

**UNIVERSITY OF SWAZILAND**

**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER, JULY 2010**

**TITLE OF PAPER: ASPECTS OF LAW AND HEALTH**

**COURSE CODE: LH305**

**TIME ALLOWED: 3 HOURS**

**INSTRUCTIONS : (1) ANSWER QUESTION ONE (1) WHICH IS  
COMPULSORY AND ANY OTHER TWO (2)  
QUESTIONS OF YOUR CHOICE.**

**(2) MARKS FOR QUESTIONS OR PARTS THEREOF ARE  
INDICATED IN BRACKETS**

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GRANTED BY THE INVIGILATOR**

### **QUESTION 1**

Once a medical practitioner has committed himself to treat a patient, his duties towards the patient only ends after the completion of the treatment or operation.

Under what circumstances can a medical practitioner pre- maturely withdraw his services from a patient without attracting liability against himself for negligence?

[25 marks]

### **QUESTION 2**

a) What is meant by vicarious liability?

[5 marks]

b) In the context of the medical profession, what are the two (2) requirements that must exist for a vicarious liability claim to succeed?

[10 marks]

c) Dr Mandla is employed as a fulltime neurologist at the Manzini Clinic. Occasionally he is contracted on a consultancy basis by the RFM Hospital in Manzini to handle cases deserving his expertise. From one botched operation by Dr Mandla at the RFM Hospital, the hospital is now facing a vicarious liability claim. Is the RFM Hospital vicariously liable for Dr Mandla's negligence.

[10 marks]

TOTAL: [25 marks]

### **QUESTION 3**

(a) What is the essence of the Hippocratic Oath and the Florence Nightingale Pledge? [10 marks]

(b) What are the five (5) exceptions to the rule of professional secrecy in the medical profession? [15 marks]

Total: [25 marks]

### **QUESTION 4**

Can a child sue its mother for damages resulting from pre-natal injuries suffered by the child during its mother's failed attempt to abort the child?

If so, what will be the child's legal basis for the claim? [25 marks]

### **QUESTION 5**

(i) What is meant by informed consent? [5 marks]

(ii) What is an offer? How does it lapse? [5 marks]

(iii) To succeed in a case of negligence, the claimant must prove four (4) specific things. What are these? [5 marks]

(iv) What is the function of criminal law in our society? [5 marks]

(v) How is law different from morality? [5marks]

Total: [25 marks]