How far you go in life depends on your being tender with the young, compassionate with the aged, sympathetic with the striving, and tolerant of the weak and the strong — because someday you will have been all of these.

—George Washington Carver
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**Glossary**  

**Index**
The eleventh edition of *Legal Aspects of Health Care Administration* is the most comprehensive book encompassing both legal and ethical healthcare issues. Ethics and the law are not mutually exclusive—they are intertwined. Without the two, we would become a lawless land.

This book provides the reader with a solid foundation in health law, as well as an overview of practical ways to improve the quality and safe delivery of health care. It examines a wide range of healthcare topics in a comprehensive and engaging manner that carefully guides the reader through the complex maze of the legal system as it impacts healthcare organizations. Actual court cases are presented throughout the book to bring the law to life and assist the reader in applying the information learned to his or her professional career.

Further, this book describes how common medical errors continue to have a negative impact on the reputations and financial well-being of healthcare professionals, their employers, and more importantly, the health and lives of their patients. More than 30 years separate the first edition of this book from the current edition. However, the same medical errors are still occurring, only the names are changing. That sad fact makes this book a timeless and valuable resource for healthcare organizations, professionals, patients, and laypersons.

The news media continues to paint a grim picture of the healthcare industry by featuring distressing headlines that describe a continuing pattern of greed and often disregard for patient safety. The following are some of the more recent examples of headlines in the news media:

**Nurses Call Level of Staffing Unsafe**

The largest nurses union in the United States asked the D.C. Health Department on Monday to investigate nurse understaffing at Washington Hospital Center that the union says is jeopardizing patient care.

In a 19-page report filed with the department, National Nurses United documented 50 instances of what is described as unsafe patient care this year in all departments of the hospital. No deaths were reported.

—*The Washington Post*, November 2, 2010

**Malpractice Suits Drop When Doctors Admit Mistakes, Apologize**

When doctors make mistakes, admitting the error, saying “I’m sorry” and offering compensation may go a long way toward preventing malpractice lawsuits, new research shows.

—*USA Today*, August 20, 2010

**Grand Jury Indicts Dr. Earl Bradley in Sexual Abuse of 103 Child Patients**

For nearly two months prosecutors have suggested Dr. Earl B. Bradley, the alleged pedophile pediatrician from Lewes, had molested an unknown number of girls, far more than the nine patients he was charged in December with raping.

On Monday, the Attorney General’s office made its suspicions official, with a grand jury indictment accusing Bradley of sexually assaulting 102 girls and one boy he treated—a more than tenfold increase in the number of victims originally alleged...
The case against Bradley could be the worst child sexual abuse by a pediatrician in American history, some abuse experts have said. Biden called it "unique" in Delaware history. Nationally, he said, "I know of no other [case] that has this many victims."

—The News Journal, February 23, 2010

VA Hospital May Have Infected 1,800 Veterans with HIV

A Missouri VA hospital is under fire because it may have exposed more than 1,800 veterans to life-threatening diseases such as hepatitis and HIV.

The issue stems from a failure to clean dental instruments properly, the hospital told CNN affiliate KSDK. Dr. Gina Michael, the association chief of staff at the hospital, told the affiliate that some dental technicians broke protocol by handwashing tools before putting them in cleaning machines.

In June, Palomar Hospital in San Diego, California, has sent certified letters to 3,400 patients who underwent colonoscopy and other similar procedures, informing the patients that there may be a potential of infection from items used and reused in the procedures.

—CNN U.S., June 30, 2010, 10:57

Patients Learn They May Have Unneeded Stents

"You go to a doctor thinking he's going to take care of you and make you better, and now I have this thing that I don't even need and that can't be removed," she said, "I trusted him."

Doctors and hospitals in other parts of the country who placed stents when that blockage threshold wasn't met have faced lawsuits, fines and even prison time.

—Baltimore Sun, January 15, 2010

She Changed Medicine, but Her Family Can't Afford Care

"The Immortal Life of Henrietta Lacks" is a biography of the eponymous heroine and her offspring. There are her children, and their children, all reared in poverty and too often without insurance. The story raises questions about bioethics and leaves a reader wondering who should benefit from scientific research and how it should be conducted. In the words of Lacks's youngest daughter, Deborah: "If our mother's cells done so much for medicine, how come her family can't afford to see no doctors?"

Henrietta's first cousin Cootie . . . "Nobody round here never understood how she dead and that thing still livin. That's where the mystery's at."

It's a deftly crafted investigation of a social wrong committed by the medical establishment, as well as the scientific and medical miracles to which it led.


Malpractice System Turmoil

Since 2002, the average payout for medical liability claims has increased from $382,000 to $505,000 in 2008, according to the Medical Society of the State of New York.

"Seven percent of physicians are responsible for 68 percent of medical malpractice payments" in New York, said John K. Powers, an Albany malpractice attorney who represents the New York State Academy of Trial Lawyers.

Those doctors should not be eligible for liability insurance and should be denied the privilege of practicing medicine, Powers said.

—Times Union, December 2, 2009

Because the law is continually evolving, it is important that the reader possess a basic understanding of how and when the law relates to the healthcare field in general and the reader's specific area of responsibility in particular. This book answers that need by serving as both a text in the
preface xix

classroom and as a reference for the practitioner. To assist
the reader in applying the substantive material in this book,
actual court cases are presented. The decisions in cases dis-
cussed are generally governed both by applicable state and
federal statutes and common law principles. When review-
ing a case, the reader must keep in mind that the case law and
statutes of one state are not binding in another state.

This edition begins with a chapter that provides some his-
torical perspective on the development of hospitals, illustrating
both their progress and failures through the centuries.
There is broad discussion of the legal system, including the
sources of law. The text continues with a basic review of tort
law, criminal issues, contracts, antitrust, civil procedure,
and a wide range of real-life legal and ethical dilemmas that
caregivers have faced as they wound their way through the
courts. The final chapters provide an overview of various
ways to improve the quality and delivery of health care.

Although the court cases relating examples of malprac-
tice are often mirror images of the failures of medicine, this
eleventh edition presents a book of lessons from which the
reader can understand where the medical and legal worlds
collide. Taken as a whole, the content of this book serves as
a reminder to its readers that they must learn from the mis-
takes and tragedies experienced by others to avoid repeating
them. The legal cases and resulting headlines should stand
as a reminder of the responsibility the caregiver has to the
profession he or she has chosen, and the caregiver should
use the knowledge gained from studying this book to help
prevent himself or herself from becoming the next headline.

**IT’S YOUR GAVER**

“It’s Your Gavel” boxes offer the reader an opportunity
to make decisions about actual court cases. Many chapters
begin with a case that has been reviewed by the courts in
state or federal jurisdictions. After reviewing each case and
subsequent relevant material, readers can take on the role of
the fact finder and render a decision. Then, at the end of the
respective chapters, the actual court findings and reasoning
for each case are given in “The Court’s Decision” box.

**CASE PRESENTATION FORMAT**

When reviewing the various cases in this book, the reader
should consider what happened, why things went wrong,
what the relevant legal issues are, and how the event could
have been prevented. The reader should also consider how,
if one fact in a particular case changed, the outcome might
have been different. What would that fact be? The cases pre-
presented in the text have been chosen because of the frequency
of their occurrence.

The general format for each boxed case review is as follows:

**Title:** Each case has a title that signals the type of case to
be reviewed.

**Case Citation:** The case citation describes where a court’s
opinion in a particular case can be located. It identifies the
parties in the case, the text in which the case can be found,
and the year in which the case was decided. For example, the
case citation of Bouvia v. Superior Court (Glenchur), 225 Cal. Rptr. 297 (Ct. App.
1986) is described as follows:

• Bouvia v. Superior Court (Glenchur): Identifies the basic
  parties involved in the lawsuit
  225 Cal. Rptr. 297: Identifies the case as being reported
  in volume 225 of the California Reporter on page 297
  Cal. Ct. App. 1986: Identifies the case as being decided
  in the California Court of Appeals in 1986

Students who wish to research a specific case should visit
a law school library, which provides access to various state
and regional reporters.

**Facts:** A review of the material facts of the case is presented.

**Issues:** This is the disputed point or question the judge or
jury must decide. The issues discussed in any given case are
selected for review based on medical and legal pertinence to
the healthcare professional. Although any one case in this
text may have multiple issues, emphasis is placed on those
issues considered to be more relevant for the reader in the
context of the topic being discussed.

**Holding:** The court’s ruling based on the facts, issues,
and applicable laws pertaining to a case is summarized.

**Reason:** The rationale for the court’s decision based
on the facts, issues, and relevant laws surrounding a case is
presented.

**Discussion:** Discussion questions, although prompted by
a particular case, may not necessarily be germane to the facts
of the case. The questions are merely presented as opportuni-
ties for discussion and in no way add to the facts of a specific
case decision.

**Author’s Note:** This text is educational in nature and should
not be considered a substitute for legal advice on any particu-
lar issue. Moreover, each chapter presents an overview, rather
than an exhaustive treatment, of the various topics.

The author, legal reviewers, and/or publisher cannot be
responsible for any errors or omissions, including additions
to, interpretations of, and/or changes in the regulations pre-
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