Dedication

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My Sister
Precious moments when she took my hand,
And said,
Let’s Dance.
At that moment,
I knew from her touch,
How much she loved me.
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In civilized life, law floats in a sea of ethics.
—Earl Warren, Chief Justice of the United States (1891−1974)

I consider ethics, as well as religion, as supplements to law in the government of man.
—Thomas Jefferson, President of the United States (1743−1826)

In law a man is guilty when he violates the rights of others. In ethics he is guilty if he only thinks of doing so.
—Immanuel Kant, Philosopher (1724−1804)

It is curious—curious that physical courage should be so common in the world, and moral courage so rare.
—Mark Twain, American Author and Humorist (1835−1910)
The author’s unique experience in health care includes consulting and surveying more than 1,000 hospitals and ambulatory sites from Alaska to Puerto Rico, as well as his experience as administrator, educator, consultant, and speaker. Every attempt has been made to arm the student with the knowledge gained through his extensive healthcare experiences.

As a result of his background, one of the unique features of this book is that in each chapter the focus on the various issues includes more than merely definitions or descriptions of words. There is an infusion of life into the material by using cases that have been litigated or discussed in the press, as well as real-world events through reality checks experienced by healthcare professionals. In that way, the law and ethics spring to life and inspire dynamic discussion and excitement in the learning process, thus creating an atmosphere of interest and participation, which is conducive to learning.

The study of Legal and Ethical Essentials of Health Care Administration, Second Edition affords health professionals with the opportunity to apply the concepts learned to what they will face on a daily basis in a practical way. It details the actions healthcare providers can take to help prevent the wide variety of harmful events that occur in patient care settings. Although there will always be a next time for human error, the reader who synthesize the contents in this book and understands its lessons will better understand how failures can turn to success and the pain of past mistakes can turn to hope.
Legal and Ethical Essentials of Health Care Administration, Second Edition lays a strong foundation in both health law and ethics. Chapter 1 begins with an introduction to government organization, sources of law, and government ethics and Chapter 2 progresses to a discussion of ethical theories, principles, virtues and values, and related topics. Chapter 3 provides an overview of the historical development of hospitals as influenced by medical progress, allowing the reader to look at their successes and failures through the centuries, and then drawing conclusions about what can be done to avoid repeating the failures of the past. In Chapter 4, the reader is introduced to negligent and intentional torts, progressing to criminal acts in Chapter 5, and contract law in Chapter 6 as they relate to health care. The reader is then introduced to civil procedure and trial practice in Chapter 7. The journey continues with a discussion of legal issues involving corporations in Chapter 8, medical staff organization and physician liability in Chapter 9, nursing and the law in Chapter 10, and a discussion of various hospital departments and allied health professionals in Chapter 11.

The first 11 chapters provide a solid basis for a more complete understanding of the following remaining chapters: Chapter 12 provides an overview of patient rights and responsibilities; Chapter 13 patient consent; Chapter 14 procreation and ethical issues; Chapter 15 end-of-life issues; Chapter 16 AIDS; Chapter 17 legal reporting requirements; Chapter 18 medical records; Chapter 19 national health insurance and managed care; Chapter 20 professional liability insurance; Chapter 21 labor relations; Chapter 22 employment at will and discharge; Chapter 23 employee rights and responsibilities; Chapter 24 tort reform; Chapter 25 culture of safety; Chapter 26 world wide search; Chapter 27 the journey to excellence; and a glossary of common legal and ethics vocabulary.

The practical application of ethics in the healthcare setting is accomplished by interspersing the thoughts of great minds through Quotes, applicable Newspaper Clippings, provider and organizational experiences through Reality Checks designated by a ✓ symbol, and patient experiences through legal rulings and summaries through Case Law. When reviewing the various cases in this book, the reader should consider both the ethical and legal implications of a dilemma and how they intertwine with one another. It is important to recognize that the decisions in the cases described are generally governed both by applicable state and federal statutes and common-law principles. When reviewing a case, the reader must keep in mind that the case law and statutes of one state are not binding in another state.

There is no one magic legal or ethics book that can possibly compress the plethora of issues that have bombarded the healthcare industry into one book. This book is merely a beginning of the study of legal and ethical issues and is an adventure that all caregivers should take. Although there is always much more that could be discussed on any one topic, the good student will understand that this book provides a solid foundation for practical everyday use as well as further study.

Each life is like a novel. Filled with moments of happiness, sadness, crisis, defeat, and triumph. When the last page has been written, will you be happy or saddened by what you read?

—Author Unknown
The reader is presented in the *Second Edition* with real-world life experiences that bring the reader through a journey of learning that provides an effective transitional stage from the classroom to the reality of the everyday work environment.

When people consider matters of law and ethics they are usually considering matters of freedom in regard to personal choices, one’s obligations to other sentient beings, or judgments about human character and the right to choose. The author’s objective is to equip the reader with the background knowledge necessary to understand that legal and ethical behavior begins with understanding that we have alternatives and choices in our behavior. To make good decisions, we must first understand that they will be only as good as our knowledge of what is *right* and what is *wrong*. This book is not an indictment of any profession or organization. There is a deluge of ethical issues in every aspect of human existence. Although cultural differences, politics, and religion influence who we are, it is all of life’s experiences that affect who we will become. If we are compassionate it is most likely compassionate people have influenced us.

**Author’s Note:** This book is not a definitive treatise but is a portrait of the ever-evolving story of health care through the study of law and ethics. It is educational in nature and should not be considered a substitute for legal advice on any particular issue. Moreover, each chapter presents an overview, rather than an exhaustive treatment, of the various topics discussed.

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 presented in this book.
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I am grateful to the very special people in the more than 1,000 hospitals and ambulatory sites from Alaska to Puerto Rico with whom I have consulted, surveyed, and provided education over many years. Their shared experiences have served to remind me of the importance to make this book more valuable in the classroom and as a reference for practicing healthcare professionals.

To my students in healthcare law and ethics classes at the New School for Social Research, Molloy College, Long Island University–C.W. Post Campus, Saint Francis College, and Saint Joseph’s College; my intern from Brown University; my resident in hospital administration from The George Washington University; and those I have instructed through the years at various seminars, I will always be indebted for your inspiration.

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