



# ISSUES IN MEDICAL LAW AND ETHICS

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Medical Law and Ethics Unit  
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الجامعة الإسلامية العالمية  
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

# **ISSUES IN MEDICAL LAW AND ETHICS**

**Medical Law and Ethics Unit  
Law Centre  
Ahmad Ibrahim Kulliyah of Laws  
International Islamic University Malaysia**

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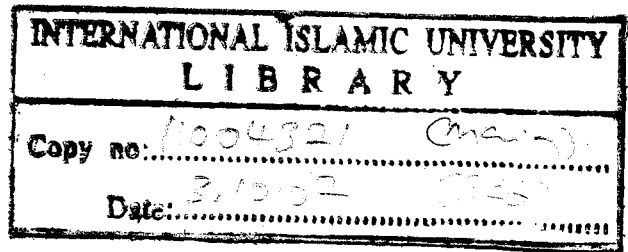
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# TABLE OF CONTENTS

<b>FOREWORD</b>	viii
<b>PREFACE</b>	xi
<b>NOTE ON CONTRIBUTORS</b>	xiv

## **SECTION 1 : CONSENT IN MEDICAL TREATMENT : THE CONFLICT BETWEEN MEDICAL PATERNALISM AND PATIENT AUTONOMY**

1. The Doctrine of Informed Consent in United States, Australia, England and Malaysia : "A Comparative Case Analysis" <i>Puteri Nemie Jahn Kassim &amp; Mohamad Akram Shair Mohamad</i>	1
2. Informed Consent in Medical Treatment: The Need to bring about Rationality <i>Ali Mohamad Matta</i>	17
3. The Ethical Principles of Risk Communication <i>Ravindran Jegasothy</i>	29

## **SECTION 2 : MEDICAL NEGLIGENCE IN PRACTICE : PROBLEMS AND ALTERNATIVES**

4. Medical Errors <i>Ravindran Jegasothy</i>	42
5. Medical Negligence Claims: Evidence, Procedure, Trial and Assessment of Damages <i>Yang Arif Datuk James Foong</i>	50
6. Medical Negligence Litigation: Time for Reform <i>PS Ranjan</i>	62
7. Adopting a No-Fault Compensation Scheme for Medical Injuries in Malaysia: A Myth or Reality? <i>Puteri Nemie Jahn Kassim</i>	75

# THE DOCTRINE OF INFORMED CONSENT IN THE UNITED STATES, ENGLAND, AUSTRALIA AND MALAYSIA: A COMPARATIVE CASE ANALYSIS

*Puteri Nemie Jahn Kassim  
Mohamad Akram Shair Mohammad*

## **Introduction**

Growing public awareness with regard to advances in medical science has increased the need for patients to be given more information before they submit to any medical treatment. Informed consent, thus, has been of current interest to the community as patients claim greater participation in medical decision-making. The doctrine of informed consent presupposes a patient to be given a full and genuine understanding of the nature, purpose and likely effects of the proposed treatment. In allowing this to occur, the law has much difficulty in balancing the rights of the patient on one hand, and the rights of the doctor, on the other. The patient expects the law to give him dignity, respect, independence, autonomy, information and self-determination. If these principles have been violated, the patient expects to be able to seek legal redress. Likewise, the doctor expects the law to offer him dignity, respect, autonomy and judgment. Since he has to observe demanding ethics, high professional standards and heavy responsibilities, the doctor expects to be entitled to be immune from legal liability.

## **Definition**

The doctrine of informed consent embodies the general principle that a person has a right to determine whether or not to undergo any medical procedure. A doctor should give the patient sufficient information for him to understand the nature of any proposed treatment, its implications and risks and the consequences of not taking the treatment. In the light of that information, it is the patient who should decide what treatment, if any, he or she should undertake. The violation of the right to informed consent triggers a "claim" by a patient against a doctor for failure to give him sufficient information about a proposed medical treatment so as to provide him with the opportunity of making an "informed" or "rational" choice as to whether or not to undergo the treatment."<sup>1</sup>