

## Book reviews

---

### Medical negligence

Michael A. Jones: *Medical Negligence* (3rd edn). Sweet and Maxwell, London, 1996, 629 pp., £ 82.

Michael Jones' book became a classic with its first edition published in 1991 and with the rapid expansion in medical litigation in England and Wales this third much expanded second edition is very welcome, drawing as it can do on a much wider spectrum of cases. Structured for the legal reader it is very usable as well for the interested physician. Where principles are still to any extent in dispute, the author provides a constructive interpretation and a reasoned argument as to the direction in which the law seems to be (or should be) moving.

Significantly, the section on 'errors in treatment' is structured around what are undoubtedly at the present day the five main issues involving the individual physician or hospital: operations, causing or failure to prevent infection, miscalculating drug reactions, injections and failure to monitor treatment. A sixth point, 'lack of resources', is advanced as a fault for which an institution might be held liable if injury results, though to date it has only been raised as a possibility *in obiter dicta* in the Court of Appeal. The section on 'errors in diagnosis' is similarly presented, with particular attention to failure to take a full medical history, making of an incorrect diagnosis, failure to spot a serious condition, failure to revise an initial diagnosis when necessary, and failure to create a situation in which a diagnosis might be made, e.g., by arranging tests or seeking a specialized opinion. Here too, an emergent cause of action is raised, namely 'overtesting'; this is in fact more likely to result in wastage of resources than in injury, but the familiar 1984 case of *Maynard v. West Midlands Regional Health Authority* serves as a reminder that a patient can be injured by submitting to an unnecessary diagnostic routine – in that case a diagnostic operation.

A strong point is that where English and Welsh precedents provide no guidance the author does have recourse to case law from the Commonwealth; American cases are exceptionally cited, but sometimes only to provide a contrast with English practice. Here and there the author also makes admirable use of the unpublished cases which are settled out of court and are summarized in the Annual Reports of the Medical Defence Union or the Medical Protection Society; they supplement any attempt to determine the way in which legal principles are developing.

Both the general and specific sections of this book provide an excellent guide to the state of the law and the thinking of the courts where negligence on the part of doctors and medical institutions is concerned. It can be most highly recommended.

### The choice of medical techniques

H.C. Mulder: *Het medisch kunnen (Medical Potential: A Study of Techniques, Choices and Authority in Modern Medicine; in Dutch)*. University of Groningen, The Netherlands, 1996, 236 pp. Price not stated.

The mere physician is sometimes bewildered by sociological studies of his profession; they tend to attain a level of abstraction which causes him to wonder whether they will ever come down to earth sufficiently to be helpful and understandable for those who exercise the medical profession or seek to promote its development.

Perhaps because it was developed in a Department of General Practice, this sociological thesis is more readable than most and is also constructive and repeatedly thought-provoking. Written against the background of the tide of criticism of modern medicine, this is essentially a study of the manner in which modern medicine chooses and uses the wealth of techniques available to it, having regard to their potential both for good and harm. How can the well-established principles of decision-making be applied for this purpose? Mulder finds that they can indeed be employed, but that they are up to the present insufficiently taught and that when a concrete choice has to be made even the most systematic approach to making it can be defeated by lack of hard data (or at least readily available data) on which to base a judgement. Facts about a technique that are derived from research do not always dovetail with the need for knowledge that exists in the clinic. The result is that doctors, as always, can differ. All this is good sense, though one could wish that at some points – notably in Chapter 10 which deals with this specific matter, the author had examined more examples from practice, rather than relying so heavily on Galbraith, Eisenstad and Weber, all of whom were concerned with techniques as a phenomenon in society (and for that matter were dealing with the matter a quarter of a century ago). Where he does come down to earth, Mulder is often much more helpful, for example, in his examination of the differences in techniques used in various areas of the Netherlands, and the dilemma posed by cost-containment.

The medical reader is somewhat inclined to set aside the closing section of this study – the physician's authority over the patient – as a separate matter which would merit its own study and is not necessarily coupled to the issue of choosing techniques. Some excellent issues are raised there, for example, the proper attitude of a physician towards a patient who is inclined to refuse a diagnostic or therapeutic operation – and who may be right to do so, either objectively or subjectively. Mulder also profiles clearly to some of those dilemmas to which there is no answer – how does one balance the desire to keep children with Down's syndrome alive into adult life against the prospect of providing prolonged care for many a demented Down-patient with a cardiac disorder? Such matters deserve full investigation elsewhere.

The primary value of this publication surely lies mainly in the way in which it approaches choice in the use of medical techniques. The sections dealing with that issue comprise a good example of a basic academic study which deserves to be followed by a book – preferably in a major language – translates its findings into food for thought (and some practical guidance) for the health professions.

### **Medical technology and safety**

Bas de Mol: *Homage to the Quack; from "Earn as you Learn" to "Profit by Safety"*. Inaugural Professorial Oration, Delft University of Technology, 1994, 20 pp. Not on sale.

This very readable inaugural oration marked the appointment of Dr. de Mol to the Professorship of Safety Science in Health Care at the University of Delft. In its published form it bears on its front cover Gerrit Dou's renowned painting "The Quack", dating from 1652, essentially the starting point for a colourful little historical overview of the progression of medicine from empiricism (and charlatanism) to a technologically orientated science (with, one might add, plenty of quackery still present in the

background). The specific issue which occupies Prof. de Mol is the lack of safety which has so often been manifest with regard to medical devices. Experience with pacemakers, silicone breast prostheses and mechanical heart valves was determinant in bringing about the enactment of the U.S. Safe Medical Device Act. Government interference alone will not however render medical technology safe; risks will continue to emerge, if only at the level of the practitioner and the hospital. It is here that Safety Science is needed; in a very few pages, Prof. de Mol eloquently defines the need for risk management procedures in complex health care systems, improved man/machine interaction, quality standardization (both of methods and products) and promotion of knowledge and development exchange in a series of related disciplines. This brochure is a splendid little primer in the Safety Science for the Health Care professions; long may it circulate.

### **Ophthalmology and diabetes**

Betty C.P. Polak: *De mens met diabetes mellitus en de oogarts (The Diabetic Patient and the Ophthalmologist)*. Inaugural Professorial Oration, Catholic University of Nijmegen, The Netherlands, 1996. Not on sale.

The tradition of augural orations in the Netherlands provides a challenge to those entering a university post to explain, clearly and concisely, what they propose to do with their academic opportunity and why it is necessary. Dr. Polak's special interest in diabetic retinopathy has among other things opened a window onto a series of possibilities for medical failure. In the Netherlands alone, with a population of less than fifteen million, some 200,000 cases of diabetes are thought to remain undiagnosed; and when diabetes is detected and treated, the therapy employed in any country can in some cases increase rather than reduce the chance of serious ophthalmic complications. When a retinopathy does occur, it is vital to recognize and treat it at once; early laser therapy has in the last thirty years reduced tenfold the chance of blindness over a five-year period, yet opportunities to use it are still being missed. If the possibilities which current knowledge provides are to be put to the best use in preventing unnecessary complications, a very close collaboration between the diabetologist and the ophthalmologist is needed; to date, it is in much of the world not nearly close enough.

### **Medical profession**

B. Maoz, S. Rabinowitz, M. Herz and H.E. Katz: *Doctors and their Feelings; A Pharmacology of Medical Caring*. Praeger, Westport Conn., 1992, 150 pp., \$82.25.

This is a magnificent book, which deserves much more attention than can be devoted to it from the point of view of this Journal. The authors are attached to Tel Aviv's University Department of Family Medicine, and although they themselves represent various disciplines (medicine, psychology, psychiatry, family therapy) their approach is inspired mainly by the world of the psychoanalyst Michael Balint. While there has, mercifully, been increasing attention in recent years to the feelings of patients and their families during illness, the feelings of medical people themselves are of great importance in determining how effectively and understandingly they provide care. Some key words from the discussion and the many case histories in this volume illustrate the need for proper understanding of the issue: in the process of providing care, doctors on occasion find themselves irritated, impatient,

indifferent, angry, contemptuous. . . All these things may indeed be seen as the patient's fault (better: the fault of the process of illness) but if they are not held in check they can be reflected in a lack of understanding, tact or meticulousness. This is not a large book, and for those who are impatient with theory there are plenty of practical examples from real life; it could very well form the starting point for medical discussion groups and for training in self-recognition by doctors, old and young.