

Editorial

The very moment that the idea was born of producing a special issue of the *International Journal of Risk & Safety in Medicine*, with a focus on topics relating to the interphase between medicine and the law, the question immediately came up if Liability, our third sub-title, was indeed covering this area. I announced the idea of a special issue on legal matters in a letter to the Editorial Board members and in a call for papers directed to individuals with a Law degree who might be interested to contribute. In these letters I literally said: “You see that I use the term Legal Medicine and not Liability. Liability is too restricted a word for the interplay between Medicine and the law and I believe that for the subtitle which is used, among others, on the cover of the Journal we should change Liability into Legal Medicine”. And that was the start of an animated discussion.

The Associate Editor of the Journal for this particular area seemed to be in agreement with me, which of course was encouraging. His reaction was: “Legal Medicine certainly is a broader term and incorporates much more subject matter than the more restrictive term Liability”. But that wasn’t the end of it. A high ranking lawyer of the Dutch ministry of Health, Welfare and Sport raised doubts. He wrote to me: “The French term *médecine légale* is extremely restrictive and means the coroner’s work and the like, forensic connotations in other words”. And he seems to be right. The entry on *médecine légale* in the French edition of Wikipédia starts with: “La *médecine légale* est une spécialité de la médecine ayant trait, entre autres, à l’activité thanatologique . . .”, thanatology being the academic study of death. Then again, the meaning of the phrase in English speaking countries appears to be different. The American College of Legal Medicine asserts that it is the official organization for professionals who focus on the important issues where law and medicine converge. And the term Legal Medicine, according to the Australian College of Legal Medicine, represents four broad areas of medical practice, encapsulating the fields of Civil legal medicine, Criminal or Forensic legal medicine, Medical Ethics, and medical practice areas affected by statute law, such as the Health Insurance Act, Trade Practices Act, etc.

However, there were more objections. The concern was raised that the phrase ‘Legal Medicine’ inevitably would suggest its opposite, ‘Illegal Medicine’, and that was feared to be the natural response of anyone not familiar with the term or the discipline. It was pointed out by the same correspondent that Legal Medicine is commonly used in a broader sense although there are also references where the term clearly does refer much more narrowly to forensic medicine.

A good friend of mine, a Professor of Health Law at the University of Amsterdam, commented: “Lawyers who know what Legal Medicine stands for in the Anglo-American world may wonder whether it is sufficiently rooted in the legal tradition. Why not simply ‘medical law’?” In my opinion that was a very reasonable suggestion but there was again some opposition. The problem with Medical Law appeared to be that it sounds as though it is a branch of jurisprudence, like Criminal Law, or Civil Law, or Matrimonial Law.

Anyway, Medical Law is a term that is frequently used in a context that is close to what we want with this section of the *International Journal of Risk & Safety in Medicine*, i.e. the same as The Medical Law Review. This periodical is exactly what it says: a publication established as an authoritative source of reference for academics, lawyers, legal and medical practitioners, law students and anyone interested in health care and the law. So in the end we decided on Medical Law as you can see on the cover.

There is a wide range of topical issues that are fundamental to this expanding section of law. Themes are mental health and mental capacity, data protection, freedom of information and the impact on health data, acts on use of human tissue, genetic research databanks, laws and regulations related to human fertilization, developments in embryo and embryonic stem cell research, clinical trials and human subject research [1].

Apart from national legislations, international laws concerning physicians are also within the scope of the section Medical Law of our Journal. The World Health Organization and the World Association of Medical Doctors brought among others the following declarations: Declaration on Promotion of Patients' Rights, the Revised Lisbon Declaration on Patients' Rights, the Revised Helsinki Declaration on Biomedical Research Involving Human Subjects and the Council of Europe's Convention on Human Rights and Biomedicine.

The traditional function of the principles of Medical Law has been to protect the person of the patient against the use of power in health care. However it has been argued that serious note should be taken of the wider interpretation of the principles of Medical Law as one potential mode of furthering the well-being of the patient, thus including financial ramifications [2].

In view of the wide area that is covered by Medical Law, it is not surprising that in the current double issue of the *International Journal of Risk & Safety in Medicine*, subjects additional to those mentioned above are discussed. We are glad that this time our traditional item, WHO News, deals with Counterfeit medicines, a subject that is certainly within the realm of Medical Law. However, maybe because the Journal also has a strong interest in Pharmacovigilance and is therefore sometimes mistakenly seen as a drugs journal, a somewhat disproportionate number of the articles deal with various legal consequences of drug use. In three of the papers, violent or criminal behavior is discussed that was attributed to the use of psychotropic agents. Nevertheless, please be assured that we are well aware of the fact that only a very small part of the discipline of Medical Law has to do with drug induced criminality.

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Editor

References

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- [2] I. Paaso, Current challenges to the principles of medical law and their new interpretation, *Med. Law* **14** (1995), 611–621.