



**UNIVERSITY OF ESWATINI**

**FIRST SEMESTER MAIN EXAMINATION PAPER, JUNE  
2021**

**FACULTY OF HEALTH SCIENCES  
INSTITUTE OF DISTANCE EDUCATION**

**COURSE CODE: GNS409**

**TITLE OF PAPER: ASPECTS OF LAW FOR HEALTH  
PRACTICE**

**TIME ALLOWED: 3 HOURS**

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**Instructions**

1. Answer all four questions.

**Special Requirements**

None

**Additional Material (s)**

None

*Candidates may complete the front cover of their answer book when instructed by the Chief Invigilator and sign their examination attendance cards but must NOT write anything else until the start of the examination period is announced.*

*No electronic devices capable of storing and retrieving text, including electronic dictionaries and any form of foreign material may be used while in the examination room.*

**DO NOT turn examination paper over until instructed to do so.**

**QUESTION ONE**

(a) Dr Mjust is employed as a full time dentist at the Mbabane Government Hospital. His wife is also a qualified dentist and runs the family's private clinic in Matsapha. A patient who had a serious dental problem visited the Mbabane Government Hospital for an operation and was told that she cannot be assisted because the Dental Unit was fully booked for that week. She was advised to make an appointment. Seeing the seriousness of patient's condition, Dr Mjust advised the patient to visit his family's private clinic in Matsapha for an operation. Dr Mjust performed the operation on the patient and complications occurred as a result of the procedure. The patient is now suing the Mbabane Government Hospital. She argues that the hospital is vicariously liable for Dr Mjust's negligence.

**Is the Mbabane Government Hospital vicariously liable for Dr Mjust's negligence?**

**YOUR ANSWER SHOULD NOT EXCEED ONE AND A HALF PAGES**

**[15 Marks]**

(b) Discuss the duty of confidentiality in health practice.

**[10 Marks]**

**[25 Marks]**

**QUESTION TWO**

The General Nursing Department of the Faculty of Health Sciences is reviewing its BNSc Programme. Some members of the teaching staff of the Department have recommended that Aspects of Law for Health Practice (GNS409) should be removed from the list of courses that are offered to students registered for BNSc because it is not relevant to health practitioners.

**You are invited to give your opinion on this issue.**

**YOUR ANSWER SHOULD NOT EXCEED TWO PAGES**

**[25 Marks]**

**QUESTION THREE**

Mrs Foxit concluded an agreement with Painter Medical Surgery (the Surgery) on the basis of which the Surgery undertook to perform a tubular ligation (sterilization) on her. However, Mrs Foxit later fell pregnant and gave birth to a child. Mrs Foxit has taken the Surgery to Court and asked the Court to find the Surgery liable for her patrimonial loss.

**With the aid of decided cases, discuss the basis on which the Court should find the Surgery liable.**

**YOUR ANSWER SHOULD NOT EXCEED TWO PAGES**

**[25 Marks]**

**QUESTION FOUR**

(a) Discuss the requirements for valid consent to treatment.

**YOUR ANSWER SHOULD NOT EXCEED ONE AND A HALF PAGES**

**[15 marks]**

(b) In *Soumbabis v Administrator of the Orange Free State* it was highlighted that a failure to advise a diabetes patient with a foot injury not to use his foot but to rest it resulted in the doctor incurring liability for negligence.

**When is a medical practitioner not obliged to disclose certain information to a patient?**

**YOUR ANSWER SHOULD NOT EXCEED ONE PAGE**

**[10 marks]**

**[25 marks]**