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Abstracts from the Law and Medicine Interest Group

There's more to being a father than sex

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Abstract

This paper will explore what factors are relevant in determining, as a matter of law, who is a child's father. Under current legislative schemes in Australia, a sperm donor is presumed not to be the father of a child born as a result of reproductive technology. It will be argued that current legislation focuses too much on the issue of whether or not an act of sexual intercourse took place and that there is more to being a father than sex. The paper will argue that we should focus on one of two alternative tests, that is genetic relationship or consent/quasi-contract, although either of these would have significant implications for our current understanding of paternal responsibility. The implications of the proposed tests will then be explored.

A Challenge to the Jurisdictional Crown Jewel or A Coming Of Age?

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Abstract

The 1988 Cartwright Inquiry concluded that the protection of patient safety could not be left to the medical profession alone. Rather it was a human rights issue that required state action in the form of a codified set of patient rights. To this end, the Code of Health and Disability Consumer Rights was enacted in 1996 and a number of other statutory and policies measures have since been implemented.

The Code has not however, met with universal approval or implementation. Its very existence creates a tension for health professionals who wish to be self-regulating and maintain and advance their own standards of practice.

The Medical Council of New Zealand has initiated a pilot Performance Evaluation programme (PEP) of individual doctors to identify good medical practice and necessary improvements. Of particular significance, PEP includes patients who will provide assessments of each doctor. This is a defining moment in the evolution of the doctor-patient relationship and represents a shift in the jurisdictional crown jewel of the medical profession: control of competency processes. This presentation speculates about the extent to which patient safety has come of age at a time when the state requires increased accountability from sectors of the medical profession.