

LAWS50072 Medical Law

Credit Points:	12.50
Level:	5 (Graduate/Postgraduate)
Dates & Locations:	2011, Parkville This subject commences in the following study period/s: Semester 1, Parkville - Taught on campus. Seminars.
Time Commitment:	Contact Hours: 1 x 3 hour seminar per week. Total Time Commitment: 144 hours.
Prerequisites:	LAWS50023 Legal Method and Reasoning; LAWS50027 Dispute Resolution; LAWS50025 Torts; LAWS50029 Contracts.
Corequisites:	None.
Recommended Background Knowledge:	None.
Non Allowed Subjects:	A student may not undertake both this subject and the MLM subjects <i>Foundations of Medical Law</i> or <i>Law for Health Care Professionals</i> during this degree.
Core Participation Requirements:	The Melbourne Law School welcomes applications from students with disabilities. It is University and Law School policy to take all reasonable steps to enable the participation of students with disabilities, and reasonable adjustments will be made to enhance a student's participation in the School's programs. The inherent academic requirements for the study in the Melbourne Law School are: The ability to attend classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students must possess behavioural and social attributes that enable them to participate in a complex learning environment. Students are required to take responsibility for their own participation and learning. They also contribute to the learning of other students in collaborative learning environments, demonstrating interpersonal skills and an understanding of the needs of other students. Assessment may include the outcomes of tasks completed in collaboration with other students. Students who feel their disability will prevent them from participating in tasks involving these inherent academic requirements are encouraged to contact the Disability Liaison Unit: http://www.services.unimelb.edu.au/disability/ .
Coordinator:	Prof Loane Skene
Contact:	Melbourne Law School Student Centre Email: law-studentcentre@unimelb.edu.au (mailto:law-studentcentre@unimelb.edu.au) Tel: +61 3 8344 4475
Subject Overview:	<p>Medical Law covers many aspects of the legal relationship between doctors and other health professionals and patients. It includes potential civil liability if a patient is injured by a failure to take reasonable care in providing treatment; and also potential disciplinary action and criminal prosecution for more serious conduct. However, the scope of the subject is much wider than many people would expect, extending to legal obligations in all aspects of day-to-day practice, far beyond court and disciplinary proceedings.</p> <p>The duties of doctors in daily practice include the duty to obtain consent for medical procedures and to provide adequate information so that people can make informed decisions about proposed treatment. The subject examines the type and amount of information that should be provided and when people can refuse treatment they don't want; when treatment can lawfully be given without consent and who should consent when a patient is incompetent due to age (children) or impairment (physical or intellectual disability; or mental illness). Students also consider when patients are entitled to see their medical records and when it is lawful for doctors to divulge confidential medical information about them without their consent. Students examine</p>

	<p>the remedies that patients may have if they believe they have been wrongly denied access to their medical information, or it has been used without their consent. The law on withdrawal of treatment, the treatment of critically ill newborn infants, euthanasia, abortion, child destruction and actions for wrongful birth and wrongful life are also covered.</p> <p>In each class, students will critically examine the legal principles by analysing how they may be applied in particular case studies based on real or hypothetical patients. In addition to the law, students are therefore expected actively to discuss underlying ethical and theoretical issues and provide a sophisticated critique of those issues. Examples are the limits of patients' legal rights when examined in relation to corresponding duties of health professionals and enforceability; and the theory and practice of surrogate decision-making for patients who are not competent to make their own decisions.</p> <p>Medical law is constantly changing and students will be expected to keep abreast of legal and ethical developments as they occur, including possible policy implications. Most classes will raise issues in current press reports, many of which will be contentious. Examples include the alleged right of family members to require treatment to be continued for a critically ill relative; genetic privacy; embryonic stem cell research; and calls to change the law on euthanasia.</p>
Objectives:	<p>This subject will build upon the research, analytical and communication skills already developed within the JD program. In addition, and specifically, on completion of this subject, students should have developed specialised knowledge and skills for research and/or professional practice and for further learning in the field of Medical Law. Students will have a detailed understanding of the law, including critical and theoretical analyses of the application of relevant legal principles in practice, in relation to:</p> <ul style="list-style-type: none"> # The legal duty of doctors and other health professionals to exercise reasonable care in diagnosis, providing information and treatment; # The special rights, needs and interests of children, adolescents, mentally ill and intellectually disabled patients and the terminally ill and dying, and methods of making medical decisions on their behalf; # The principles and values that govern the process of making medical decisions on behalf of another person, whether the decisions are made by parents, other family members, guardians or agents; # The extent of the obligation of doctors and other health professionals to keep information confidential and to allow patients access to their records; # The process for patients and surrogate decision makers to refuse medical procedures and the limits of that process in practice; # The steps that hospitals, doctors and other health professionals could take if there is a dispute about medical procedures, especially at the beginning or end of life; # The underlying theory of surrogate decision making; # Policy and legal issues that may arise concerning the law on abortion, child destruction, wrongful birth and wrongful life.
Assessment:	<p>Submission of research proposal, and work in progress presentation of that proposal in class (10%) Students will develop a written research proposal of 1,000 words outlining their contention and arguments for their Research Essay. They will present these ideas and arguments orally to the class. They will be expected to provide a reasoned explanation and defence of their arguments in response to points raised by the lecturer and other students, after an informed and respectful critical debate about relevant issues. In this exercise, students will gain experience in oral defence of a short thesis. They will be expected to take account of the comments of others when developing their research proposal into the Research Essay. They will also acquire critical and analytical skills in responding to the research and arguments of other students. Research Essay, 6,000 words due in the examination period (90%) Students will submit a Research Essay of 6,000 words. This is expected to involve breadth and complexity, utilising a wide range of research materials and drawing on methods of detailed analysis and critique of other disciplines. In undertaking research and writing the essay, students will take account of the discussion and critical comments on their research proposal and class presentation. This will strengthen and deepen the arguments in the Research Essay, which is expected to be of the high standard one would expect after peer review. The Research Essay should meet the standard of a legal article that has undergone peer review for publication in a law journal.</p>
Prescribed Texts:	<p>Printed materials will be available from Melbourne Law School. These will include web references for further study; L Skene, Law and Medical Practice: Rights, Duties, Claims and Defences (3rd edn, Lexis-Nexis, 2008).</p>

Breadth Options:	This subject is not available as a breadth subject.
Fees Information:	Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees
Generic Skills:	<p>On completion of the subject, students should be able to draw on this understanding to:</p> <ul style="list-style-type: none"> # Develop an original topic for legal research and to undertake detailed and wide-ranging research and writing on the topic without further direction; # Present an argument, analysis and application of principles in the form of written arguments that is appropriately investigated, structured, argued, supported and referenced; # Respond effectively and productively to peer review on work in progress; # Critically and respectfully review research and arguments of one's peers; # Describe and critically evaluate elements of the legal relationship between doctors and other health professionals and patients; # Critically analyse at least two specific instances or examples of issues that may arise in the relationship between doctors and other health professionals and patients where there seems to be some divergence between the law in principle and its application in practice; # Explain the law on a range of issues that may arise in Medical Law to a non-legal audience. <p>Additionally, students should further develop:</p> <ul style="list-style-type: none"> # Openness to new ideas and cross-disciplinary approaches to research and writing; # The capacity for critical and independent thought and reflection; # The capacity to communicate, both orally and in writing, including the ability to communicate ideas to people in other disciplines; # The capacity to plan and manage time; # Intercultural sensitivity and understanding.