

CONTENTS

Preface and Acknowledgments xi

1. BIOMEDICINE AND HOLISTIC HEALING I

The Biomedical Paradigm 2

The Holistic Healing Paradigm 3

Holism and Mechanism 6

The Use of Holistic Therapies 8

Scientific Substantiation and Methodological Issues 10

An Integrated Health Care System 13

2. BIOMEDICAL REGULATION IN HISTORICAL CONTEXT 15

The Emergence of Licensing 15

The Development of the Biomedical Community 17

The Response of the Regulatory Paradigm 21

3. STATE LAW REGULATION OF MEDICINE 24

The Police Power Rationale 24

Legal Definitions of the Practice of Medicine 26

Diagnosis, Treatment, Prevention, and Cure 26

Holding Oneself Out to the Public 26

Intending to Receive a Fee, Gift, or Other Compensation 27

Attaching a Title to One's Name 27

Maintaining an Office 28

Performing Surgery 28

Using, Administering, or Prescribing Drugs 28

Miscellaneous Definitional Provisions 29

Unauthorized Professional Practice 29

The Nonlicensed Provider 29

Independent Holistic Practice 31

Occupational Licensure 33

CONTENTS

4. SCOPE-OF-PRACTICE LIMITATIONS 39
- Licensing of Complementary and Alternative Providers* 39
 - Chiropractic 40
 - Massage Therapy 41
 - Naturopathy 41
 - Homeopathy 42
 - Acupuncture 43
 - Lay Practice 45
 - Legislatively Authorized Boundaries of Practice* 46
 - Scope of Practice: The Case of Chiropractic* 47
 - Nutritional Care 47
 - Colonic Irrigation 49
 - Acupuncture and Other Modalities 50
 - Physical Examination and Other Procedures 51
 - Addressing Scope-of-Practice Risks* 54
5. MALPRACTICE AND VICARIOUS LIABILITY 56
- Physicians' Malpractice Liability* 56
 - The Case of Chelation Therapy 56
 - Informed Consent 60
 - Assumption of Risk 62
 - Malpractice by Complementary and Alternative Providers* 64
 - Professional Standards of Care 64
 - Heightened Standard of Care 66
 - Duty to Refer and Misrepresentation 68
 - Malpractice Liability of Health Care Institutions* 70
6. ACCESS TO TREATMENTS 73
- Treatments Requiring New Drug Approval* 73
 - Nutritional Therapies* 77
 - Dietary Supplements and Health Claims* 79
 - Health Care Freedom* 81
7. DISCIPLINE AND SANCTION 87
- The Disciplinary Process* 87
 - Homeopathy 88
 - Chelation Therapy 90
 - Ozone Therapy 91
 - State Medical Freedom Acts* 92

CONTENTS

8. THIRD-PARTY REIMBURSEMENT 96
- Voluntary and Mandated Coverage* 96
 - Selected Exclusions and Coverage Issues* 101
 - Experimental Treatments 101
 - Medically Necessary Treatments 103
 - Health Care Fraud and Insurance Fraud* 104
9. THE EVOLUTION OF LEGAL AUTHORITY 109
- Professional Licensure and Scope of Practice* 109
 - Malpractice and Professional Discipline* 111
 - Fraud and Health Care Freedom* 112
 - Integral Health Care* 114
 - Conclusion* 117
- Notes 121
- Index 177