

Continuing Medical Education Workshop

Hospitals, Doctors and Nurses: The law and ethics of responsibility

30 November 2018 (Friday), 6:30 pm - 9:30 pm

and

1 December 2018 (Saturday), 9:30 am - 12:30 pm

Instructors:

Dr Lucy Frith (Reader in Bioethics and Social Science, The University of Liverpool; Visiting fellow, Centre for Medical Ethics and Law, The University of Hong Kong)

Dr Colm McGrath (Lecturer in Tort Law, Dickson Poon School of Law, King's College London)

Topic 1: Responsibility for Oneself		
Friday, 30 November 2018	6:15 - 6:30 pm	Registration
	6:30 - 6:40 pm	Welcome and Introduction
	6:40 - 7:30 pm	Lecture I: Moral Responsibility and Institutions - Dr Lucy Frith In this lecture Dr Lucy Frith will consider how institutions can be seen as moral entities with moral responsibilities and if they should be seen in this light. How are institutions to be seen to be moral agents? What moral obligations are we justified in attributing to them and how are we to evaluate them? This talk will give an outline of organizational ethics that seeks to direct attention to the ethical attributes and functions of organizations themselves rather than focusing, as much of health care ethics has done to date, on individual relationships and encounters. Organizational ethics sees the institution as the moral focus and considers questions such as: what are the organization's alleged aims and values (sometimes contained in a mission statement)? And, what are the organizational structures and how do these affect practitioners' ability to practice ethically? This lecture will consider the benefits and dis-benefits of a focus on the institution as a locus of moral responsibility and suggest some practical ways that institutions can become more ethical organizations.

Friday, 30 November 2018	7:30 - 7:55 pm	Question and Answer Session - Dr Lucy Frith and Dr Colm McGrath
	7:55 - 8:10 pm	Break
	8:10 - 9:00 pm	<p>Lecture II: Institutional Liability for Malpractice - Dr Colm McGrath</p> <p>In this lecture, Dr Colm McGrath will explore and explain the duties that the English common law imposes on healthcare institutions themselves. Distinct from imposing liability for malpractice on a defendant institution because it has employed someone who has behaved in a negligent fashion, the law imposes a number of duties directly on healthcare institutions. He will focus upon three recent cases in particular: I) <i>Darnley v Croydon Health Services NHS Trust (2018)</i>, in which the UK Supreme Court decided a duty is owed not to provide inaccurate information about waiting times in the emergencies department, II) <i>ABC v St George's Healthcare NHS Trust (2017)</i>, in which the Court of Appeal confirmed a duty owed to the relative of a patient and III) <i>Farraj v King's Healthcare NHS Trust (2009)</i>, which considered liability for outsourced laboratory testing and what so-called 'non-delegable duties' a healthcare institution owes their patient. Participants will thus be provided with a solid grounding in the basis of the law here and a number of important recent developments.</p>
	9:00 - 9:20 pm	Question and Answer Session - Dr Lucy Frith and Dr Colm McGrath
	9:20 - 9:30 pm	Wrap up

Topic 2: Responsibility for Others		
Saturday, 1 December 2018	9:30 - 9:40 am	Welcome and Introduction
	9:40 - 10:30 am	<p>Lecture I: Duties to Colleagues and Professionalism - Dr Lucy Frith</p> <p>This lecture will consider the duties that healthcare professionals have to their colleagues and their institutions and what are appropriate limits of moral responsibility. It will consider theories of medical professionalism to explore how doctors have responsibilities both for and to colleagues, and what kind of specific moral responsibilities and obligations are required of doctors qua their membership of the profession of medicine and how far these responsibilities should reasonably extend. Theories of medical professionalism will be explored by considering different accounts of the goals of medicine (internal or external theories of the morality of medicine). The lecture will conclude by considering if medical professionalism needs to be rethought in the light of shifting institutional requirements.</p>
	10:30 - 10:55 am	Question and Answer Session - Dr Lucy Frith and Dr Colm McGrath
	10:55 - 11:10 am	Break

Saturday, 1 December 2018	11:10 am - 12:00 noon	<p>Lecture II: Liability for the Malpractice of Others - Dr Colm McGrath</p> <p>In this lecture, Dr Colm McGrath will briefly review the legal bases for medical malpractice in the common law tradition and then explain the structure and detail of the mechanics by which the common law holds one person responsible for the malpractice of another. The law considered here focuses on the resulting so-called ‘vicarious’ liability of both natural persons (ie individual practitioners) and also legal persons such as healthcare institutions (either hospitals or clinics) who employ or rely wholly or in part on individual practitioners to provide medical services in practice. The lecture will explore the broad scope of potential liability here and the impact of recent decisions such as <i>Cox v Ministry of Justice (2016)</i> on responsibility for non-employed practitioners who contribute to the delivery of healthcare services and <i>Mohamud v WM Morrison Supermarkets plc (2016)</i> on responsibility for intentional wrongs committed by such persons, or employees. This is a rapidly developing area of the law in recent times and the lecture will provide a sound basis for understanding the law here and an assessment of the likely trajectory of such liability in coming years.</p>
	12:00 noon - 12:20 pm	Question and Answer Session - Dr Lucy Frith and Dr Colm McGrath
	12:20 - 12:30 pm	Wrap up