

LAWS70225 Medical Litigation

Credit Points:	12.50
Level:	7 (Graduate/Postgraduate)
Dates & Locations:	2012, Parkville This subject commences in the following study period/s: June, Parkville - Taught on campus.
Time Commitment:	Contact Hours: The total class time is between 24 and 26 hours. Total Time Commitment: Not available
Prerequisites:	None.
Corequisites:	None.
Recommended Background Knowledge:	Applicants without legal qualifications should note that subjects are offered in the discipline of law at an advanced graduate level. While every effort will be made to meet the needs of students trained in other fields, concessions will not be made in the general level of instruction or assessment. Most subjects assume the knowledge usually acquired in a degree in law (LLB, JD or equivalent). Applicants should note that admission to some subjects in the Melbourne Law Masters will be dependent upon the individual applicant's educational background and professional experience.
Non Allowed Subjects:	None.
Core Participation Requirements:	The Melbourne Law Masters welcomes applications from students with disabilities. The inherent academic requirements for study in the Melbourne Law Masters are: The ability to attend a minimum of 75% of 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 who feel their disability will inhibit them from meeting these inherent academic requirements are encouraged to contact the Disability Liaison Unit: www.services.unimelb.edu.au/disability/
Contact:	For more information, contact the Melbourne Law Masters office. Email law-masters@unimelb.edu.au (mailto:law-masters@unimelb.edu.au) or phone +61 3 8344 6190. Alternatively, visit our website: www.law.unimelb.edu.au/masters (http://www.law.unimelb.edu.au/masters)
Subject Overview:	2012 marks the 20th anniversary of the landmark Australian medical law decision, <i>Rogers v Whitaker</i> . Yet medical litigation remains an exceptionally vibrant and challenging field, underpinned by the rapid pace of scientific and social developments that generate new issues for the law and its ethical framework. Many of the more challenging issues are at the core of policy – birth, reproduction and death. The legal issues are fundamental, covering the existence of duties, what should be considered negligent, the challenges of legal causation and the appropriate compensation regime; all against a background of insurance affordability, the ongoing health and safety, reporting and disclosure agenda and a possible Australian disability insurance scheme. The subject examines the framework of medical law, current challenges and issues on the horizon. It is taught by Bill Madden, a lawyer specialising in medical litigation, co-author of two health law texts and a regular writer and presenter on medical law topics. Principal topics will include: # Solicitors' practices in taking instructions from clients

	<ul style="list-style-type: none"> # Access to records as a prerequisite to litigation # Obtaining opinions from medical experts # Issues related to the obligation of confidentiality # Doctor–patient and legal professional privilege # The role of expert evidence in medical litigation # Discovery procedures in various courts and tribunals # How litigation is commenced: Writ, service of writ, statements of claim and defence # Interrogatories # Parties to litigation, joining third parties # Subpoena, summons to witness to appear and produce documents and admissibility of various documents in evidence # Disciplinary investigations under the Health Professions Registration Act 2005 (Vic) # Professional Standards Panel hearings # Victorian Civil and Administrative Tribunal (VCAT) disciplinary hearings # Coroners’ investigations # Procedures at inquests # Role of coroners’ findings and recommendations # Criminal prosecutions of health practitioners in the Magistrates’, County and Supreme Courts.
Objectives:	<p>A student who has successfully completed this subject should:</p> <ul style="list-style-type: none"> # Understand the procedure of litigation in relation to medical injuries from the time an injury first occurs to the hearing in court # Have examined from the perspective of both patient and health professional the investigation and clarification of issues, the gathering and admissibility of evidence, the instructions to be given to solicitors and counsel and the preparation for hearing # Have thought through the role of regulatory inquiries and disciplinary proceedings against health practitioners # Have analysed the role of coroners’ investigations and inquests in making health practitioners accountable # Have had regard to the role of the criminal law in health practitioners’ accountability.
Assessment:	10,000 word research paper (100%) (27 September) on a topic approved by the subject coordinator
Prescribed Texts:	Core subject materials will be provided free of charge to all students. Some subjects require further texts to be purchased. Visit the Melbourne Law Masters website for more information about this subject.
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
Links to further information:	http://www.law.unimelb.edu.au/masters/courses-and-subjects/subject-details/sid/5279