



# THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

## A. M. E. C. E. A MAIN EXAMINATION

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AUGUST – DECEMBER 2018 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 417: LAW, MEDICINE AND ETHICS

Date: DECEMBER 2018

Duration: 2 Hours

**INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions**

- Q1. a) Normally, in the law of negligence, a breach of duty arises if the defendant falls below the standards expected of a reasonable man. With the aid of relevant examples, the law and decided cases, discuss the extent to which the law has been applied in the legal regulation of medical practice to suit emerging crisis in the justice system for the determination of negligence cases in Kenya. **(18 marks)**
- b) Critically analyze the ethical debate surrounding euthanasia in light of the grand theories and principles regulating medical practice. **(12 marks)**
- Q2. In Vitro fertilization, assisted birth technology(ART) and surrogacy among other methods in reproductive technology still remains a dilemma in Kenya's legal regulatory framework. In light of ethics and the principles of law, discuss the foregoing, taking into consideration aspects of reproductive technologies and the position of the law on abortion. **(20 marks)**
- Q3. Critically discuss and analyze the position that "grand theories and principles underlying medical legal ethics create and expose an inter-relationship of obligations, responsibilities and rights that have to be exercised with utmost due care and diligence" **(20 marks)**
- Q4. The underlying principle and practice in medical and healthcare system is that every patient's information must be held confidential. To what extent is this position justified? **(20marks)**

Q5. Explain this position of the House of Lords' decision in the case of **GILLICK VS. WEST NORFOLK AND WISBECH AREA HEALTH AUTHORITY [ 1985] 3 ALL ER 402** that a child under 16years had legal competence to consent to medical examination and treatment if they had sufficient maturity and intelligence to understand the nature and implications of that treatment by provided that certain a criteria was met. **(20 marks)**

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