

1967

Book Review

Harry R. Grau

Follow this and additional works at: <https://engagedscholarship.csuohio.edu/clevstlrev>



Part of the [Medical Jurisprudence Commons](#)

How does access to this work benefit you? Let us know!

Recommended Citation

Harry R. Grau, Book Review, 16 Clev.-Marshall L. Rev. 391 (1967)

This Book Review is brought to you for free and open access by the Journals at EngagedScholarship@CSU. It has been accepted for inclusion in Cleveland State Law Review by an authorized editor of EngagedScholarship@CSU. For more information, please contact library.es@csuohio.edu.

Book Reviews

*Reviewed by Harry R. Grau**

LAW FOR THE PHYSICIAN, by Carl E. Wasmuth, M.D., LL.B. Lea & Febiger, Philadelphia, Pa. (1966). 583 pp. \$16.50.

A medico-legal book review should strike a happy balance between the critic's personal reaction, both as to the style and literary content of the book and as to its general value to the specialty field with which it deals. In the latter regard, Dr. Wasmuth and his confreres have made a valuable contribution to the curricula of law and medical schools, which more than compensates for the dyspeptic discomfort of this physician whose plodding through legal phraseology and legal nuances left him generally vaguely oriented, in many instances specifically confused. *Law for the Physician* has been written for indoctrination of the physician into those phases of the law with which he should be concerned. The purpose is laudable and worthy of commendation. It would, therefore, follow that, for the book to be of value, the physician should read and digest the contents of the book, and having done so, utilize in his practice what he has assimilated.

The above reasoning, though logical, fails in practical application in a number of respects. First and foremost, the physician tries to devote what little time he does have to required medical reading. Such reading is, for the most part, limited to certain journals and texts, carefully selected from the vast amount of material that is daily presented. Indeed, to help him keep abreast of developments in his field, lectures, visual/audio aids in libraries, and tape recordings for use in home, automobile, and office are available for those moments when he is free of the physical demands of his practice.

Even if the physician found the time to read this book, I would question the wisdom of his using his own judgment as to when he should apply his knowledge of the book's contents to his practice in certain respects. While the physiology of digestion is not unknown to the physician, he may well develop "mental heartburn" from incomplete intellectual digestion of terms, briefs, *res ipsa loquitur*, *amicus curiae*, *ad hoc*, and other legal tid-bits heretofore not served to him by the chefs responsible for his medical educational sustenance and growth. The medico-legal judgment he would exercise based on such "heartburn" knowledge would be, indeed, questionable both as to soundness and applicability.

The foreword contains the statement, "When a legal problem is difficult and complex, the physician should no more try to be his own

* M.D.; Member, Board of Directors of the Cleveland Academy of Medicine, and member of its medical-legal committee.

lawyer, than a lawyer should try to be his own physician. But the physician must know when he needs a lawyer, and when he does not." I respectfully suggest a physician should be made to realize he NEVER knows when he does NOT need a lawyer. I would strongly suggest that *only a lawyer* should determine when the physician does NOT need a lawyer. If a physician, using the book as his only guide, decides he does NOT need a lawyer, his error might prove most disastrous. On the other hand, if an attorney, having been consulted by the physician, decides that legal services are not required, the attorney's error would not prove disastrous, except in the most unlikely and indeed highly improbable situations. The chance for error in both instances, as regards medico-legal situations, is much greater with the physician than with the attorney.

Permit me to reverse the tables. Suppose a medical textbook, describing medical syndromes commonly found in attorneys, were written for the legal profession. Chapters devoted to peptic ulcer, failing eyesight, falling hair, paronychia following nail biting, laryngitis, flatulence, and even gluteal deformities due to prolonged sitting in offices and courtrooms, would be included. It is likely that attorneys would use such a text as the basis for determining whether they would or would not seek therapy to allay their suffering and soothe their pains? I have reservations as to whether this would be done, and equally so as it concerns physicians and their need for legal service. Would not, in both instances, the proper specialist be contacted much sooner if the physician or attorney merely determines that a question exists rather than assume the added responsibility of deciding whether or not the question requires an answer by the specialist concerned? I have long made it a personal practice to warn each patient, during the post-operative convalescent period, not to go any further than to note that he has a question regarding his condition. I have insisted that once a question was raised, I was to be contacted, and I would determine whether my service was required. It seems the analogy is clear. If the book emphasizes only the phrase "But the physician must know when he needs a lawyer, . . ." and thus alerts the physician to contact his attorney earlier than might be otherwise anticipated, then it has well served its purpose.

This writer's personal reaction to the book having been initially stated in somewhat critical terms, the remainder of this review can only be noted in warm tones as to how well the book has been written, the excellence of the material presented, and how welcome an addition it will prove to be as a required textbook, primarily in law schools, and secondarily in medical schools.

As a physician, I cannot judge whether the legal material presented is more or less pertinent than other material which might have been presented. I do feel, however, that embryo lawyers would do well to

apprise themselves of the contents, if not specifically then in essence. As the attorney expects his physician to be learned above the level of rudimentary hygiene, so also does the physician rely on the attorney's expert knowledge. Having read a short paragraph in a medical magazine about the "Darling" case,¹ I would expect my attorney to be fully aware of the case, since the decision affecting medical practice has implications beyond and above the level and range of my knowledge.

The medical student, at the third or fourth year level, should be indoctrinated as to both the ethics of his profession and those legal matters which directly affect his practice. *Law and the Physician* would prove an excellent text since it includes subjects ably covered in a number of the chapters devoted to physician/patient relationship, malpractice, medical expert witness, and the like. Those chapters on hospital liability, business organization, tax accounting and fiscal management could be reserved for more sophisticated personnel.

To this reviewer, whose superficial interest in medico-legal subjects is greater than might generally be expected of physicians, the book was most interesting, informative, and is well-recommended.

¹ *Darling v. Charleston Community Memorial Hospital*, 33 Ill. 2d 326, 211 N. E. 2d 253 (1965), cert. den. 383 U. S. 946 (1965).

* * *

*Reviewed by David B. McClure**

CHILDREN IN THE COURTS—THE QUESTION OF REPRESENTATION, George G. Newman, Ed. Institute of Continuing Legal Education, University of Michigan, Ann Arbor, Michigan, 1967, 560 pp. \$15.00.

Children in the Courts is a timely compilation of current legal thought on the important issue of legal representation for the child in divorce, custody, neglect, and delinquency proceedings. The fourteen chapters of this work cover a broad spectrum of issues from the need for separate counsel for the child as a "disadvantaged party" in divorce actions to the need for advocates skilled in law and behavioral science to serve as effective counsel for all children in conflict with the law.

Children in court have long been neglected by the legal advocate and left to the often inadequate measures available to our nation's juvenile and domestic relations tribunals. Immediate action by the legal profession is needed to provide effective representation of the child's interests. The steadily-increasing rate of family-based court actions and

* B.S.S.S., John Carroll University; Fourth-year student, Cleveland-Marshall Law School of Baldwin-Wallace College; Director, Erie County Juvenile Court, Sandusky, Ohio.