

This has the result identified in Dr Boyle's paper—that the same child may have different legal protection, depending on whether the child is still in the mother's womb or has been prematurely delivered. However, I am not totally persuaded by Dr Boyle's suggestion that a court might allow parents to withhold treatment against medical advice for a 25 week old neonate on the grounds that the child's chances of thriving, or even of survival, were comparable with those in *Re T* (the liver transplant case). Courts have traditionally been much more conservative in considering applications to withhold treatment from critically ill neonates than from older patients. The case of *Re T* regards only one authority and the circumstances in that case were unusual (the parents were health professionals and well educated about the child's condition; they did not live permanently in England; and the medical evidence was not unanimous). On the other hand, the court did acknowledge in that case that the child's interests were very much connected with the mother's, which may bring closer together the competing interests in the law of abortion, child destruction, and homicide.

BOOK REVIEW

Medical Ethics and Law: the Core Curriculum

T Hope, J Savulescu, J Hendrick. Churchill Livingstone, 2003, £15.99, pp 222. ISBN 0443062552

This is a slim, user friendly volume designed to introduce medical students and practicing clinicians to some basic issues of medical law and ethics, as well as to the ways in which lawyers and philosophers characteristically think. The book is divided into two parts: the first adumbrates the main ethical theories, some central ethical concepts, the role of law in society, and the English legal system (with the first of many comparative glances at Scotland); the second part comprises chapters about key issues such as "consent", "reproductive medicine", and "mental health".

This integration of ethics and law into such an accessible and tidy package is the main strength of the book. More weighty tomes have aimed for the same integration (the recent new editions of Montgomery's and Brazier's books, for example), but their scholarly density makes them more appropriate for reference than overview. The integration is important because there will always be certain students and practitioners who do not see the point of academic ethics, whereas these days no one can afford to ignore the law. The gaps and ambiguities in the law can then provide the framework for meaningful ethical discussion. Even without the ethics, however, the book's discussions of the law are sufficiently subtle to provide a basic understanding of the law *in action*: the large amount of uncertainty that remains, especially in medical law; the problems of applying and interpreting precedents and statutes, and the conflicting assumptions

and intuitions that underlie the whole business.

The book has two other strengths. First, the referencing: there are lengthy sections on "further reading" at the end of each chapter, there are useful websites sprinkled throughout, and a handy annotated appendix of websites. Given how quickly the relevant law, policy, and technology are changing, these website references are especially valuable. A few more annotations to the references would have helped to guide the beginning reader, however. The second main strength is the overall clarity of the book; the issues discussed are enormously complex, and the authors have done very well to lay out the main components of those issues without over simplifying: the central *problem* to each issue remains at the forefront, thus inviting the reader's engagement. I also liked the layout, with certain self-contained questions or cases given a separate treatment in a special box. Jargon is introduced gradually, and kept to a minimum.

The book's title refers to the *Core Curriculum* in medical law and ethics, a document compiled by a large number of people for this journal six years ago (*J Med Ethics* 1998;24:147–8). Insofar as this was a statement of consensus about the content and approach to be used in the teaching of ethics in medical schools, then this book reflects that consensus faithfully. My main criticism of the book would be about its selection of issues in part two, and therefore my criticism is a more general one about the *Core Curriculum*.

Given the target readership and breadth of their clinical interests, I suggest that some of the issues in the *Core Curriculum* are simply too narrow: genetics, organ donation, and some aspects of reproductive medicine and mental health, however fascinating in their own right, all involve highly specialised clinical training, and will therefore not be encountered by the average clinician and student as often as the other issues; whereas the chapters on consent and confidentiality

are of obviously wide application. (I am also unsure whether there are enough active researchers among the target readership to justify giving a whole chapter to "research ethics", rather than including it as a sub-chapter of "consent".)

In place of the above "narrow" topics, I suggest that certain ethically charged issues affecting almost all clinicians deserve more systematic and extended treatment in an introductory book like this: whistle blowing, truth telling, trust, power, and authority, Good Samaritanism, the symbolic function of the law in a society, the ethics of NHS bureaucracy (targets, accountability, and so on), the patient's responsibility for their own health, the contrast between good ethical judgement and good clinical judgement, defensive medicine and patient litigiousness, the clinician's role as psychotherapist and social worker.

There is a very important chapter in part one on the relationship and communication between doctor and patient, and some of the above questions are mentioned briefly there. But I fear this section is a bit too short, and does not take enough account of the patient's wider relationships with her family and community (although there is a passing mention of communitarian theory in the chapter introducing the various ethical theories).

Perhaps more controversially, I think the book should also have built on its important discussions of the fact/value distinction and of the emotions (both very welcome) to include a critique of the mechanist (in the philosophical sense) assumptions underlying all-pervasive scientific medicine: the thought that the body is no more than a complex machine, and that, for example, a mastectomy is no more than the removal of useless flesh. Arguing against materialism is more than just taking the patient's concerns about their illness seriously: it is about the very purpose of medicine in society.

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- 1 Abortion Act 1967 (UK) s 1(1). Norwich, UK: Her Majesty's Stationery Office.
- 2 Abortion Act 1967 (UK) s 1(1)(a). Norwich, UK: Her Majesty's Stationery Office.
- 3 See Crimes (Abolition of Abortion) Act 2002 (ACT) s 3; Criminal Code 1913 (WA) s 199; Health Act 1911 (WA) s 334.
- 4 *CES v Superclinics Australia Pty Ltd* (1995) 38 NSWLR 47; (1995) Aust Torts Reports 81–360 (NSW CA); see also Abortion Act 1967 (UK) s 1(2).
- 5 For example, in the Australian jurisdictions that have followed the Infant Life (Preservation) Act 1929 (UK), Victoria and South Australia: Crimes Act 1958 (Vic) s 10; Criminal Law Consolidation Act 1935 (SA) s 82A(7)–(8).
- 6 See *Airedale National Health Service v Bland* (1993) AC 789; (1993) 1 All ER 821 (HL); *Re J (a minor) (wardship: medical treatment)* (1990) 3 All ER 930 (CA); *Re J (a minor) (wardship: medical treatment)* (1991) Fam 33; (1990) 3 All ER 930 (CA); *A National Health Service v D* (2000) 55 BMLR 19 (HC).
- 7 See *R v Adams* (1957) Crim Law Rev 365 (CCC).
- 8 See *R v Cambridge Health Authority; Ex parte B* (1995) 2 All ER 129 (CA).
- 9 Manning J. Parental refusal of life-prolonging medical treatment for children: A report from New Zealand. *J Law Med* 2001;9:269–71.
- 10 See *Re T (wardship: medical treatment)* (1987) 1 All ER 906 (CA) (discussed by Boyle, text to note 17).
- 11 *Butler-Sloss LJ* at 915.