

The present work entitled “Droit pénal médical” -Criminal Law in Medical Practice- is the first published in France on the subject. The absence of work in this field is surprising since litigation in medical law has become a reality today considering the growing number of practitioners charged with criminal offences. The object of this book is both academic and scientific insofar as it aims to enable all the parties involved in the criminal process related to medical practice (jurists, lawyers, judges, practitioners and academics) to better apprehend the reality and content of medical criminal law. The first part of the study deals with le droit pénal général médical – medical criminal law in general- to highlight the specificity of the general rules that form the basis of a physician’s criminal conviction. The author explores not only the criminal proceedings, but also the rules determining the criminal responsibility -or absence of responsibility- of a physician in medical practice, as well as the disciplinary actions and proceedings used in medical law that differ from ordinary criminal law.

The second part of this work is concerned with le droit pénal spécial médical –, i.e. the study of the various offences that can be committed, so as to map the legal rights and responsibilities of both patients and medical care providers. Firstly, the author considers confidentiality in medical law, a confidentiality that protects the patient against any infringement of his rights and liberties as granted by today’s legislator. Hence, the analysis of the different provisions in the French Penal code that protect the patient’s life and bodily integrity (voluntary or involuntary breach of life and physical integrity), the sexuality of the person involved in a medical relationship (rape and any other sexual assaults), and these that protect the patient against assault and battery (mainly the patient’s will to consent to treatment), as well as his dignity (discrimination and harassment) and his personal rights (breach of privacy, of confidentiality as well as any other intrusion into the patient’s personal data held digitally). Secondly, the author examines the criminal law provisions that regulate the medical profession, beyond confidentiality. Indeed, since medical criminal law concerns also the medical profession -and not simply patients-, and because doctors practise a profession unlike any other, the legislator has developed a body of regulations aiming to organise and protect the medical profession. In particular, criminal law is called upon to confer efficiency to these laws and regulations safeguarding both public health and the safety of patients. To this end, criminal law concerning the medical profession aims, first and foremost, to impose penalties for infringements of medical practice so as to combat the undertakings of people who do not have the required knowledge to undertake a medical act (usurpation of qualifications and illegal medical practise).

But criminal law goes also beyond regulating those situations. Indeed, as its aim remains to organise and rationalise the medical profession, criminal law prohibits other behaviours, those where physicians are in breach of medical ethics. The offences range from the prohibition of eugenic practices and reproductive cloning carried out by the medical profession, to the punishment of various breaches of more general standards of probity which demand that doctors be especially upright and honest in medical relationships and which justify imposing penalties for corruption, social security fraud, breaches in the storing of data or breaches of trust in the medical profession (forgeries and false doctor's certificates).

Finally a significant part of criminal law concerning the medical profession is made up of sanctions aimed at breaches of medical discipline. The breaches seem in this case to be less concrete and conceived rather in the logic of repression (breaches concerning biomedical research, breaches of the rules concerning patients in psychiatric hospitals as well as penalties for refusing medical requisitioning.) Ultimately, the book offers a particularly comprehensive survey of the subject without ever being merely descriptive. It is written in such a way that it enables the author to express his criticisms, his hesitations and his wishes, in order to guarantee the effectiveness of criminal law and to contribute to the construction of a coherent criminal law in medical practice.