishment and Sentencing of Offenders Act 2012 *Montgomery v Lanarkshire* The Mid Staffordshire NHS Foundation Trust Public Inquiry ("Francis Report") *Sienkiewicz v Greif Bailey v Ministry of Defence* on causation *Whetstone v MPS* and *Woodland v Essex County Council* on liability of practices Privatisation of funding access to justice in clinical negligence New costs regime (QOWCS) under Civil Procedure Rules Coroners and Justice Act 2009 and secondary legislation Easy-to-access structure The new edition maintains its easy-to-access, two-part structure. The first part, set out in 17 chapters, deals with legal aspects of medical malpractice, including complaints procedures, poor performance and medical professional governance, preparation of medical evidence, settlements and trial. The final 25 chapters in the second part cover the risks associated with particular areas of specialist medical practice. Previous print edition ISBN: 9781847660756

This textbook is about the law of medical malpractice and how to prevent a malpractice lawsuit. It grew out of an earlier book covering medical negligence in Singapore. The book's primary goal is to provide a clear and simple explanation of the American law of medical malpractice, informed consent and risk management. Written with the clinician in mind, it is legally uncomplicated without being overly simplistic. The book is as much about medicine as it is about law; above all, it is about patients. It is written with the fervent belief that with better education, there will emerge a better appreciation of the expectations of the patient — often unmet — and the standards of the legal system — often misunderstood. Fewer lawsuits and improved patient care will hopefully follow. The book is in five sections. The first covers the law of malpractice and informed consent while the second covers risk management with chapters on confidentiality, communication and risk management tips. Section III is a single chapter on reforming the system, and discusses both medical and legal proposals. The subject of tort reforms is covered in this chapter. A review section consisting of 35 multiple choice questions and answers constitutes Section IV. The book concludes with a glossary of legal terms.

Reduce your risk of costly litigation! Written in easy-to-understand language by a team of medical doctors who are also attorneys at law, this handbook addresses the issues surrounding the growing incidence of medical malpractice. It examines the scenarios that can result in a malpractice suit, the best actions to take during the course of litigation, and the most effective ways to minimize your legal liabilities. Access the expert guidance of top professionals across medical and legal fields in an easy-to-read format. Review the legal aspects of nearly every medical topic that impacts health care professionals. Quickly see how to minimize your legal liabilities with the aid of "Golden Rule" boxes. Understand the different types of malpractice suits and the physician's position and defense in each. See how concepts apply to specific scenarios through abundant case studies. Explore specific legal considerations for each medical specialty.

This guide provides a thorough and practical introduction to the large and complex area of personal injury and clinical negligence litigation. The text sets out the substantive law governing the legal duties owed by road users, employers and members of the medical profession, and explores topics such as limitation and psychiatric illness, so that the procedural law governing personal injury and clinical negligence claims may be understood in context. In a clear and concise way, it demonstrates how such claims are conducted under the Civil Procedure Rules (CPR), from the first interview through to the quantification of damages. The appendices include the 2015 Rehabilitation Code, pre-action protocols for personal injury claims, the resolution of clinical disputes and low value EL and PL claims, as well as extracts from the latest Ogden tables. There is also a personal injury case study which includes key documentation. This new edition has been updated to include relevant recent developments. These include an update on the Civil Liability Act 2018, the Fatal Accidents Act 1976 (Remedial) Order 2020, as well as notes relating to the 8th edition of the Ogden tables. Key recent case law is covered, including *Swift v Carpenter* [2020] EWCA Civ 1295, 2020.

Guidelines are powerful instruments of assistance to clinicians, capable of extending the clinical roles of nurses and pharmacists. Purchasers and managers perceive them as technological tools guaranteeing treatment quality. Guidelines also offer mechanisms by which doctors and other health care professionals can be made more accountable to their patients. - But how can clinicians tell whether a guideline has authority, and whether or not it should be followed? - Does the law protect doctors who comply with guidelines? - Are guideline developers liable for faulty advice? This timely book provides a comprehensive and accessible analysis of the many medical and legal issues arising from the current explosion of clinical guidelines. Featuring clear summaries of relevant UK, US and Commonwealth case law, it is vital

reading for all doctors, health care workers, managers, purchasers, patients, and lawyers.

The third edition of this title provides comprehensive coverage of all aspects of medical negligence claims. It identifies the practical difficulties in bringing an action for damages, to show how to prepare the medical evidence on liability, complete the medical reports on quantum and provides guidance on the best way of presenting expert evidence in court. The new edition continues the established two-part structure. It examines the legal aspects of medical malpractice including complaints procedures, the powers of the General Medical Council, preparation of medical evidence, group actions, settlements and trial. The book also addresses the medical issues, covering the risks associated with particular areas of specialist medical practice.

Medical Negligence in Hong Kong and How to Avoid It provides essential information concerning the potential legal liabilities that medical professionals face when they treat patients. An easy-to-read reference, this book discusses landmark medical negligence case and analyzes medical malpractice specifically in the context of practicing medicine. It is divided into two parts. Part I sets the stage by giving an account of the development of negligence law in common-law jurisdictions including Hong Kong and ends with a discussion of selected medical negligence cases decided in Hong Kong courts. Part II sets out the practical issues relating to negligence law, including risk management, procedures to manage complaints and lawsuits, and alternative dispute resolution.

“Written by an experienced frontline medical practitioner with a degree in law, this book provides an accessible and comprehensive overview of the procedures related to medicolegal cases in the Hong Kong SAR and includes a detailed and insightful discussion on some of the landmark Hong Kong court cases arising from accusations of medical negligence. The book is a valuable resource for healthcare professionals practicing in the SAR. I am glad to recommend it to all readers with an interest in medicine and law.” —Dr. Ko Wing Man, GBS, JP, Former Secretary for Food and Health, Hong Kong SAR “Medical negligence disputes could be resolved not only by litigation but also by other means such as mediation. There are interesting chapters in Dr. Cheong Peng Meng’s book, including one on resolving medical disputes by ADR processes. Medical practitioners and mediators will find this book helpful and invigorating.” —Ting-kuok Lu, MH, solicitor and mediator; adjunct professor, School of Law, City University of Hong Kong “The author should be praised for his efforts to collect ample local data to illustrate his viewpoints, including court cases, Medical Council cases, and alternative dispute resolutions figures. Written in a concise manner, this book offers discussions and analyses of an extensive range of the topics that can be reviewed within a short period of time.” —Dr. Danny Lee, Council Member, the Medical Council of Hong Kong

There is concern about the lack of publicly available information on clinical negligence claims and whether the system is cost-effective, quick, efficient and humane. This report looks at the number of claims, the cost of settling them and the time taken; patients access to remedies and who patients claims are managed. It found that claims in England rose 72% between 1990 and 1998 and the net present value of outstanding claims was 2.6 billion. Claims still take a long time to settle and those that were closed in 1999/2000 took average five and a half years to settle (excluding cerebral palsy and brain damage).

Written in a clear, concise style, Clinical Negligence - A Practical Guide (titled 'Medical Negligence: A Practical Guide' in previous editions) is a highly readable guide to clinical negligence law, providing the reader with a structured background to the law supported by numerous case illustrations and valuable practical guidance on procedure. Fully revised and up-to-date, this book has evolved from 'Medical Negligence' by the same author, following the implementation of the Civil Procedure Rules, changes in the Legal Aid system, the rise of Conditional Fee arrangements and the implementation of the Human Rights Act 1998, amongst other critical developments. A full survey and explanation of the radical new rules is given at every stage. The book is divided into two main parts. The first part on procedure deals with issues, such as the new funding rules, medical records, the role of experts and relevant issues up to and at trial. The second part on law sets out the principles of negligence and rules for recovery of damages and covers issues such as standard of care, causation, consent and Human Rights.

Essentially, this book, is about addressing the gaping hole in the rights of consumers: to consume goods and services that are free from harm. When an injury occurs, the consumer should and do have a right to correction and restitution.

Healthcare professionals face an increasing threat of litigation from parties whom they have never met in their daily medical practice and who look nothing like the traditional patient. The so-called 'non-patient' may take many forms—for example, a person who is injured or killed by a mentally-ill, physically-disabled or diseased patient; a wrongfully-accused parent in a child neglect/abuse case; or a local authority which is put to the expense of caring for a negligently-treated patient. This book explores the legal principles and conundrums which arise when determining a healthcare professional's liability in negligence towards a wide variety of non-patients. The topic is assuming increasing legal importance and relevance, given the potential for many non-patient claims to give rise to class actions litigation, and in light of the legislative and human rights interventions, and the frequent appellate judicial consideration, which non-patient claims have attracted in recent times. The aim of the book is to have utility for both legal and medical professionals; for academics and students of comparative medical negligence and tort law; and for law reformers who may be interested in adopting certain features of statutory models elsewhere which pertain to some non-patient claims, such as those based upon 'Good Samaritan' conduct. Important parallels or counterpoints from other common law jurisdictions, in which courts and commentators have grappled with the legal complexities of non-patient claims, are also discussed and critically analyzed.

First published in 2002. Routledge is an imprint of Taylor & Francis, an informa company.

Explains how pi and clinical negligence claims are conducted under civil procedure rules. This book covers how to conduct a case from first interview to quantification of damages.

This seventh edition provides guidance to the various stages through which claimants and their lawyers must progress in a claim for clinical negligence in the UK. Written in a clear and concise style, the book has been fully updated to take account of the various important developments in UK legislation and case law that have occurred since the previous edition. Practical and accessible, it provides practitioners with a structured background to the law. This information is supported by numerous UK case illustrations, plus a large amount of highly valuable practical guidance on procedure. It is a 'must-have' for all practitioners specializing in this complex area of the law. Contents include: causation in negligence * human rights and clinical negligence * damages * expert evidence * terms of duty of care * detention * the Mental Capacity Act 2005 * the NHS Redress Act 2006.

Essay from the year 1998 in the subject Medicine - Hospital Environment, Clinical Medicine, grade: 1.7, University of Nottingham, language: English, abstract: The purpose of the present paper is to examine measures, available to hospital managers to control the frequency of clinical negligence claims and their ultimate cost. Moreover, the extent to which hospital managers can transfer

that risk to others is inv

Medical Negligence: A Practitioner's Handbook covers the lifetime of a High Court medical negligence action from first contact with a client through to plenary hearing, settlement and mediation including inquests. This practical guide to procedural steps that must be taken cites all relevant case law and statutes including the Rules of the Superior Courts, the Civil Liability and Courts Acts 2004, the various statutory instruments and Coroners Act. [Subject: Criminal Law, Medical Negligence Law]

This new text is a comprehensive guide to investigating and litigating clinical negligence claims, written by two leading practitioners in the field. Aimed particularly at practitioners who are looking to develop their practice in this complex and often emotive area, the book provides a general overview of the law relating to clinical negligence, and focuses on the practical aspects of running a claim. Structured chronologically, the book looks first at the relevant law of negligence and limitation, then at key preliminary matters, including exploring complaints and disciplinary procedures, the possibility of early settlement, risk analysis, limitation, and costs. It goes on to provide detailed guidance on the investigation process as to whether a claim is viable, and to cover every aspect of clinical negligence litigation from the pre-action protocol and issuing proceedings, to managing witnesses and expert evidence, damages, and trial. Practical, user-friendly guidance is included throughout the text on client care, maintaining effective relationships between solicitors and counsel, case management, and procedure. The book details the particular considerations and difficulties that apply to clinical negligence that distinguish it from other personal injury litigation, such as the development of the law of negligence in the field, the technical complexity of the evidence, and risk analysis. It also describes the external organisations that provide the context to the area, and the business considerations that must be understood if the work is to be undertaken profitably, including guidance on funding (Legal Services Commission, private and Conditional Fee Agreement) and insurance. Specific issues of difficulty, such as the differences between public and private sector defendants, are covered in full, and there are sections on particularly complex topics that can arise in practice such as fatal cases, hospital-acquired infections, and cost of upbringing cases. The text is complemented by a useful precedents section, which is organized in a thematic way to ensure ease of reference. Co-written by a solicitor and a barrister, the book benefits from their differing perspectives and experiences of the litigation process which ensures that all crucial elements of case preparation and presentation, and the relevant law and practice are covered in a clear and logical way. Clinical Negligence: A Practitioner's Handbook will be invaluable to junior solicitors and barristers working in the field, practitioners with a working knowledge of personal injury law who are beginning to develop a clinical negligence practice, medical professionals with an interest in medico-legal issues, and relevant legal and voluntary sector organisations.

This book critically considers the dynamic relationship between clinical guidelines and medical negligence litigation, arguing that a balance must be struck between blinkered reliance on guidelines and casual disregard. It explores connections between academic law and professional practice, bringing together an array of perspectives which reveal that although guidelines may not be dispositive, they nonetheless play an important role in medical negligence law. The chapters provide compelling insights from academics, lawyers, barristers, doctors and healthcare professionals into the use of guidelines in determining the legal standard for breach of duty, thereby contributing to a holistic understanding of guideline usage in this area of law. Sociological considerations along with empirical findings are used to underpin these concepts. While focusing on the UK, contributors draw upon international law including that from the United States, South Africa, the Netherlands and other countries. Based on this analysis the conclusion offers a theoretical framework for practical application illustrated by a case-based discourse. This book makes a significant contribution to the knowledge base in the subject area. It is an essential read for legal academics and lawyers working in medical and health law, as well as for doctors and other healthcare professionals. It will be a key reference point for medical regulators, health organisation policymakers and clinical governance teams.

This, the second edition of a text which aims to assist in the identification of skin lesions, contains extra text, algorithms and colour illustrations. Topics covered include erythematous and non-erythematous rashes and lesions on the face, trunk and limbs.

This guide provides a thorough and practical introduction to the large and complex area of personal injury and clinical negligence litigation. The text sets out the substantive law governing the legal duties owed by road users, employers and members of the medical profession, and explores topics such as limitation and psychiatric illness, so that the procedural law governing personal injury and clinical negligence claims may be understood in context. In a clear and concise way, it demonstrates how such claims are conducted under the Civil Procedure Rules (CPR), from the first interview through to the quantification of damages. The appendices include pre-action protocols for personal injury claims, disease and illness claims and for the resolution of clinical disputes, in addition to extracts from the Ogden tables. There is also a personal injury case study which includes key documentation.

As the name implies, this book is intended to be a practical guide for those lawyers and non-lawyers who require a guide to pursuing (or defending) a claim for damages for personal injuries or clinical negligence. The key to success in all cases is preparation, so this involves knowing or researching the substantive law, knowing the procedure (the Civil Procedure Rules) and how to present cases on paper and orally before a court. The book covers these areas and provides helpful tips and tactics to improve chances of success. Worked examples include drafting interim applications and the evidence necessary, drafting skeleton arguments, making an opening and closing argument and how to appeal if things go wrong. Guidance is given on developing an advocacy style so as to persuade and influence the judge. The book will be useful for those embarking on their legal careers but will also be beneficial for more experienced practitioners who require a condensed summation in this specialist area. ABOUT THE AUTHOR Dorian Williams has practised as a solicitor in private practice for over 22 years, acting almost exclusively for claimants in personal injury and clinical negligence claims. Initially he worked for clients referred from a major Trades Union, specialising in industrial disease and employers' liability claims. For the last 17 years, Dorian has received a broad spread of instructions whilst working in a general high street practice, Freeman Johnson. His caseload now mostly comprises clinical negligence cases which he has been privileged to receive, and thanks all his clients for developing his experience. When Dorian is not at work, he may be found climbing peaks in the Lake District, Peak District, Snowdonia or Majorca.

"Professional negligence cases are a minefield and clinical negligence cases are no exception. Providing invaluable advice from the leading experts in the field for each stage in a claim for clinical negligence. Full analysis of the relevant governing procedures and principles is provided, plus issues of funding and costs, including complaints procedures and procedures in the Court of Protection, as well as the interplay with human rights and the role of expert witnesses. The Eighth Edition ensures that practitioners maintain a progressive edge by providing useful precedents such as the latest model directions, instructions for experts and draft agendas for experts. It contains a new chapter on product liability and a separate Welsh chapter. It also includes coverage of the more than 250 reported cases concerning clinical negligence since the last edition. This includes: 2 in the Supreme Court 36 in the Court of Appeal - Civil Division 226 in the Queen's Bench Division 20+ in the county courts These cases cover a wide range of subjects from causation and breach of duty through to specifics relating to life expectancy and wrongful birth. An invaluable resource for all those involved in clinical negligence cases including personal injury and

medical law solicitors, barristers and the judiciary. Medical doctors and legal advisors in NHS trusts will also find this a helpful guide. "This is a first class book, which provides a scholarly account of clinical negligence law". Journal of Professional Negligence (Review of a previous edition)."

APIL Clinical Negligence focuses on the key and developing areas of clinical negligence, including medical product claims. It combines know-how about conducting these claims with the latest thinking on new and developing areas of practice. This new edition has been substantially revised to take account of: Consent - the impact of Montgomery and Webster; Damages - the discount rate; Roberts v. Johnstone, etc; Mediation - the new NHS Resolution agreement; Case management and costs budgeting; Product liability - update on the test for defect and causation. Contents include: Coping with Trauma; NHS Complaints Procedure and Redress; the Funding of Clinical Negligence Claims; Medical Treatment and Human Rights; the Duty of Care, Standard of Care and Establishing Breach of Duty; Claims Involving Medical Products; the Clinical Negligence Pre-Action Protocol; Instructing an Expert: A Medic's Perspective; Part 36 Offers; Mediation and ADR; Entitlement to Damages; and more.

Professional negligence cases are a minefield and clinical negligence cases are no exception. Providing invaluable advice from the leading experts in the field for each stage in a claim for clinical negligence. Full analysis of the relevant governing procedures and principles is provided, plus issues of funding and costs, including complaints procedures and procedures in the Court of Protection, as well as the interplay with human rights and the role of expert witnesses. The Eighth Edition ensures that practitioners maintain a progressive edge by providing useful precedents such as the latest model directions, instructions for experts and draft agendas for experts. It contains a new chapter on product liability and a separate Welsh chapter. It also includes coverage of the more than 250 reported cases concerning clinical negligence since the last edition. This includes: 2 in the Supreme Court 36 in the Court of Appeal - Civil Division 226 in the Queen's Bench Division 20+ in the county courts These cases cover a wide range of subjects from causation and breach of duty through to specifics relating to life expectancy and wrongful birth. An invaluable resource for all those involved in clinical negligence cases including personal injury and medical law solicitors, barristers and the judiciary. Medical doctors and legal advisors in NHS trusts will also find this a helpful guide. "This is a first class book, which provides a scholarly account of clinical negligence law". Journal of Professional Negligence (Review of a previous edition)

Major Phil Ashby already had a reputation for surviving scrapes, where others would - and did - break bones and worse. His strength, resourcefulness and luck had been tested to the full during his career in the Royal Marines' elite Mountain and Arctic Warfare Cadre and various adventurous expeditions. That luck, however, appeared to have run out in May 2000 when he was working for the UN, disarming brutalized rebels in war-ravaged Sierra Leone.

Why do patients sue their doctors? The answer is not straightforward. It is unlikely to be singular. One thing, however, is certain: the answer is important to the quality of health care. This book provides answers to this important question. In Why Patients sue Doctors the authors draw on their collective experience in over 1000 real-life medicolegal cases to explore why and how doctors make mistakes. By analysing and discussing the situations and behaviours that lead to complaints by patients and their families, this book provides practical guidance on how to improve clinical care and avoid litigation. The lessons learned will help practitioners in the future avoid some common clinical pitfalls of the past. This will be of immediate interest to anyone concerned about the quality of healthcare and how to improve it. The cases presented by the authors will also be of general interest to those wishing to know more about medical litigation.

This book equips non-medically qualified readers with the necessary information to deal authoritatively with the medical and surgical elements of clinical negligence litigation.

This guide provides a thorough and practical introduction to the large and complex area of personal injury and clinical negligence litigation.

This book aims to shed light on the legal side of clinical negligence claims for healthcare professionals working in the NHS. Written by two experts who have considerable medical and legal experience within the NHS and working knowledge of the complex legal processes surrounding the NHS complaints procedure, the book guides the reader through basic law, non-litigious complaints, disclosure of medical information, the use of expert witnesses and inquests. The authors also present several resource sections containing notable legal cases, pre-action protocols and further sources of information available online.

The pursuit of healthcare quality is a global trend as countries attempt to maximise the usage of resources amidst concerns about increasing costs and patient safety. The incentives for high quality care were traditionally provided by the tort system of medical negligence; however, modifications to this system saw it replaced in the UK in 1990 with a fault-based enterprise liability system (NHS Indemnity) - NHS trusts were now indemnified for clinical negligence claims in return for the payment of insurance premiums to the NHSLA which assumed responsibility for claims management. The incentives for quality care in this system evolved to a system of risk management standards in the 2002-2009 period - such standards offered reputational and financial benefits to trusts who achieved higher risk management levels (the attainment of such higher levels is proposed to be dependent on the trust governance structure and financial health), and the impact of this system on the clinical negligence outcomes of NHS trusts is the particular focus of this study. A lack of suitable data restricted previous studies of the effectiveness of risk management standards; however, the availability of such data permitted an empirical analysis of a unique panel database. This analysis initially found that the adoption of a new governance structure (i.e. foundation trust) is significantly associated with higher risk management levels, while efficient risk management processes are found to be significantly associated with lower numbers of clinical negligence claims. Finally, foundation trusts were found to be associated with higher closed claim values i.e. such trusts are willing to offer higher amounts to settle claims early. Overall, this study supports the proposition that more efficient risk management processes will lead to improved clinical negligence outcomes for NHS trusts, and recommendations are offered to assist trusts to become more efficient at risk management.

Research Paper (postgraduate) from the year 2020 in the subject Law - Miscellaneous, grade: A +, , language: English, abstract: The contemporary COVID-19 pandemic brings life and death exceedingly closer. The precariousness of carrying contamination of coronavirus and survive is still an exposure of jeopardy due to delay of trial of vaccine. Every life is most precious and not a single life could drop out for medical negligence. Each of the death caused due to medical malpractice must be trialled under the existing legislation although the pandemic situation demands for legislative reform. Any unnatural death due to medical malpractice should keep apart from trial and it is the parameter of human rights standard of a society. The UK doctors are pleading for indemnity for the medical malpractices occurred during the

pandemic, the doctors of Bangladesh has no headache in this regards due to weakness of legal framework. Finding explored that the trend of ignoring the medical malpractice cases by the regularity bodies of medical professionals and absence of scope for lower judiciary to handle medical negligence cases have generated severe threats of violence on medical professionals and feeble death of doctor by the disappointed patient parties. Grounded with a qualitative research method, this study focused a new array of recommendation that enrich the law legends with action plan to reform legal framework and incorporate new tort liability into practice.

This title provides an authoritative commentary on all aspects of the law of medical negligence, and has been acclaimed for practitioners in the area. A high level text, it analyzes jurisprudence and case law in detail, identifying the legal principles at work with precision and clarity.

[Copyright: d447c428237f9e0523b31d288d007659](#)