Medlaw papers- Mital Vaya

1. describe the basic principles of ethical practice in medical research as outlined in the Helsinki declaration (10m)

-The fundamental principle is respect for the individual

-right to self-determination and

- the right to make [informed decisions](https://en.wikipedia.org/wiki/Informed_consent) (Articles 20, 21 and 22) regarding participation in research, both initially and during the course of the research.

 -The investigator's duty is solely to the patient (Articles 2, 3 and 10) or volunteer (

-and while there is always a need for research (Article 6), the subject's welfare must always take precedence over the interests of science and society (Article 5),

- and ethical considerations must always take precedence over laws and regulations (Article 9).

-recognition of the increased vulnerability of individuals and groups calls for special vigilance (Article 8).

- It is recognized that when the research participant is incompetent, physically or mentally incapable of giving consent, or is a minor (Articles 23, 24), then allowance should be considered for surrogate consent by an individual acting in the subject's best interest, although their consent should still be obtained if at all possible (Article 25).

1. list various licenses that are offered by the board (5m)

-private practice license

-license to conduct a dental or medical camp

-temporary license for foreign doctors

-license to practice as a certified medical or dental practitioner

-license to open a health institution

-license to open and run a nursing home

1. state the importance of seeking consent in research (5m)

Consent is viewed as an integral part of the patient-doctor relationship.

It is important so court cases don’t arise later . Doctor is not liable and can defend himself

So that patients can make an informed decision after learning of all the riska and benefits- patient autonomy

So that patients aren’t exploited and treatment witheld when drugs are later available ie in research example of syphilis case in US

So that voluntarism is shown and not force/co-ercion in undertaking research

so that patient is aware of alternatives incase he/she does not want to participate.

Consent derives directly from the ethical principle of autonomy or self determination

1. describe the consent process when undertaking research (10m)

consent process requires a competent patient who is not under the influence of force or coercion and not bound by language or cultural barriers to sign a written form in the presence of a witness containing the following information:

-title of research proposal

-name of researchers and their introduction

-objectives of research and goals

-risks to participants

-benefits to participants

-alternatives for treatment incase oe does not want to participate

-confidentiality- how safe is the information

-voluntarism

-contacts of researchers.

-schedule of visits and specimens to be taken each time

-signature of participants and witnesses.

The consent process can also be overlooked by the ethics and review board to make sure it is following the ethical guidelines.

1. discuss the mandate of the radiation protection board of kenya (10m)

the board has the power to regulate on the:

-import and export of

-the manufacture

-the disposal

-possession of radioactive materials, substances and devices

-to grant or refuse or extend the license of vendors seling radioactive material and the license of the purchaser buying the radioactive material

-tha application of radioactive substance by one person to another for the purpose of diagnosis or treatment unless it is prescribed by a medical practioner or denstist registered under the kmpd act

-no person shall apply radioactive material to another unless he has a license under the act

-owner of irradiating device must notify the board I writing for his instllation, purchase, intended use and purpose of he radioactive device and safety measures taken to store it.

To keep a register of the owners of irradiating devices into/manufactured in kenya and of premises licensed to dispose of radioactive waste.

1. the Geneva declaration is an affirmation of the ethical practice of medicine. Give an account of the historical events that led to its adoption by the world medical association (20m)
2. mention the labour rights provided by the kenya constitution of the year 2010 to every worker including doctors in kenya (5M)
3. list reasons that have previously led doctors in the public health care sector in kenya to go on industrial strike (5m)
4. describe the term informed consent as used in research (10m)
5. briefly discuss from a doctors point of view why poor renumeration and poor working conditions raises concerns and in some cases leading to industrial strike by doctors in the public health sector (10
6. importance of keeping medical records of patients (5m)

-The records are used to assist in provision of health care to the patient ie previous history of a patient can help in the diagnosis of a new disease.- continuity of care

-keeping records reduces liability in case of litigation

-integrates treatment when being treated by different healh care providers

1. state the information which may be included in a patient’s medical record )5m)

-history: name age, family history,

-physical examinations

-payment via insurance

-treatment plan

1. provide three reasons to explain the global adoption of the declaration of Geneva (physicians oath) by the world medical association in 1948 (10)

-The details of the Nazi [Doctors' Trial](https://en.wikipedia.org/wiki/Doctors%27_Trial) at Nuremberg (atrocities committed by the nazi doctors) ( and the revelations about what the [Imperial Japanese Army](https://en.wikipedia.org/wiki/Imperial_Japanese_Army) had done at [Unit 731](https://en.wikipedia.org/wiki/Unit_731) in China during the war clearly demonstrated the need for reform

-to have security of persons

-The primary goal of the WMA is to establish and promote the highest possible standards of ethical behaviour and care by physicians.

1. outline function and structure of medical practitioners and dentists board (10m)

structure:

* a chairman appointed by the minister
* a director of medical services
* a deputy director of medical services appointed by the mnister.
* 4 medical practitioners appointed by the minister
* 5 medical practioners and 2 dentists elected by the members
* Respresentitve of the faculty of medicine nominated by faculty board.

Function:

Regulate the practice of doctors and dentists

Specify training requirements

Registration and issue of certificates eh registration of qualified doctors and dentist. Publication of register.

Granting, revoking and suspending licenses . eg licensing to run private practice.

Discipling doctors and dentists. Eg disciplinary proceedings, rules.

1. explain two settings in which confidentiality may be breached in the medical setting (10m)

CASE 1: Foreign bodies

1. Mr Y was taken to hospital by his relative after complaining of stomach pains and bowel obstruction. Following his admission, he underwent a laparotomy, where 20 pellets of carefully-packaged cocaine were found in his abdominal cavity. During the surgery, it was found that Mr Y’s bowel was perforated, as nine of the pellets had penetrated the bowel; although 17 pellets were successfully removed and three passed from the body in Mr Y’s stools, shortly after surgery Mr Y’s condition deteriorated and he developed sepsis as a result of the bowel perforation. After being transferred to intensive care, Mr Y’s condition eventually improved and he was discharged after making a full recovery.

However, the surgeon who removed the cocaine pellets instructed the other clinical staff present not to take any photographs of them, and to instead repackage them in a resealable storage bag. They were then returned to Mr Y.

The matter leaked to the media who focused on the failure by the clinical staff to report the illegal drugs.

At the time of *Casebook*going to press, the matter is still being investigated.

MPS advice

The case raises an important issue about when a doctor should breach a patient’s confidentiality. In this case, the surgeon – and anyone else in the clinical team who was aware of the nature of the objects within Mr Y’s body – should have reported the presence of suspected illegal drugs in Mr Y’s possession. Failure to do so potentially exposes clinicians to two particular laws.

**Criminal Law Act**

Under Section 5 of the Criminal Law Act, a person may be guilty of an offence if he assists a person who he knows or believes is guilty of an arrestable offence. He must, however, know or believe the individual to be guilty or charged of an arrestable offence, or has committed an arrestable offence or does any act to impede the individual’s apprehension or prosecution

In some situations you are required by law to share information, for example, in the NHS where a person has a specific disease about which environmental health services must be notified

* When there is evidence that the child is suffering or is at risk of suffering Significant Harm; or
* Where there is reasonable cause to believe that a child may be suffering or at risk of Significant Harm; or
* To prevent Significant Harm arising to children or serious harm to adults, including through the prevention, detection and prosecution of serious crime, i.e. any crime which causes or is likely to cause Significant Harm to a child or serious harm to an adult.

State law requires the report of certain communicable/infectious diseases to the public health authorities. In these cases, the duty to protect public health outweighs the duty to maintain a patient's confidence. From a legal perspective, the State has an interest in protecting public health that outweighs individual liberties in certain cases. For example, reportable diseases in Washington State include (but are not limited to): measles, rabies, anthrax, botulism, sexually transmitted diseases, and tuberculosis. Suspected cases of child, dependent adult, and elder abuse are reportable, as are gunshot wounds. Local municipal code and institutional policies can vary regarding what is reportable and standards of evidence required. Stay informed about your state and local policies, as well as institutional policies, governing exceptions of patient confidentiality.

1. explain various sources of law in kenya (10m)

-the supreme law- the constitution – binds all the citizens of a particular country and nothing is above the constitution

-customary law eg African customary law- These are the rules or body of rules whereby rights and duties are acquired or imposed by the usage by a particular community. Only applicable in civil matters (not criminal)

Only in the following matters:

Land held under customary tenure

Marriage, divorce, maintenance or dowry

Seduction or pregnancy of an unmarried woman or girl

Customary law should be reasonable, not repugnant, conforms to the constitution, and immemorial

* -islamic law- only applies when both parties profess the Islamic religion and only under matters on personal status, marriage, divorce and inheritance. It is only applied by the kadhi’s courts.
* -common law, equity and statutes of general application. Refers to the law that was applied by the courts that was developed by a system of precedents without referring to legislation made by Parliament

.law derived from custom and judicial precedent rather than statutes.

-international law – these are laws that exist between countries they can be bilateral or multilateral and come into play when citizens of different countries fall into a dispute. These international laws are used to determine which law of which country will apply to the situation. Can be public or private international.

* - all written laws including delegated legislation- Statutes (a written law passed by a legislative body) can sometimes delegate law making power to specific persons or other administrative bodies. However delegated legislation derives its authority from the parent act. Eg the traffic act, childrens act
1. define medical negligence and the elements that a victim of medical negligence needs to prove in order to succeed in their claim (4m)

medical negligence happens when a medical/dental practitioner fails to provide the adequate level of care that is expected of him/her in that case thus resulting in injury or death of that patient.

Elements that a victim needs to prove are:

-there was a duty of care

-there was a breach of duty of care

-there was resultant harm due to the breach of the duty of care

1. briefly explain the elements that make up a legally enforceable contract (6m)

-Contractual capacity –one must have a legal ability to enter into the contract

-object of the contract isn’t fraudulent

-parties entering the contract aren’t under force or fraud

-Validity- there is a valid offer and valid acceptance

-Consideration- one party must undergo some loss/detriment at the expense of the party gaining

-Intent- there must be intention by both parties to create legal relations.

1. what are the various forms in which medical records may be kept (4m)

-electronic storage

-written form

-spoken/oral

-photographs

1. define ethics, giving examples in medical practice.

Ethics is defined as the moral principles governing a system and includes rules of conduct. In medicine ethics are used in research and also the Hippocratic oath is a moral code of conduct that is not particularly signed under a contract but all physicians have a responsibility to abide by it.

Examples of ethics include:

-Confidentiality – a physician must ensure that the medical information he holds about a patient is only accessible to those that the patient has given access via autonomy and informed consent. Confidentiality must also be mainanted after death of that patient however can be broken in situations like criminal cases by court orders, potential danger to public safety, notifiable diseases.

-beneficience and non-maleficience- ie acting in the patients best interestsand doing no harm respectively. The doctor must always act in the best interest of the patient and provide the most adequate medical care that will cure and treat a patient eg a doctor may want to give NSAIDS for rheumatoid arthiritis but does not want the patient to have GIT bleeding- he must choose what will cause the least harm.

-equality and justice- giving to each what is his due- in the medical field the resources and servces should be distributed to all person equally no matter their race, religion,sexuality, age, socio-economic status and political affiliations- for example as a physician one should not refuse to give treatment to a person of a different political affiliation as opposed to them.

Autonomy- the doctor should give the patient all the information the he needs to make an informed decision about the treatment or procedure he needs.this should include all the risks and benefits involved and the patient then can decide to accept or refuse the treatment. This is done compassionately and through proper communication ie jehovahs witnesses usually don’t accept blood transfusions however if the doctor explains, in a life threatening situation to them that this is for a medical benefit and the only option the patient can then decide whether his life or religious beliefs will take greater precedence. Also cancer example

Others: consent (implied, expressed,informed) ,preservation of life and do not resuscitate.

Do no harm- the doctor must not partake in any act that will deter the health of his patient- this may be in terms of performing unlicensed research on them ie testing the efficacy of a drug, giving poisons or giving unnecessary testing or referrals to make more money.

22)Write short notes on the role of the medical doctors of birth and death registration (5)

In the case of death occurring in kenya of any person who has been attended during his last illness to by a medical officer, the medical officer shall sign a certificate stating to his best ability the cause of death in a D1 form.

The certificate will be signed and forwarded to the registrar.

The medical officer on signing the certificate shall issue a disposal permit to the person taking charge of the body of the deceased.

A medical officer will sign a certificate of birth containing all particulars and forward it to the registrar withing six months of the birth of the baby.

Record births in A1/B1 form

Record deaths in D1 form, also establish cause of death

1. write short notes on legal basis for death and birth registration in kenya. (5)
2. List five recommended court room etiquettes for doctors giving evidence (7.5)
* Speak up-when the judge speaks to use, keep your voice up to a tone in which it can be heard,
* Dress up- dress formally in a presentable manner
* Stand up- Stand up when the judge enters and leaves and when he is speaking to you. respect persons of the court even if you do not approve of their techniques or disagree with them.
* Shut up- do not volunteer extra information which is not asked for in the name of being helpful. Do not become over enthusuatisc about suppoting a certain cause or the party that called you.
* Mind language- avoid jargon. Make medical concepts easier by using examples to explain the principles to the lay person eg the lawyers, public person and magistrate.
1. Outline documentation protocols that can be presented as written evidence by a medical practitioner before a criminal court.

P3 form- medical examination form/ assault form

A23 form- autopsy form filled out after the death of a person.

Prc1/2 form- sexual assault form

Istanbul protocol-tortured and alive

Minnesota protocol-tortured and dead

Private reports-

Request forms and police memo forms-

Patient registers-

1. Define the following: (10m)
* Forensic medicine giving two examples of its role in courts-the application of medical knowledge to the investigation of crime, particularly in establishing the causes of injury or death.
* Helps court estalblish cause of death,
* Extent of injuries.
* Whether treatment given was as per standards.
* -how long injuries sustained will take to heal
* Ethics, giving two examples in medical practice.
* The role of forensic medicine(2.5)- aids the judge in coming to a decision by taking into account the information the pathologist has given and convicting someoe
* The role of forensic science (2.5)- **Forensic science** plays a vital **role** in the criminal justice system by providing scientifically based information through the analysis of physical evidence
1. In a forensic case how would you handle trace evidence as a medical practitioner.(10m)
2. Briefly discuss the role of kmpd act (12.5)
3. Briefly discuss the criteria used in determining proof of negligence by a physician. (12.5)
4. Define trace evidence using one example. (5m)

-a form of physical evidence

-that occurs in very minute quantities at the scene of crime and usually invisible to the naked eye

- exchange is by loccards principle

- examples include: semen, hair, saliva

- retrived, packaged, preserved,analysed and then presented to the courts.

1. What is loccards principle? (5m)

- Loccard stated that eveytime one makes contact with a object, person or place, it results in an exchange of physical materials.therefore a perpetuator of a crime scene will bring something to a crime scene and leave with something from the crime scene. Both of these can be used as evidence n forensic medicine to associate the trace evidence with objects or persons.

1. Describe the chain of custody of evidence collected by a medical doctor

Retrieval- usually by crime scene expert expert or police officer when collecting the evidence care must be taken to avoid any contaminaton and loss of evidence.appropritate protective gear such as gloves, lab coats to avoid contamination from the clothes of the collector and the gloves changed as required.

Packaged- keep items in a secure sealed bag. Usually paper bags are used for blood, clothes, hair. The use of plastic is avoided as much as possible.wet clothes should be air dried. Packaged in small container and tighly to avoid leakage

Preserved- should be dried, refrigerated (4 degrees) or frozen eg in the case of semen

Transported- the police usually freight the sample from crime scene to lab, care should be taken in the transportation, should not take too long to reach lab (ie polic officer shouldn’t keep it in his office for days then give it to the lab) should also not be allowed near flammable objects, kept away from liquids,static electricity and foot traffic

Analysed- if during the processes above contamination occurred It should be documented and reported to the lab analyst.

documented

* 1. Documentation-a. date (and time, when appropriate) of the collection, b. name of person or persons collecting the evidence, c. a descriptive listing of item or items collected, d. a unique identifier for each item collected such as an item number and case number, and e. location of each item (
1. list four of medical ethics and explain the meaning of each (12)
2. Briefly discuss alcoholism under the following:

-definition (3m)- alcoholism is defined as any condition that results in the excessive consumption of an alcoholic beverage despite health problems and negative social consequences. It is coupled with tolerance withdrawal and an uncontrollable drive to drink.

Predisposing factors

- age- drinking at an early age eg age 16 or below can lead to increased alcohol dependence rather than starting to drink at a later age

-genetic predisposition- some people have a higher chance of being alcohol dependant due to their gentic composition ie may have increased. 50-60%. Ie variance in dopamine receptor genes

-gender- men are more likely to be predisposed to alcoholism than women. 7% and 2.5% respectively.

-social environmental influence- peer pressure, family issues

- environemental health- ie health seeking practice, education on effects of alcohol

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 Psychological- high suicide rate

* Anxiety
* Depression
* Psychiatric illness/disturbances

Social

-marital conflicts

-public offense eg drunk driving, hit and run, defamation

- loss of employment

Physical:

* Alcohol Dementia
* Epilepsy
* polyneuoropathy
* Liver cirrhosis
* Pancreatitis
* Cancers
* Nutritional deficiences
* Sexual dysfunctioin
* Cardiovascular disease
1. Outline documentation protocols that can be presented as written evidence by a medical practitioner before a criminal court.(7.5)

-minnesota protocol

Istanbul protocol

A23 form

D1 form

P3 form

Prc1/2