Examination Period 3: 2016/17

LAW301317N

Module Title: Medical Law
Level: Six
Time Allowed: One hour and forty minutes

Instructions to students:

- Enter your student number not your name on all answer books.
- Answer two out of seven questions.
- All questions are equally weighted.
- Begin each question in a separate answer book; label each answer book clearly with the number of the question you are answering.

No. of Pages | 5
No. of Questions | 7
Answer two out of seven questions.

**Question 1**

‘They do not, and never sought to, provide easy answers to particular questions or to offer a comprehensive ethical analysis’.
(Brazier & Cave, Medicine, Patients and the Law, 6th edition, 2016, Manchester University Press).

Evaluate the four principles of medical ethics in the light of the above statement.

**Question 2**

Analyse the difficulties faced by the law as regards consent to the medical treatment of children.

**Question 3**

Adam, a student, was cycling to university one morning when he was knocked off his bicycle by the negligent driving of a lorry driver, who did not stop and could not be traced. The accident happened outside the surgery of Bella, a general practitioner. Bella came out to attend to Adam and found that he had cut his hands and grazed his knees. She took him into the surgery, dressed his wounds and sent him home to rest. Bella did not notice that Adam had also cut his head.

A few hours later, Adam collapsed at home, and his flatmate called an ambulance. Adam was taken to Naseby NHS Hospital. The hospital used to have two MRI-scanners, but one was sold last year following cuts to the hospital budget. He was seen by Ceri, the consultant, who carried out some tests and x-rays, but did not find anything wrong. Adam was kept in hospital overnight for observation, but was then sent home. The following day Adam suffered a blood clot on his brain and is now disabled. The remaining MRI-scanner was not available at the time of Adam’s treatment, but, had Ceri used it, she would have discovered that he had fractured his skull.

In February, Donna was referred to Naseby NHS Hospital as she had a lump in her right leg. She was seen by Ceri who examined her and told her that it was just swelling and nothing to be concerned about. In the weeks following, Donna felt pains in her right leg but believed that everything would be fine. Eventually, in May, Donna returned to the hospital, and Ceri diagnosed bone cancer. Ceri told Donna that she needed to have her right leg amputated. If treatment had started in February Donna would have had a 40% chance of avoiding an amputation. She would also have had a 55% chance of making a full recovery from the cancer, but this is now 25%.

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**Question 3 continues overleaf**
Eric was admitted to the hospital with a broken bone in his foot, and an operation to fix it was successfully carried out. He was admitted to a ward under the supervision of nurse Flo, who told him that he must stay in bed to rest his foot. While Flo was attending to another patient, Eric sneaked out of the ward, but slipped in a pool of water on the floor, fell and broke his wrist. The water had been left by Gina, the ward cleaner, who is employed by Suckers Ltd. Suckers Ltd have the contract to carry out all hospital cleaning. Recently, several complaints had been made about the poor standard of cleaning, to Hari, the chief executive of the hospital.

Advise Adam, Donna and Eric of the claims they may make, if any, in negligence.

**Question 4**

Ivy is a general practitioner and a number of issues have arisen at her surgery.

Jasmin arrived at the surgery and told Ivy that she had been vomiting after eating a Chinese takeaway from the Hi Hong restaurant the previous evening. Jasmin also complained about eye strain and said that she had not had an eye test for 20 years. Ivy examined her and carried out an eye test. Ivy prescribed medicine to settle her stomach. She also told her that she should not be driving because of her poor eyesight and should call a taxi to go home. Jasmin was wearing a low-cut dress and Ivy noticed that she was wearing a lime-green bra. Ivy saw Jasmin driving away from the surgery. That evening Ivy told her husband, Ken, that Jasmin had come to see him and that she was wearing an awful lime green bra.

Lauren and her boyfriend, Mike, live together and they are both patients at the surgery. Lauren attended the surgery in a distraught state and had clearly been crying. She told Ivy that she found Mike in bed with another girl. She also told Ivy that she was going to kill him and that she had stolen some rat poison from a garden centre. Ivy prescribed some tranquillisers for Lauren.

Nick, aged 14, was feeling unwell and attended the surgery. Ivy examined him and told him that he had a sexually transmitted infection. She referred him to the sexual health clinic at the local hospital. Nick demanded that Ivy should not tell his mum, Olga, or his girlfriends, Pippa and Rose.

Advise Ivy of her legal position in respect of Jasmin, Lauren and Nick.
Question 5

Sara is single and has a child, Ted, aged 5, from a previous relationship. She would like to have another child, using her eggs and donated sperm. She approaches the Blue Skies Fertility Clinic, which is a registered clinic, and asks for treatment.

Wendy and her husband, Yeti, have one child, Zak, who is 5 years old. Zak has recently been diagnosed with muscular dystrophy, a genetic condition. They approach the Blue Skies Fertility Clinic for infertility treatment. They wish to have a child, using donated eggs and sperm. They ask the clinic to select an embryo without the condition and which is also female.

Alisha is unable to have children. She sees an advertisement on a website, Mothers4U, based in London advertising the services of surrogate mothers. She contacts Mothers4U, and for a fee of £5,000 they introduce her to Bianca, who lives in Italy. Bianca travels to England to meet Alisha and signs a contract, under which Alisha agrees to pay her £25,000 expenses to be a surrogate mother, and pays her £10,000 in advance. The treatment is carried out at a clinic in England. Sometime later, Bianca returns to England to have the baby, a boy, which she names Carl. When Alisha went to collect Carl from hospital, she found that Bianca had returned to Italy and had taken Carl with her.

Explain the legal issues arising in respect of Sara, Wendy and Alisha.

Question 6

Critically assess the options for reform of the ‘opt in’ system of organ donation in England.

Question 7

A number of issues have arisen at the Cottesbrooke NHS Hospital.

Don, aged 21, is a wealthy student. He was admitted to the hospital after a rugby accident. He was found to have broken his neck and, as a result, he was paralysed from the neck down. Although he is mentally fully aware, he cannot do anything for himself. After six months lying in a hospital bed, he asked his girlfriend, Emma, to buy some cyanide for him and put it in his tea. He said that alternatively, she should take him to the Dignitas Clinic in Switzerland, where he could die peacefully.

Question 7 continues overleaf
Faria was crushed in the crowd at a music festival. She was admitted to the hospital and diagnosed as being in a minimally conscious state. Although she had some awareness, she was unable to communicate. She needs artificial nutrition and hydration. Before her accident, she was extremely active and a keen triathlete. George, her husband, says she would not want to continue in this state, and asks the hospital to withdraw the treatment. The doctors want treatment to continue.

Henna attended the hospital to have her baby. She had a baby boy, which she named Ivor. Ivor was born with Down’s syndrome. Ivor also had a blockage of the intestine, and without an operation, he will die. Henna and her husband have rejected Ivor and they refused to consent to an operation on his intestine.

Advise Emma and the hospital, of their legal position in the above circumstances.