of the new professionalism, as promoted in a recent report of the Royal College of Physicians.

The book that Posen cites most often (14 times in all) is *The Rack* by AE Ellis, the pseudonym of Derek Lindsay. When it first appeared in 1958, this widely praised antimedical diatribe was hailed as a masterpiece by authors such as Graham Greene and Penelope Mortimer. It has long been out of print, and previous editions, such as the Penguin edition of 1988 (the one to which Posen refers), bowdlerized Lindsay's original text. Look out for the full version, to be published next spring by Elliott and Thompson.

A minor criticism is that Posen has paid insufficient attention to the bibliography. Here, brief biographical details would have been welcome; nowhere, for example, are we told that Céline was a doctor, and he is even mentioned in a paragraph dealing with non-medical authors. It is regrettable that foreign-language titles have been given only in translation and that some foreign accents (Čapek, Hašek, The Good Soldier Šcaron vejek) have been omitted. The convention of printing titles of novels in italics and short stories in roman is partly ignored; one might think, for example, that the CP Snow works cited are short stories in a collection entitled *Strangers and Brothers*, instead of individual novels in the series of that name. And pseudonyms, even when given parenthetically, are treated cavalierly. For example, Posen fails to tell us that Michael Arlen was born (in Bulgaria of Armenian parents) Dikran Kuyumjian, and he omits the real names of Anthony Burgess (John Burgess Wilson), Joseph Conrad (Joseph Teodor Konrad Nalecz Korzeniowski), Molière (Jean-Baptiste Poquelin), Luke Rhinehart (George Powers Cockcroft) and Tennessee Williams (Thomas Lanier Williams). The format of the information is also inconsistent. 'Brand, Max' is identified (correctly) as 'Frederick Faust', while 'Henry, O' is marked down as 'Porter, William Sidney' (it should be Sydney). 'Marquis, Don' is identified as 'Donald Robert Perry', as if Perry was his real surname – in fact

his name was Donald Robert Perry Marquis. Similarly, ambiguous are 'Milne, AA (Alan Alexander)' and 'Snow CP (Charles Percy)', whereas 'Snow C[harles] P[ercy]' would have been clear and unambiguous. *What Will He Do With It?* is identified as being by 'Bulwer-Lytton, Edward George Earle (Pisistratus Caxton, pseudonym)', from which one might guess that it was first published pseudonymously and later under the author's real name. However, *The Attending Physician* is bizarrely attributed to 'Lathen, Emma (Dominic RB, pseudonym)', as if the former was the author's real name; in fact, the duo Mary Jane Latsis and Martha B Henissart used both names as pseudonyms.

Some may consider this trivial, but knowing that an author used a pseudonym, or that 'she' is 'they', is often very informative. Our understanding may change when we learn, for example, that André Maurois was really Émile Salomon Wilhelm Herzog or that Henry Handel Richardson was born Ethel Florence Lindesay Richardson, and we may seek more information.

Perhaps in a subsequent volume Dr Posen will tell us how well doctors learn and pronounce their patients' names.

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Who should we treat? Rights, Rationing and Resources in the NHS

By Christopher Newdick, Oxford University Press, 2005, 2nd ed. HB £55, 278 pp. ISBN HB 0-19-926417-1; PB £24.99, 278 pp. ISBN PB 0-19-926418-X

The first edition of this valuable book provided a overview of the legal framework around, and the organizational structures of the NHS. Along the way, the rights of patients within the system were explained, and commentary provided on inevitable conflicts that occur between efficiency and equity. This new edition covers the raft of changes affecting the NHS that have occurred in

the intervening decade, ranging from the new bodies responsible for oversight of NHS performance, to the implications of the Human Rights Act and delineation of NHS duties towards patients treated outside the UK. In addition, the structure of the book has been reorganized, and there is a significant amount of new material.

In setting out to answer the question, Who should we treat?, Newdick takes the reader on a comprehensive journey through the NHS and its regulatory framework. The book starts with description of the problem faced by all health-care systems that of rationing services or prioritizing amongst needs. Having scoped the problem, he then goes on to chart the evolving context in which rationing decisions occur within the NHS. Chapter 3 spells out the three levels of decision-making within the NHS (government, health authority and clinician) and how rationing can occur at each of these levels. This chapter charts the demise of the original internal NHS markets and the transition to the increasingly complex structures introduced since the early nineties. The themes of this chapter are echoed in chapter 4, which describes the organization of the NHS and the effects of the diffusion of power, market competition, targets and incentives. The conclusion from these two chapters is that there is neither policy nor mechanisms within the NHS for ensuring that resource allocation decisions are made in coherent, consistent and transparent ways that treat people equally.

In the absence of central guidance on priority setting, what grounds are there for making decisions about who to treat? This is the heart of the book, in which Newdick details the legal framework that exists to support patients' claims to services and the obligations that exist to provide these. Decisions about providing, or not providing care can be challenged in the courts, and in turn, the courts are increasingly willing to scrutinize these decisions to ensure that the discretion that lies with service providers has been exercised in reasonable and proportionate ways. This marks an important shift in power towards individuals and away from authorities

and professionals. Chapter 6, on standards of care and medical negligence, provides a very clear and comprehensive account of clinician liability and informed consent, including the duty of disclosure when things go wrong and the duty to tell patients of treatments that they will not be offered.

Just as decision-making can occur at a number of levels in the NHS, so liability may also be the responsibility of individuals or systems. Chapter 7 examines the liability of health authorities and government, which have been highlighted in the aftermath of the Bristol enquiry. The chapter clarifies the distinctions between policy and operations and explains how these play out in terms of accountability and negligence.

In the final part of the book, Newdick discusses recent developments in NHS governance and accountability, and in treating patients outside the NHS. Chapter 8 is a very readable account of the procedures developed within the NHS to regulate its governance. Operating at a number of levels, these bodies have largely come into existence as responses to Bristol and Shipman. The chapter includes an explanation of the role of the National Institute for Clinical Excellence in resource allocation, as well as describing the four bodies that have come into existence with responsibility for oversight of NHS performance. This is very helpful to those feeling overwhelmed by the plethora of acronyms in this area. In chapter 9, Newdick describes the evolution of care provided to NHS patients outside the NHS, including care provided in other European nations. The analysis of the rights of patient and EU member states is fascinating.

This book is invaluable to anyone who wants to understand the role of law in determining who is entitled to treatment, and of what standard. The book develops a persuasive argument, that while the law has an important role to play in providing a framework for the decision-making processes of resource allocation, and in providing a remedy for inadequate standards and services, the difficult decisions about priority setting should be made by elected representa-

tives rather than by the courts. However, in the absence of central leadership or agreed processes, the courts are filling the vacuum. The danger is that, with increasing emphasis upon human rights, we may end-up with a framework unduly skewed towards individual claims at the cost of coherent, rational, transparent and accountable policy that is fair to all of those entitled to NHS care.

I recommend this book to policy makers, NHS managers of all levels, health service

providers, clinicians and anyone interested in increasing their understanding of the NHS. It is an absorbing snapshot of the NHS responding to its current challenges, and a scholarly account of the relationship between law and health care in the UK.

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