The Doctor and Law, Ethics and Professional Practice

Intro to Ethics

a. *Virtue Ethics*: Intention is right/wrong
b. *Deontology*: Action itself is right/wrong (Kant's imperative)
c. *Utilitarianism*: Consequences determine morality. That which produces most overall pleasure/good is good.
d. *Bioethical Principlism*: Autonomy/Justice/Beneficence/Non-maleficence.

Human Rights

a. *Right to Health Care* = exists (*Human Rights Act 2019 (Qld)*). Only ensures access to medical treatment.
b. *Right to Health* = does not exist. Encompasses all SDH including shelter + food.
  (i) Pros: legal remedy, human rights culture, gov becomes accountable
  (ii) Cons: increased litigation, politicises jury, judges overpowered, unnecessary

Professionalism

a. *Australian Medical Association (AMA)*: represents doctors, lobbies government.
b. *Australian Health Practitioner Registration Agency (AHPRA)*: registration
c. *Medical Board of Australia (MBA)*: registration
d. *Specialist colleges*: vocational training

Adult Capacity and Consent

a. For consent to be valid:
  (i) The patient must have *capacity* (18+, able to understand nature and effect of decision, make decisions about it, and communicate decision about the matter)
  (ii) It must be given *freely* and *voluntarily* (no duress, undue influence, or coercion)
  (iii) It must have *specificity* to the treatment (covers nature AND purpose, broad terms)
b. If patients have *impaired capacity*, the following hierarchy is followed to determine the substitute decision maker (SDM, as per the *Guardianship and Administration Act 2000 (Qld)*)
  (i) Advanced Healthcare Directive (AHD), made by the patient when they had capacity
  (ii) Guardian Appointed by a Tribunal or Court
  (iii) Enduring Power of Attorney, appointed by the patient when they had capacity
  (iv) Statutory Power of Attorney, which is those of the following who are culturally appropriate and available: (as per the *Powers of Attorneys Act 1998 (Qld)*),
    a) A close and continuing spouse or de-facto partner
    b) A person >18, who has care of the adult and is not paid
    c) A person >18, who is a close friend or relative and is not paid
    d) The Public Guardian
c. Consent cannot be obtained from a substitute decision maker (and must be made by the patient, their AHD, or a court/tribunal) for procedures which constitute special health care (including sterilisation, termination of pregnancy, research participation)
d. Consent is not required in cases which constitute an emergency or when administering minor or uncontroversial healthcare.

Child Capacity and Consent

a. A single parent is required to consent for children (disagreements go to the family court).
b. Parents cannot consent (and instead go to the court) when considering special medical procedures, due to their irreversible nature, risk of making the wrong decision, consequences of a wrong decision being extensive, and conflicting interests of the parent and children.
c. Courts can overrule the refusal of parents when they are not acting in the best interests of the child. [blood transfusion; can overrule without court intervention, if second doctor agrees].