

Book Reviews

Clinical Guidelines and the Law: Negligence, Discretion and Judgement

Brian Hurwitz

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The changing nature of healthcare, with the delegation of tasks to healthcare personnel other than clinicians, has led to a need to examine the role of clinical guidelines within the law. The concept of clinical governance emphasises accountability and there has been a concomitant increase in use of the guidelines in all areas of healthcare.

The use of the term 'guidelines' in society is not always clear, the term having been used in all aspects of society from instruction for cookery to the instruments governing the conduct of Parliament. The term has been used synonymously with others such as 'codes of practice', 'policies' and, more recently within healthcare, 'quality standards'. This text attempts to differentiate between the various terms used as 'guidelines' with specific reference to healthcare practice and acknowledges the variations in standards that may result as a consequence of the various interpretations of the term.

The attributes of clinical guidelines, including validity, reproducibility, clarity, flexibility and transparency, are explained very clearly and in each case are related to their authority. Various mechanisms of guideline creation are discussed which link well to the methods of appraisal that may be used in their assessment.

The legal status of clinical guidelines is examined with reference not only to the UK but also to Europe, and to the USA where clinical guideline development and utilisation has reached a higher level of sophistication than elsewhere. Whether this has occurred as a response to the increasingly litigious society of the USA is debatable, but it is certainly very interesting. The relationship

between clinical guidelines and medical negligence case law is also considered, primarily with reference to the UK. However, where relevant, cases from Europe and the USA are also outlined.

The text acknowledges that it is essential that any clinical guidelines that are developed should stand-up to scrutiny within healthcare and the law. Presently, the responsibility for application of guidelines remains with the clinicians, which are expected to exercise their clinical discretion. Nonetheless, the clinicians should always be aware of the legal status of clinical guidelines.

The final chapter of this book considers the impact of clinical guidelines on clinical judgement and clinical freedom. It is acknowledged that, while clinical guidelines have an important role to play in healthcare, uncritical adherence to them may lead to inappropriate clinical care.

In the current healthcare arena a variety of healthcare professionals are developing and extending their roles into areas previously carried out by doctors, under the aegis of protocols and clinical guidelines. It is vital therefore that they reflect on their practice and critically evaluate any guidelines under which they are to practise.

This text is very easy to read, is well referenced and has appended an annotated bibliography of key cases cited within the text and a further list of selected further reading with annotations by Brian Hurwitz.

This book will be an invaluable tool to any healthcare professional with an interest in medico-legal issues, who is responsible for the development of clinical guidelines or who will be involved in working within developed clinical guidelines.

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