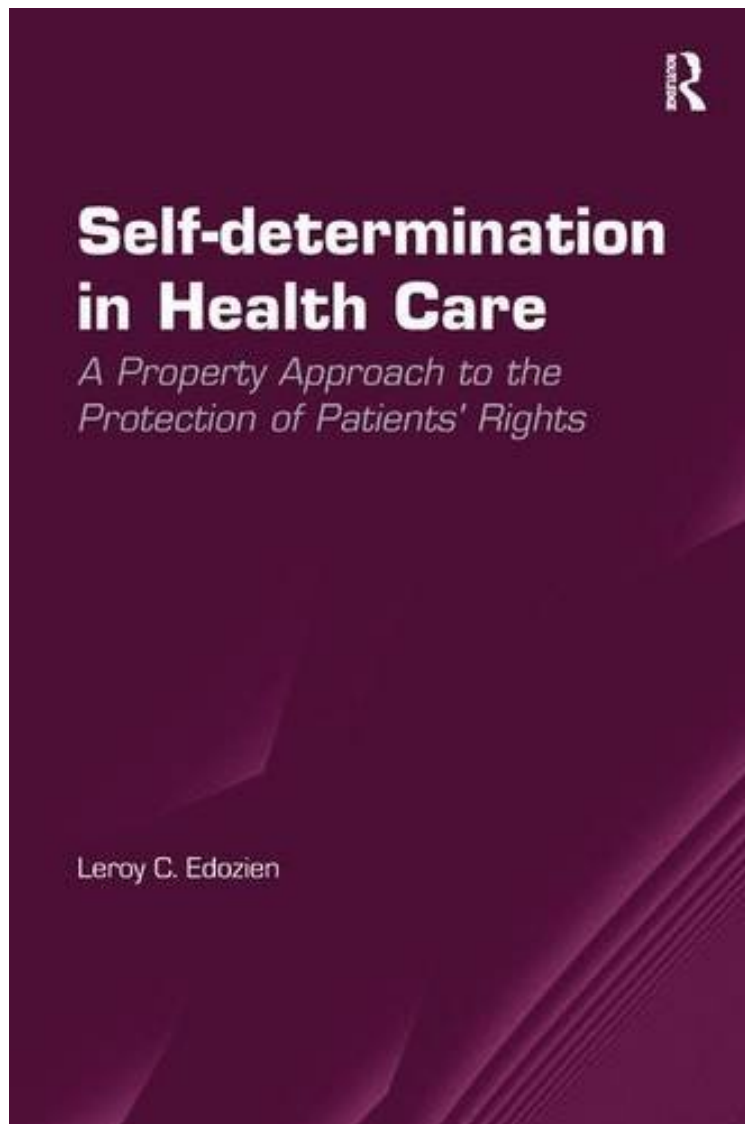


Self-determination in Health Care: A Property Approach to the Protection of Patients' Rights

Leroy C. Edozien

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Leroy C. Edozien : Self-determination in Health Care: A Property Approach to the Protection of Patients' Rights before purchasing it in order to gage whether or not it would be worth my time, and all praised Self-determination in Health Care: A Property Approach to the Protection of Patients' Rights:

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Green Chambers This book is primarily in the field of law, says the author, Leroy Edozien, but it has foundations in ethics, philosophy and the social sciences. Fundamentally, the book explores the host of issues impinging on the matter of patient autonomy, more accurately renamed for purposes of this study as patient self-determination. The author describes himself as representing two constituencies law and medicine. I have tried to be faithful to both in terms of end product, he adds, although it is always more fulfilling if the product has the potential to find practical application in clinical and legal practice. The author describes patient self-determination as the right of the competent patient to make decisions about his/her medical treatment. This concept is of course examined in detail in the light of legal and clinical practice based on extensive research. The book is certainly relevant in view of the increasingly entrenched skepticism among patients (rightly or wrongly) that doctor-knows-best. Referred to as medical paternalism this tradition is said now to be ebbing and for most patients this is good news. The modern approach in contrast, places the patient at the centre of care. Here, the patient is acknowledged to have a right to be involved proactively in the decisions made about his or her treatment. A breach of this right is therefore a breach of the patients bodily integrity. The self-determination (autonomy) of the patient is what the law seeks to protect. There are however obstacles. The authors opinion is that consent as currently applied by the courts and by clinicians is inadequate; inadequate, that is in serving its intended purpose. An alternative approach therefore needs to be considered. Such an approach, as indicated by the books subtitle is property based which refers to the patients body being his or her own property and that the patient in question has the right to retain ultimate decisional control of what happens to it. It is suggested that this model could provide a feasible approach for the courts to consider in cases where patient self-determination emerges as an issue. Certainly the issues of patient self-determination, consent and the property model are discussed in meticulous detail thought this book, the preparation of which was supported and encouraged by Professor Sheila McLean, Emeritus Professor of Law and Ethics in Medicine, at the University of Glasgow. The author also pays tribute to Professor Robert Downie, of the University of Glasgow, who has provided help in finding a road map for navigating this terrain. As relevant cases from a range of jurisdictions are discussed, this book, a recent title from Ashgate Publishing, should attract the interest not only of academics, but of practitioners dealing with, for example, personal injury and other medical issues with their attendant social, ethical and moral complications. The publication date is cited as at 2015.

It is generally accepted in legal and bioethical discourse that the patient has a right to self-determination. In practice though, this is often not the case. Paternalism is waning and it is increasingly recognised that there are values other than medical factors which determine the choices that patients make. Unfortunately, these developments have not resulted in huge advances for patient self-determination, which is largely because the consent model has fundamental flaws that constrain its effectiveness. This book sets out to offer an alternative model to consent. In the property model proposed here, the patients bodily integrity is protected from unauthorised invasion, and their legitimate expectation to be provided with the relevant information to make an informed decision is taken to be a proprietary right. It is argued that the property model potentially overcomes the limitations of the consent model, including the obstacle caused by the requirement to prove causation in consent cases. The author proposes that this model could in the future provide an alternative or complementary approach for the courts to consider when dealing with cases relating to self-determination in health care.

"Edozien argues that the generally accepted method of ensuring self-determination by medical patients that of securing the patients consent is ineffective. He argues instead for a property model, where the patients bodily integrity is protected from unauthorized invasion, and their legitimate expectation to be provided with the relevant information to make an informed decision is taken to be a property right." Law and Social Inquiry Journal

About the Author Leroy C. Edozien holds qualifications in the basic sciences, medicine and law from universities in Ibadan, London and Glasgow and is a member of postgraduate medical colleges in West Africa, Ireland and London. He is a consultant obstetrician and gynaecologist at St Marys Hospital, Manchester and Manchester Academic Health Science Centre.