Problems in Forensic Medicine by David J. Sharpe and Murdock Head

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Kentucky Court of Appeals

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This is a collection of cases, articles, notes, statutes and questions, and is designed to support a law school course offered for credit to medical students. The viewpoint of the case book is interprofessional. The focus is upon similarity and dissimilarity of the professions of law and medicine. Medicine is made analogous to an "industry." Patients are "customers." The authors note that lawyers and physicians regard each other with a strange mixture of attitudes: hope and dismay, confidence and suspicion, cooperation and hostility. The points of controversy are rooted in ideas—in methodology, in ethics, in economics—rather than in the manufacture and sale of things. The course content is designed to induce lawyers and doctors to get along better with each other, and even if harmony is not attainable the material is designed to impart some familiarity with the types of disputes which tend to divide the medical and legal professions.

Most of the material in the book is "legal" in the form of reported opinions of appellate courts. Since intensive courses in law and psychiatry and in the trial of tort cases are offered separately in the law school where the book originated, this case book does not concentrate on or consider psychiatric and personal injury cases. The first portion deals with the general topic, "The Professions and the Threshold of Death." Part II considers the concept of the standard of care of the physician under the circumstances with consideration given to application of the law of intentional battery and the effect of contributing conduct by the patient. The next category considered is entitled, interestingly enough, "Liability for Loose Talk." Herein are considered those incidents where the physician promises a particular result or where he is defamed and the necessity and scope of the patient's consent to operative procedures is discussed. Under "Lawsuit Prevention and Proof" the conspiracy of silence is considered and the problems of proof of malpractice and substitutes for expert testimony illustrated. The third part introduces the concepts of legal and scientific cause, and finally the issue of amount of damages. Part IV of the book addresses itself to professional ethics and includes the elements of economics and professional associations. The final major category is denominated "Public Policy and Medical Science." Here the questions of scientific evidence and experiments on human subjects
are dealt with and the section is concluded with the problem of abortion and its legal treatment.

The material selected is somewhat parochial and the authors seem to prefer cases from the Washington, D.C., Maryland and Virginia areas. The depth of consideration of the particular problem is at times thorough and at times cursory. Nevertheless, the collection of materials is valuable in that the right questions are asked. Acceptable answers are quite another problem.

In this rapidly developing field, the ability to recognize the right questions and properly formulate the basic issues is an attribute which must be developed. One derives the distinct impression that a medical student having been subjected to these materials with classroom instruction will have a better appreciation of the law and of his fellow professional practitioner, the lawyer, in the total service of providing adequate care on a competent basis to the consumer to whom the service is necessary and vital in the extreme. The critical areas in need of re-examination are spotlighted. The best answers will develop if cooperation between the two professions on a basis of mutual respect is achieved. The approach of this case book encourages that very development.

*Judge Scott Reed*


There is nothing new about the takeover bid. It is an effort by persons outside a corporation, or insurgents within it, to oust its management and seize control. In the history of these wars the Homeric epic is Commodore Cornelius Vanderbilt's siege in 1868 of the Erie Railway, whose capture he deemed necessary to eliminate the threat of competition to his New York Central. Vanderbilt's technique, the use of his own millions to purchase on the open market all the Erie stock available, was crude, but it would have worked had there been

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