



**RIARA LAW SCHOOL**  
**UNIVERSITY OF EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE**  
**AND**  
**PRE-KENYA SCHOOL OF LAW CORE COURSES COMPLIANCE PROGRAM**  
**26<sup>TH</sup> AUGUST 2024**  
**RLB 421: MEDICAL LAW**  
**INSTRUCTOR: CHARLOTTE NYANGERI, LL.M, FIFA MASTER**

**INSTRUCTIONS**

1. This is the final examination in Medical Law. You will earn **70%** of your final grade from this final examination and **30%** from Continuous Assessment Assignments.
2. This examination has **SEVEN** questions. Please answer **ALL THE FOUR QUESTIONS** in Section A and **ANY TWO** in Section B.
3. The examination has 3 pages, including this one.
4. Time allocated for this examination is **TWO HRS** (2) hours. You must stop writing when time is called.
5. Please sign the roll sheet when you turn in your answer sheet. If you fail to sign the roll sheet, we shall have no way of establishing that you sat for this examination and your marks will not be reported.
6. This is a **CLOSED BOOK** examination. This means you are not permitted to bring **ANY** hard or soft materials to the examination room. You are also not allowed to access materials stored in computers, electronic gadgets or the internet. You should not bring to the examination room any of the following: cell phones, tablets, computers, statutes, notes, outlines, or books. Neither should you bring to the examination room books or materials unrelated to this course. If you need to have medicine or food items with you, please let the invigilator know before the examination begins.
7. This examination is governed by **Riara University Academic Honesty Regulations**. Students who violate those regulations will be penalized. Students have an obligation to report to the invigilator any incidences of academic dishonesty compromising the integrity of this examination.

## SECTION A

### **QUESTION ONE**

Angela White underwent a cosmetic procedure at the Aga Khan University Hospital (AKUH), Nairobi. Her husband, Aubrey Graham, has a particular fondness for large bosoms and he had been pressuring his wife to go under the knife to satisfy his guilty pleasure. After months of back and forth, she finally consulted a plastic surgeon, Dr. Kata Ovyo based at the hospital who gave her the requisite information and subsequently booked her appointment for a breast augmentation.

After the procedure, she went home to recuperate but experienced immense and unusual pain during the healing period. She then went back to the hospital for a check-up where it was found that a small piece of the scalpel had broken off and was lodged in her left implant. Aubrey, furious at this, sought repeated explanations from the doctor & the hospital administration which unfortunately fell on deaf ears.

Aubrey has heard that you are a seasoned malpractice lawyer who is yet to lose a case, so he approaches you for assistance.

Draft a legal opinion explaining the remedies available to Aubrey on behalf of his wife Angela.

**(15 marks)**

### **QUESTION TWO**

Discuss the main ethical and legal grounds on which a doctor should respect Doctor-Patient confidentiality and the circumstances under which such confidentiality may be breached.

**(15 marks)**

### **QUESTION THREE**

John Stuart Mill, Immanuel Kant and Aristotle are revered individuals whose works cover profound questions in ethics, metaphysics and logic. Using practical examples, discuss the medical theories advanced by each of them.

**(10 marks)**

### **QUESTION FOUR**

Trina, a 16-year-old teen, was born with six toes on each foot. When she started high school, her peers made fun of her. This affected her performance and she considered quitting school. Her mother refused to take her to hospital for a simple procedure to remove the extra toes because she thinks that would be finding fault with God's perfect work.

Without her mother's knowledge, she goes to a local hospital and has the surgery done. After learning of this, the mother sues the doctor for performing unconsented surgery.

- a) Will the mother's assertion that Jodie cannot give consent for the surgery stand?
- b) What exceptions exist in law for the requirement of informed consent before any medical treatment is administered?

**(10 marks)**

## **SECTION B**

### **QUESTION FIVE**

Discuss:

- a) The Bolam test and its exception.
- b) Three clauses that the rejected Finance Bill, 2024 proposed to change relating to the Medical/Health sector.

**(10 marks)**

### **QUESTION SIX**

Mr. Enzo Barilla, 54, resident of Sicily, Italy, has been terminally ill for 10 years with no hope of getting better. He is in constant and agonizing pain coupled with significant weight loss and overall health deterioration. Together with his family, they have had immersive and extensive discussions about possibly pursuing a route that will humanely end his debilitating pain.

Upon conducting their research, they settled on pursuing the said cause in The Netherlands. They have come to you to provide them with the legal and medical framework to be followed prior to Enzo being subjected to the medical procedure.

Draft a memo to his next of kin, his wife, Mrs. Kara Barilla highlighting the same.

**(10 marks)**

### **QUESTION SEVEN**

Using case studies, examine:

- a) 5 benefits and drawbacks of Medical Technology.
- b) The provision of Emergency Medical Treatment in Kenya.

**(10 marks)**