

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2006

TITLE OF PAPER	:	ASPECTS OF LAW AND HEALTH
COURSE CODE	:	LH 305
TIME ALLOWED	:	TWO (2) HOURS
INSTRUCTIONS	:	ANSWER <u>ALL</u> QUESTIONS
TOTAL MARKS	:	100

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.

Question 1

(a) You have been approached by the executive of the Swaziland Medical and Dental Association. You are requested to advise them on the actions of medical practitioners which are regarded as negligent in relation to;

(aa) treatment (2 marks)

(ab) operations (4 marks)

(ac) blood transfusions (2 marks)

(ad) drugs (4 marks)

(b) How is medical negligence proved? (12 marks)

(c) What is *Res Ipsa Loquitur*? Does this principle apply in Swaziland?
(16 marks)

[Total marks: 40]

Question 2

(a) Q is a young lady of 18 years of age. She feels unwell and decides to go to hospital for medical attention. She goes to Dr Simelane who does a check-up on her. According to Dr Simelane's diagnosis Q requires an operation, otherwise her condition will gradually worsen after a few days. Dr Simelane does the operation there and then without telling Q of the diagnosis and without consent.

Discuss the legal position. (19 marks)

(b) Would Q's consent be sufficient if she was a 27 year old married woman and wanted to be done an operation which would make her unable to have children?
(5 marks)

(c) Describe the rights and duties of each party in relation to the other in (a) above.
(6 marks)

[Total marks: 30]

Question 3

(a) Is a medical practitioner permitted to disclose confidential information obtained from *his patient*? (10 marks)

(b) Under what circumstances may a medical practitioner administer treatment or conduct an operation on a patient without that patient's consent? (10 marks)

(c) How does a medical practitioner incur contractual liability in relation to his patient? (10 marks)

[Total marks: 30]