

Contents

<i>List of Tables</i>	vi
<i>Acknowledgements</i>	vii
Introduction	1
1 Disciplining Doctors: Medical Courts of Honour and Professional Conduct	6
2 Medical Confidentiality: The Debate on Private versus Public Interests	47
3 Patient Information and Consent: Self-Determination versus Paternalism	69
4 Duties and Habitus of a Doctor: The Literature on Medical Ethics	95
Epilogue	122
<i>Notes</i>	131
<i>Bibliography</i>	153
<i>Index</i>	179

Introduction

In 1902, the Berlin psychiatrist Albert Moll (1862–1939) introduced his 650-page handbook of medical ethics, *Ärztliche Ethik*, with the following critical observation:

On various occasions, in assemblies of doctors, in journal articles, and also in independent monographs, the importance of doctors' ethics has been discussed in recent years. It has been proposed several times to teach medical ethics at the universities...From another perspective, it has been recommended to publish a *Codex deontologicus* as a kind of medical statute book. In these discussions deontology was taken to be more or less synonymous with the doctrine of ethical duties, but mostly...the so-called professional duties were overemphasised, even seen as identical with ethical duties. This mistake also becomes apparent in many medical circles, where offences against professional duties are judged very harshly, but censure for a serious violation of ethical duties is used very sparingly.¹

Why had medical ethics become so important for doctors towards the end of the nineteenth century? What kind of medical ethics was criticised by Moll, and how did it come about that doctors seemed to pay more attention to duties towards their profession than to ethical obligations vis-à-vis their patients? What were those professional duties, and why and how was adherence to them monitored so closely? If a code of medical duties was envisaged to be as binding as a statute book, what was the relationship between medical ethics

2 *Doctors, Honour and the Law*

and the law? These and related questions will be addressed in this book, which for the first time provides a comprehensive perspective on doctors' professional ethics in Germany from the foundation of the Second Reich in 1871 to the start of the First World War.²

Some specific aspects of this topic have been addressed in the earlier historiography. For example, Paul Weindling has traced the affinities of German medicine and public health policy to Social Darwinist and eugenic ideas from national unification to the Nazi period. As Weindling concludes, the 'medical profession's quest for social power was pursued through the channels of eugenics'.³ Another milestone in the characterisation of doctors' ethics in Imperial Germany is Barbara Elkeles' study of the practices and discussion of human experimentation during that period. It highlights the disregard of contemporary medical researchers for the consent and safety of their human subjects, which stemmed from a fanatical belief in medical progress through science and was facilitated by an authoritarian culture in the public hospitals and university clinics.⁴

Remarkably, however, the *professional ethics as such* of doctors in Imperial Germany has only been brought into focus in recent years. While an overview of medical–deontological writings in nineteenth-century Germany was given by Ulrich Brand as early as in 1977, a deeper engagement with this subject matter has occurred only after groundbreaking social historical research on medical professionalisation had been carried out.⁵ As far as Germany is concerned, the study by Claudia Huerkamp of the social rise of doctors in Prussia during the nineteenth century has been particularly important.⁶ It has been helpfully complemented by a similar study on Wurttemberg by Annette Drees; a broader history of the politics of the German medical profession between 1800 and 1996 by Robert Jütte and collaborators and a collection of essays on German medicine and public health in the nineteenth and twentieth centuries edited by Manfred Berg and Geoffrey Cocks.⁷

As this research has made clear, the professionalisation of German doctors was much more closely linked to state policies than that of their British and American colleagues.⁸ Chancellor Otto von Bismarck's introduction of compulsory health insurance for workers in 1883 had, in the long run, a huge impact on the development of the German medical profession, including its notions of professional duties and ethics. On the one hand, the health insurance system

brought more patients, especially from the lower social classes, into doctors' practices. The proportion of the population who were state-insured rose from approximately 9 per cent in 1885 to 23 per cent in 1914. If one includes family members who were covered by the breadwinner's insurance and people with a non-state insurance, about one-third of the population were compulsorily insured by the start of the First World War.⁹ On the other hand, the increasing importance of insured patients led to fierce competition among doctors for contracts with the insurance funds, especially as the number of doctors rose significantly during the 1880s and 1890s. In the German Reich, there were approximately 3,200 inhabitants per doctor in 1885. By 1911, the number of inhabitants per doctor was approximately 2,100.¹⁰

The relationship of the medical profession to the health insurance organisations was fraught with conflict, as the latter controlled doctors' fees and limited the number of doctors who were admitted to panel practice. Only with the foundation of the *Hartmann-Bund*, the doctors' association for the protection of their economic interests, in 1900, did the medical profession start to gain power in the struggle with the health insurance boards, as it then had a body that negotiated collective contracts and exercised pressure by organising doctors' strikes. Medical professional ethics in Imperial Germany was as much about defusing competition among doctors as about enforcing solidarity vis-à-vis the health insurance boards. Relative 'overcrowding' of the profession and the increasingly powerful insurance system were prime movers in medical organisation, particularly in the formation of disciplinary tribunals or 'medical courts of honour', as they were called. The first chapter of this book therefore discusses the development of these courts of honour, their activities and the kind of ethics that they promulgated.¹¹ The disciplinary tribunals were, however, not merely instruments of professional politics. Through their judgements they articulated and implemented contemporary codes of honour. The notion of professional honour of medical men – women were only gradually admitted to medical studies in the first decade of the twentieth century – thus forms another focus of this book.¹²

Discussions about medical ethics in Imperial Germany were also strongly influenced by its often-controversial relationship to the law. In particular, two sections of the Reich Penal Code of 1871, section 223

4 *Doctors, Honour and the Law*

on physical injury and section 300 on professional secrecy, were highly relevant for doctors. The second and third chapters of this book examine those important discussions. As far as the issue of medical confidentiality was concerned, the rising influence of public health made itself felt through increasing calls for notification of infectious, especially venereal diseases. Individual interest in privacy was balanced against public interest in protection against contagious diseases and epidemics.¹³ Doctors as well as the legal profession contributed extensively to this debate. Lawyers and medics were also the main contributors to contemporary discussions about whether surgery without information and explicit consent of the patient had to be seen (and punished) as physical injury. While doctors uniformly rejected such a legal interpretation, lawyers were divided in their opinions on this issue. Some acknowledged therapeutic intention as a sufficient reason to treat without patient consent, but others insisted on the self-determination of the individual. Such self-determination had come under threat with the significant expansion of surgical procedures that occurred after the introduction of anaesthesia in the 1840s and of antiseptics in the late 1860s. Surgeons felt increasingly confident about the success of their treatments, so that patients' personal wishes or views mattered little to them.¹⁴ This paternalistic mentality may also have been nurtured by the introduction of compulsory vaccination against smallpox in 1874. Although such legal compulsion generated considerable anti-vaccinationist protests, it meant that a medical intervention into people's bodies had been condoned for the first time by the authority of the state – in the name of (public) health.¹⁵

In this climate of professional, legal and scientific changes for medicine, doctors reflected and published extensively about their ethical duties and role in society. The fourth chapter of this book therefore examines the changing patterns of the German medical ethics literature from the 1870s to the First World War. The social challenges that doctors met through 'overcrowding' of their profession and the health insurance system were met by predominantly conservative responses which sought to preserve an idealised individual relationship between doctor and patient.¹⁶ Paternalistic attitudes predominated among the medical authors of the deontological literature. They became manifest in issues such as truth-telling at the sickbed, palliative care of the dying and the treatment of women

who had made an illegal abortion attempt. Only transitory efforts were made to enhance the patient's self-determination, before the tone of doctors' ethical writing turned increasingly authoritarian after the First World War.

Medical ethics in Imperial Germany was thus deeply entangled in professional, legal and social issues. This book is about understanding and elucidating this entanglement. It will show how doctors' ethical decision-making during the *Kaiserreich* was less guided by concern for patients' interests than by notions of male honour and professional reputation and by considerations of professional politics. Moreover, it will illustrate how medical men adhered to a paternalistic conception of the doctor–patient relationship, although they experienced increasing pressures from lawyers and patients themselves to recognise a right to self-determination of the sick individual. Following the traumatic experience of defeat in the First World War and against the background of the economic crises of the Weimar Republic, arguments for a priority of collective over individual interests gained ground, and doctors conceived their relationship to patients in increasingly authoritarian terms. Initiatives like that of Moll, who in 1902 had developed a detailed account of how medical ethics could be built upon a contract relationship between doctor and patient, were marginalised and forgotten. Instead, the image of the doctor as a ruler and leader, as disseminated by Erwin Liek (1878–1935) and other medical writers of the 1920s, became popular.

The study of doctors' ethics around 1900 thus involves issues that are relevant not only to the history of medicine as such but also to fields such as German history, biomedical ethics, legal history and cultural studies. Accordingly, this book has been written with a broad, interdisciplinary readership in mind.

Index

Note: Page numbers in *italics* denote pages containing tables.

- Ablaß, Dr Bruno (1866–1942), 52
 abortifacients, 65, 98
 abortions, 109, 113, 116, 117,
 121, 130
see also criminal abortions; illegal
 abortions
 academic medicine, 95, 122
 academic psychiatry, 63
 accusations, 31, 33–4, 43
 active euthanasia, 98, 115, 121, 127,
 128, 147n.19
see also euthanasia/‘medical
 euthanasia’; involuntary
 euthanasia
 advice book/booklet, 86, 87, 101,
 104, 106
 advice booklet, *see* advice book/
 booklet
 advice literature, 95, 99, 100, 108,
 118, 119
 Alexander, Salomon (1852–1928),
 90, 91
*Allgemeine Medicinische
 Central-Zeitung*, 107
 Altmann, F., 20
 American Medical Association, 16
 ‘Code of Ethics’, 16
 anaesthesia, 4, 74, 147n.27
 animal experimentation, 100,
 147n.27
 anti-feminist attitudes, 129
 anti-Semitic sentiments/anti-
 Semitic attitudes, 19, 82, 129
 antiseptis/antiseptic methods, 4, 69
 anti-vaccinationist protests, 4,
 138n.124
 anti-vivisectionists, 82, 100,
 138n.124
 apothecaries, 48, 107
 appeal courts (*Ehrengerichtshof*,
Landesberufungsgericht), 10,
 11, 13, 25, 28–9, 30, 31, 36,
 38, 123, 138n.120
 appeals, 9, 14, 19, 21–2
 applied ethics, 107, 109
 arbitration panel, 12, 13, 22
Ärztetag (annual meeting), 9, 13, 15,
 16, 109, 123, 138n.116
 ‘Principles of a Medical
 Professional Code’, 15
Ärztliche Rundschau (Munich
 medical magazine), 80
Ärztliches Vereinsblatt für Deutschland
 (medical professional
 journal), 9, 18, 31, 41, 61, 76,
 133nn.34, 44
 Aschaffenburg, 22
 Aub, Dr Friedrich Ernst (1837–1900),
 22, 23, 26, 27
 August Hirschwald (Berlin
 publishing house), 106
Vaticum (booklet), 106
 Austria, 91
 authorised disclosure/exempt
 disclosure, 48, 61
see also disclosure
 authoritarian culture/authoritarian
 attitude, 2, 5, 78, 86, 129
 ‘average morality’
 (*Durchschnittsmoral*), 112
 bacteriology/bacteriological trials,
 97, 100, 111, 112, 121
 Baden, 7, 10, 11, 14, 20, 30, 64,
 148n.37, 151n.5
 Bavaria, 6, 7, 8, 10, 14, 21, 22, 24, 25,
 26, 29, 30, 132n.12, 148n.48
see also Upper Bavaria

- Bavarian government, 23, 28, 132n.12
- Bavarian medical chambers, 21–2, 24–9
 compulsory membership of, 23, 30, 151n.5
 ‘Draft of a Professional Code for the Doctors of Bavaria’, 23
- Bavarian Parliament (*Landtag*), 23
- Bavarian *Reichsratskammer*, 28
- Becher, Julius (1842–1907), 18, 20
- Beling, Ernst (1866–1932), 52
- Bentham, Jeremy, 112
 philosophical utilitarianism, 112
- Berg, Manfred, 2
- Berlin case (on medical confidentiality, 1905), 58–9, 60
- Berlin District Court, 59
- Berlin Medical Society (*Berliner Medizinische Gesellschaft*), 8, 48
- Berlin, 1, 13, 19, 31, 34, 35, 36, 37, 40, 41, 42, 52, 58, 59, 60, 61, 67, 81, 86, 88, 92, 104, 106, 107, 109, 110, 111, 114, 117, 119, 120, 146n.71, 149n.70, 152n.15
- Berliner Ärzte-Correspondenz* (medical professional journal), 31, 88
- Berliner Börsenzeitung*, 80
- Berliner Klinische Wochenschrift* (medical journal), 80
- Berlin-Moabit, 52
- Bernheim, Hippolyte, 110
- Bernstein, Max (*Justizrat*), 56, 57, 58
- Binding, Karl (1841–1920), 43, 44, 70, 71, 128, 146n.78
 ‘capital of honour’ (*Ehrenkapital*), 44
Die Freigabe der Vernichtung lebensunwerten Lebens (The Release of the Destruction of Life Unworthy of Living) (booklet), 128
- biomedical ethics, 5
- Bismarck, Chancellor Otto von, 2, 8, 14, 15, 120, 133n.24, 146n.71
 introduction of compulsory health insurance (1883), 2
- bodily interventions (on patients), 69, 70, 71, 72, 76
- Bonn, 70, 81, 90, 91
- Bosse, Robert (1832–1901), 17–18, 20
- Bourdieu, Pierre, 7, 39, 43–4, 45, 96
 excessive *Ehrgefühl*, 45
 ‘symbolic capital’, 7
 theory of cultural capital, 43–4
- bourgeois, 8
- Brand, Ulrich, 2
- Brandenburg, 34, 35, 40
- Brandenburg–Berlin court of honour, 35–6, 138n.115
- Brandenburg–Berlin medical chamber, 18, 35, 36, 89, 90, 107, 110
- Brauser, Dr August Georg (1833–1901), 22, 23
- Breslau, 56, 61, 82, 111
- British Medical Association, 109, 131n.12
- Brunswick Principles, 15–16
- Brunswick, 10, 11, 15, 20, 30, 151n.5
 ‘Principles of a Medical Professional Code’, 15–16
- Caesarean section, 64, 102, 116
- cancer, 40, 74, 100, 126
- central appeal court (*Ärztegerichtshof*) (Munich), 123
- chamber meetings, 22, 23
- chancre, 55
- Charité (Berlin university clinic), 120
- Chotzen, Dr Martin (died 1921), 56
- civil rights, 19, 21
- Cocks, Geoffrey, 2
- Code of Criminal Procedure (*Strafprozessordnung*), 49–52

- Code pénal* (France, 1810), 47
 coercion (*Nötigung*), 71, 90
 collective ethics, 68, 128
 collective interest, 5, 124
 collegiality, 13, 28, 36, 38, 43, 98,
 104, 105, 119
 and positive effects of medical
 societies, 103
 reprimand for lack of, 40
 common law (*Gewohnheitsrecht*), 71,
 72, 73, 74
 compensation/compensation
 payments, 55, 73, 79, 81,
 89, 92
 competition (among doctors), 3, 8
 Brunswick Principles and, 16
 for contracts with sickness
 insurance funds, 15
 measures of state control of,
 29–30, 36, 38
 and non-licensed healers
 (*Kurpfuscher*), 87, 99, 103, 129
 competitive behaviour, 22, 23
 compulsory health insurance, 2, 8,
 18, 100
 compulsory hospitalisation, 57, 64
 compulsory membership (of state-
 authorised medical
 chambers), 8, 30, 151
 compulsory sterilisation, 124
 compulsory treatment, 55, 125, 126
 compulsory vaccination (1874), 4
 confidential reprimands, 22, 25
 confidential warnings, 22, 25
 Congress for Internal Medicine,
 Wiesbaden (1898), 108
 ‘conscientious practice’
 (*gewissenhafte*
 Berufsausübung), 46, 59
 consultations, 25, 103, 106,
 107, 109
 contagious diseases, 4, 54, 55, 60,
 67, 97
 see also infectious diseases;
 venereal disease (VD)
 contract commissions, 24–5, 29, 38
 contracts (with clientele and for
 empanelment), 3, 15, 16, 18,
 24–5, 27, 30, 122
 Higher Medical Commission’s
 intervention in, 29
 proximity to Social Democratic
 movement, 46
 contract-theory/contract-perspective
 (of doctor–patient
 relationship), 5, 60, 113–14,
 116–17, 120, 121, 129
 ‘counter draft code’
 (*Gegenentwurf*), 91
 Court of Honour
 (*Ehrengerichtshof*) for Lawyers,
 Leipzig, 9
 courts of first instance (*Ehrenräte*),
 10, 13, 25, 75, 79
 see also courts of second instance
 courts of honour (*Ehrengerichte*), *see*
 ‘medical courts of honour’
 (*ärztliche Ehrengerichte*)
 courts of second instance, 10, 11,
 13, 25
 disciplinary powers of, 25–6
 see also courts of first instance
 (*Ehrenräte*)
 criminal abortions, 49, 62–7,
 143n.83
 see also abortions; illegal
 abortions
 criminal conviction, 19, 21, 105
 Criminal Court of Basle City, 71
 criminal law, 41, 69, 81, 91, 115
 critiques of medicine, 1–2, 86–9, 95,
 99–109, 126–9
 of Friedrich Scholz, 84–5
 of Heinrich Marx, 96–8
 Moll’s views, 66, 110–17
 of Placzek on medical
 confidentiality, 65
 Richard Oswald’s films, 54
 cultural capital, 43, 44
 De Styrup, Jukes, 108, 130
 Code of Medical Ethics (1878), 109, 130

- deception/'pious deception' (*pia fraus*), 87, 106, 109, 113, 147n.17
- decision-making, 5, 7, 59, 65, 78, 85, 118, 129
- courts of honour proceedings for, 22, 29
- individual and collective honour and, 45–6
- in medical disciplinary tribunals, 39
- deontology/deontological literature, *see* medical ethics literature; medical–deontological writings/literature
- Der Gerichtssaal* (legal journal), 118
- Dessoir, Max (1867–1947), 107, 111, 149n.67
- Deutsche Vaterlandspartei*, 129
- Dietrich, E., 119
- 'dirty competition', 24–5
- disciplinary control, 17, 20, 22, 23, 29
- disciplinary jurisdiction/medical disciplinary jurisdiction, 17, 30, 33, 46
- disciplinary measures, *see* disciplinary control; disciplinary punishments
- disciplinary mechanisms, 23, 26, 30
- disciplinary offences, 10, 32, 34–6, 138n.120
- disciplinary powers (of state recognised representative bodies), 11, 12, 16–17, 21, 22, 23–4, 26, 30, 123
- of doctors' chambers, 14, 15
- enforcing solidarity among medical practitioners, 122
- disciplinary procedures, 11, 13, 23, 28, 123
- disciplinary proceedings, 19, 27, 38, 40, 138n.120
- for breaches of professional secrecy, 60
- regulated by Prussian law, 1844, 6
- temporary ban on accused doctors in, 124
- disciplinary punishments, 14, 25, 31, 32–3, 35–9, 122, 142n.60
- see also* disciplinary control
- disciplinary regulations, 17
- disciplinary tribunals (*Ehrenrat*), 3, 6–7, 10, 12, 16, 20, 39, 43, 45, 122, 123
- civil servants or military officers excluded, 18
- collective honour and, 45
- decision-making process of, 14–15
- see also* 'medical courts of honour'
- disciplining of doctors, 6, 31–46, 119
- courts of honour in Prussia for, 7–20
- medical chambers (*Ärzttekammern*) in Bavaria for, 21–30
- see also* 'medical courts of honour' (*ärztliche Ehrengerichte*)
- disclosure, 47, 48, 61, 63, 65–6, 124–5, 140n.19
- evidence in court and, 49–53
- striking a balance in, 60
- of tabooed diseases, 54–7, 58–9, 67
- tactful, 113–14
- see also* authorised disclosure/exempt disclosure; criminal abortion; 'unauthorised' (*unbefugte*) disclosure
- District Court of Frankfurt/Main, 49, 50
- District Court of Hamburg, 50
- divorce trials, 49–51, 59, 141n.51
- doctor's duties, 53, 61, 67, 85, 95–8, 122, 126
- after-effects of Trade Ordinance on, 99–103, 118
- medical ethics, 104–9
- medical law, 120–1
- conservative attitudes to, 78, 96–8

- doctor's duties – *continued*
 Moll's new paradigms of, 110–17
 see also habitus; ideal habitus;
 medical duties
 doctor's habitus, *see* doctor's duties;
 habitus; ideal habitus
 doctor's personality, 120–1, 126
 doctor's role, 99, 102, 111, 120
 doctor's self-image/self-perception,
 47, 96, 120, 126
 doctor's social identity, 118
 doctor–patient relationship, 36, 38,
 138n.120, 149n.67
 contractual nature of, 85–6, 110,
 112, 113
 disclosure and secrecy in, 60
 paternalistic conception of, 5,
 128–9
 patient's right to self-
 determination in, 86–7
 published decisions on, 39
 see also information; patient
 information and consent;
 self-determination (of
 patients)
 doctors, state control of, 8, 9, 12, 13
 doctors' ethics, 1, 2, 5, 130
 doctors' fees, 3, 8, 10, 38, 43, 46, 79,
 97, 107
 adjusted to patient's financial
 circumstance, 100, 105
 freedom for negotiation of, 9
 undercharging and underbidding
 in, 24, 41
 Doctors' Ordinance (*Ärzteordnung*),
 9, 10, 15, 22–3, 123
 sections of draft ordinance, 11–12
 debate on, 13–14
 doctors' professional ethics,
 see professional ethics
 Doerfler, Hans, 29
 Drees, Annette, 2
 'Dresden case' (1897), 76–81
 druggists, 107, 130
 duelling, 6, 102
 duels/duelling, 6, 44, 45, 102

Durchschnittsmoral ('average
 morality'), 112
 dying patients/persons, 4, 73, 96,
 98, 102, 112, 116, 121,
 150n.105

 Eben, Antonia K., 110
 Ebermayer, Ludwig (1858–1933), 52
 economic crises, 5, 66, 152n.33
Ehrenmann (man of honour), 121, 130
 Elkeles, Barbara, 2, 82, 145n.61
 emergencies (*Nothilfe*), 8, 36, 39, 71,
 80, 86, 91, 112
 declared will of patient, 86, 92
 involving children, 78
 ethical conduct, 101, 103
 ethical conflicts, 49, 109, 117
 ethical obligations, 1, 50
 ethical questions, 117, 119
 eugenics/eugenic ideas, 2, 111, 114,
 115, 124, 128
 euthanasia/'medical euthanasia', 98,
 109, 113, 114–16, 117, 118
 for incurably ill, 128
 and palliative care, 121
 theme of contemporary
 novels, 127
 see also active euthanasia;
 involuntary euthanasia;
 palliative care/palliative
 treatment
 evolutionary ethics, 111
 Ewald, Carl Anton (1845–1915), 80
 exempt disclosure, *see* authorised
 disclosure/exempt disclosure
 experimental physiology, 97, 100
 explicit consent, 4

 female sexual honour (*weibliche
 Geschlechtsehre*), 123
 Ferdinand Enke Verlag
 (Stuttgart), 100
 financial misconduct, 36
 First World War, 2, 3, 4, 5, 6, 30, 31,
 32–3, 61, 67, 69, 92, 93–4,
 119, 120, 121, 125, 128

- Flesch, Max (1852–1942 or 1944), 56, 57, 58
- foetus, 113, 116, 118
- Förster, Adolph (1847–1919), 19, 60, 134n.62
- Franzos, Otilie (pen name F. Ottmer)
Das Schweigen (novella, 1902), 53
 ‘free profession’, 8
 freedom to cure (*Kurierfreiheit*), 7, 112
- Freiburg, 61, 81, 128
- General Medical Council (GMC), 130
- German Association of Doctors’ Societies (*Deutscher Ärztevereinsbund*, 1873), 7, 12, 14, 26, 41, 90, 132n.16, 138n.116
Ärztliches Vereinsblatt für Deutschland (Association’s journal), 9
 campaign for state-authorized Doctors’ Ordinance (*Ärzteordnung*), 9, 15, 21
 medical response to ‘Hamburg case’ of, 76–7
 topic of consent and physical injury and, 90
- German Civil Code, 81
 management without instruction (*Geschäftsführung ohne Auftrag*), 81–2
- German medical profession, 2
 organisation in Prussia of, 7–21
- German medicine, 2
- German Progress Party, 13
- German Reich, 3, 6, 8, 15, 16, 21, 48, 70, 137n.101
- German Society for the Combat of Venereal Diseases (1902), 56
 ‘Medical Secrecy and Venereal Diseases’ (theme of Munich congress), 56
- German special path (*Sonderweg*), 129, 130
- German Supreme Court (*Reichsgericht*), Leipzig, *see* Supreme Court (*Reichsgericht*), Leipzig
- German Trade Ordinance (1869/71), *see* Trade Ordinance (*Gewerbeordnung*) (1869/1871)
- Germany, 7, 50, 66, 67, 103, 114, 130, 143n.83, 145n.68, 147n.15
 social rise of doctors in Prussia, 2
 medical confidentiality in, 48–9
 criminal convictions for illegal abortions in, 105
- Gersuny, Robert (1844–1924), 100, 101, 103, 106
Arzt und Patient. Winke für Beide (Doctor and Patient. Hints for Both), 100–1
- Gisela-Kinderspital* (private paediatric clinic, Munich), 28
- gonorrhoea, 53, 55, 56
- Göttingen, 78, 81, 83, 92, 96, 98, 99, 114
- Graf, Eduard (1829–1895), 9, 10, 13, 14, 15, 16, 18, 20, 23, 123n.16
 ‘Aphorisms on Medical Reform’ (strategy paper), 9, 10
- Gregory, John, 95
Lectures on the Duties and Qualifications of a Physician (1772, German 1778) 95
- Greifswald University, 87
- Gymnasien*, 99
see also Realgymnasien
- habitus, 45, 47, 68, 118–21, 128, 139n.141
 anti-modernist view of, 97–8
 Moll’s new thinking on, 110–17
 of struggling medical practitioners, 99–109
see also doctor’s duties; ideal habitus
- Haeberlin, Carl (1878–1954), 127, 129
- Haeckel, Ernst (1834–1919), 114

- Hahn, Susanne, 110
- Hälschner, Hugo (1817–1889), 70, 75
- ‘Hamburg case’ (1894), 74–5, 77, 79, 84, 86, 87
- Hamburg District Court, 75, 76, 144n.25, 29
- Hamburg, 20, 55, 75, 76, 117, 143n.16
- Hanover, 48, 90, 91
- Hartmann-Bund* (Association for the Doctors of Germany for the Protection of their Economic Interests), 3, 38, 118, 137n.101
- healing art/‘healing artist’ (*Heilkünstler*), 97, 120, 126, 128, 129
- health insurance boards, 3, 138n.116
- health insurance system, 2, 4, 46, 107, 122, 129
- health officer, 107, 117
- health risks, 102, 125
- Heidelberg, 61, 81
- Heim, Dr Georg (1865–1938) (Bavarian MP), 23–4
- Heimberger, Joseph (1865–1933), 81, 91
- Heinsberg, Friedrich, 91
- Heinze, Dr O. (*Sanitätsrat*), 41
- Hellwig, Albert, 52
- Henius, Leopold, 117
- Herbart, Johann Friedrich, 109
- hereditary disability, 63, 111, 124, 218
- ‘hereditary health courts’ (*Erbgesundheitsgerichte*), 124
- Herrenhaus* (of Prussian Parliament), 19, 60
- Hess, Anton, 143n.16
- Hesse, 11, 48, 151n.5
- Hesse-Nassau, 90
- High Court (*Kammergericht*) of Berlin, 92
- High Court (*Oberlandesgericht*) of Dresden, 79, 80
- Higher Medical Commission (*verstärkter Ober-Medizinalausschuß*), 21, 24, 29, 148n.48
- ‘higher moral duty’ (*höhere sittliche Pflicht*), 51, 53, 57, 58, 59, 61, 65, 67–8
- Hippocrates, 129
- Hippocratic Corpus, 95
- Hippocratic ethics, 115
- Hippocratic Oath (c. 400 BC), 47
- Hippocratic tradition (*Aphorisms of Hippocrates*), 69
- historiography, 2, 110
- Hitler, Adolf, 133n.35
- Hoche, Alfred (1865–1943), 127
- Hoffmann, Adolf (1822–1899), 11, 12, 13, 17, 20
- Hoffmann, Friedrich, 95
- Medicus Politicus* (Latin 1738, German 1752), 95
- homoeopathic lay practitioners/homoeopathic lay healers/homoeopaths, 27, 99, 103
- homoeopathy, 19
- Honigmann, Georg (1863–1930), 120, 125
- honourable conduct, 43, 99, 117, 119
- Hooker, Worthington, 147n.17
- Huerkamp, Claudia, 2
- Hufeland, Christoph Wilhelm, 95, 114, 146n.3, 150n.98
- ‘Die Verhältnisse des Arztes’ (1806), 95
- human experimentation/human experiments, 2, 93, 126, 145n.68
- patient consent to, 80–4, 93
- abuses during Nazi period, 129
- humanitarianism (*Humanität*), 120
- humanities (*Geisteswissenschaften*), 103
- Hundeshagen, K., 87, 119
- Husemann, Theodor (1833–1901), 99
- Hutzler, Dr Moritz, 28
- hypnosis, 110, 111, 118
- hypochondriacs, 129

- ideal habitus, 47, 68, 96, 100, 101, 121
see also doctor's duties; habitus
 'Ihle case', *see* 'Dresden case'
- Ihle, Dr Otto, 79, 80, 84
- illegal abortions, 5, 68, 105, 143n.83
see also abortions; criminal abortions
- Imperial Germany, 6, 26, 68, 81–2, 96
 medical ethics and moral convictions in, 129–30
 medical secrecy in, 49, 64
 relationship of medical ethics with the law in, 3, 5, 69–70, 122
- individual interests, 5, 125
- infectious diseases, 4, 54, 111, 119
see also contagious diseases; venereal disease (VD)
- information, 4, 47–8, 49–53, 71, 79, 83, 91–2, 93, 100–1, 114, 125–6, 130
see also patient information and consent
- insurance funds, *see* sickness insurance funds
- insured patients, 3, 127
- intra-professional competition, 20, 38, 106, 118, 122
- involuntary euthanasia, 129
see also active euthanasia; euthanasia/'medical euthanasia'
- Jaffé, Karl (1854–1917), 117
- Jewish-Christian morality, 110
- Joachim, Heinrich (1860–1933), 88, 119
Berliner Ärzte-Correspondenz, 88
- Jost, Adolf, 115
Das Recht auf den Tod (The Right to Death) (booklet, 1895), 114
- jurists, 10, 20, 30, 119, 127, 128
 courts of honour and medical courts, 28, 123–4
- divided opinions on primacy of professional duties, 59
- grand penal law reform commission (*große Strafrechtskommission*), 91–2
- Jütte, Robert, 2
- Kahl, Wilhelm (1849–1932), 81, 90, 91, 146n.78
- Kaiserreich*, 5, 30, 31, 44, 50, 122, 124, 125, 129, 130
- Kant, Immanuel, 109
- Karlsruhe, 11, 16
- Kassel District Court, 72
- Kassel, 12
- Kastl, Dr Hans (chair, Munich medical district society), 28
- Kater, Michael H., 129
 German special path (*Sonderweg*), 129, 130
- Keßler, Richard (1849–1908), 75
- Kingdom of Saxony, 6, 10, 14, 20, 21, 22, 23, 26, 30
- Klein, Emil (1873–1950), 120
- Koblenz district medical society, 10
- Koblenz, 10
- Koch, Robert, 69, 72, 111
 secret remedy 'tuberculin', 69, 72
- König, Franz (1832–1910), 78
- Korn, Alfred, 88, 119
- Krecke, Albert (1863–1932), 128
- Lancet*, 52
- landmark decisions, 74, 92
- Langerhans, Paul (1820–1909), 17
- Laurahütte case (1903), 51–2
- Law for the Combat of Venereal Diseases (*Gesetz zur Bekämpfung der Geschlechtskrankheiten*) (1927), 67, 125
- Law on Explosives (1884), 51
- Law on the Combat of Diseases Constituting a Danger to the Public, 57

- Law on the Combat of Venereal Diseases (1927), *see* Law for the Combat of Venereal Diseases (*Gesetz zur Bekämpfung der Geschlechtskrankheiten*) (1927)
- lawyers, 6, 8, 17, 24, 45, 49, 56, 68, 93, 118
- patient consent, 4–5
- conflict with doctors on therapeutic relationship, 69–70
- Lawyers' Ordinance (*Rechtsanwaltsordnung*, 1878), 6, 8, 11, 17, 19, 20
- lay healers (unqualified) (*Kurpfuscher*), 8, 10, 62, 87, 99, 132n.11
- lay practitioners, 27, 30, 36, 122
- legal decisions, 51
- Berlin case (1905), 55–6, 60
- case of Dr L. (1907), 60
- case of Dr Moritz Hutzler (Munich court of honour, 1907), 28–9
- case on patient information (1912), 92–3
- 'Dresden case' (1897), 76–81
- 'Hamburg case' (1894), 74–5
- Hamburg divorce trial (1903), 50–1
- Laurahütte case (1903), 51–2
- Lennep case (1914), 64–5
- medical interventions against patient's will (1936, 1940), 126
- Neisser experiment case (1892), 82–3
- legal interpretation, 4, 77, 89, 93
- legal profession, 9, 46, 56, 119, 122
- contribution to debate on private versus public interests, 4
- and disciplinary tribunals, 6
- and section 300 of Reich Penal Code, 48–9
- lege artis*, 72, 75, 89, 90
- Leipzig, 9, 43, 58, 61, 70, 74, 76, 100, 128, 137n.101
- Lennep case (1914), 64–5
- licensed doctors (*approbierter Arzt*), 70, 89, 90, 122, 138n.133
- see also* qualified doctors; medical practitioners; non-licensed healers (so-called *Kurpfuscher*)
- licensed medical practitioners, *see* qualified doctors; medical practitioners; non-licensed healers (so-called *Kurpfuscher*)
- Liébeault, Ambroise-Auguste, 110
- Liek, Erwin (1878–1935), 5, 120, 126, 127, 128–9, 149n.66, 152nn.15, 26
- Der Arzt und seine Sendung. Gedanken eines Ketzers* (The Doctor and His Mission. Thoughts of a Heretic) (1926), 127
- life-shortening measures, 115, 121
- locum practice, 16, 105, 109
- Löwe, Wilhelm (1814–1886), 48
- Lower Franconia, 22
- lower house of Prussian Parliament (*Abgeordnetenhaus*), 55
- lower social classes, 2, 108
- male honour, 5, 122, 123
- see also* personal honour; professional honour
- malpractice, *see* malpractice/medical malpractice
- malpractice/medical malpractice, 39, 97, 119, 38n.120, 151n.121
- Marx, K. F. Heinrich (1796–1877), 96–9, 121
- Mayer, Dr Wilhelm (*Hofrat*, Fürth), 28, 29
- medical advertising, 15, 18, 38, 42–3, 130
- and professional code obligations, 24
- and Trade Ordinance of the Reich, 27, 36

- medical assistance, 8, 9, 36, 39
 medical chambers (*Ärzttekammern*),
 16, 17, 18, 19, 92, 151n.5
 Bavarian, 21–30
 'Draft of a Professional Code for
 the Doctors of Bavaria',
 23, 39
 and instances of misconduct,
 32–3
 and proposed new clause in Penal
 Code, 90
 medical civil servants, 14, 17, 18
 medical commentators, 49, 77
 medical confidentiality, 4, 39, 58,
 67–8, 102, 106, 118, 122,
 124–5
 abortion and, 105
 cases of psychiatric care and
 criminal abortion, 63–6
 disclosure in court of entrusted
 private secrets and, 49–52, 59
 paternalism and, 100–1
 private versus public interests,
 and, 47, 63–8
 and tabooed diseases, 53–62
 see also doctor–patient
 relationship; medical ethics
 'medical courts of honour' (*ärztliche
 Ehrengerichte*), 3, 6, 10, 11–14,
 6, 46, 60, 104, 122, 130,
 137n.113
 activities of, 31–9
 disciplinary powers of, 21–30
 effects on medical profession of,
 7–20
 patient-centred character of, 39
 and professional ethics, 40–5, 119
 stabilising effect on profession
 of, 123
 see also disciplining of doctors;
 medical district societies
 (*ärztliche Bezirksvereine*)
 medical decision-making/doctor's
 decision-making, 5, 59, 65,
 78, 85, 118, 219
 medical deontology, 95, 96–7,
 104–10, 118
 medical disciplinary jurisdiction,
 see disciplinary jurisdiction/
 medical disciplinary
 jurisdiction
 medical disciplinary tribunals, *see*
 disciplinary tribunals
 medical district societies (*ärztliche
 Bezirksvereine*), 16–17, 23, 28,
 45, 148n.48, 151n.5
 contracts with sickness insurance
 funds, 24, 27, 29
 disciplinary measures of, 25–6
 dissatisfaction with Trade
 Ordinance of, 132n.12
 preparation of professional code
 and, 30–1
 voluntary formation of, 21–2
 see also disciplining of doctors;
 'medical courts of honour'
 (*ärztliche Ehrengerichte*)
 medical duties, 1, 47, 120
 see also doctor's duties,
 literature on
 medical education, 97, 100, 112, 121
 medical emergency, *see* emergencies
 (*Nothilfe*)
 medical ethics literature, 4, 118–21
 medical ethics, 1–7, 39, 67, 95,
 118–21, 138n.130, 139n.141,
 149n.67
 and certification of mental
 patients, 62–3
 and confidentiality
 reporting cases of criminal
 abortion, 64–7
 tabooed diseases, 53–61
 doctors guarding their honour, 45
 education and, 104–9
 Heinrich Marx's critique on,
 96–8
 Imperial Germany, 129–30
 legally binding code of, 39
 medical practitioners' views on,
 99–103
 and obtaining patient's consent,
 85–9
 and relationship with the law, 69

- medical ethics – *continued*
 reporting cases of criminal
 abortion and, 64–6
 state-authorised disciplinary
 jurisdiction and, 30
 see also medical confidentiality;
 Moll, Albert; professional
 ethics
 medical experts, 73, 75, 78–9,
 112–14, 129
 medical fees, *see* doctors' fees
 medical honour, 77, 108
 medical interventions, 4, 69, 74,
 81–2, 90, 92, 93
 generic legal assessment of, 72
 legal interpretation as physical
 injury, 77, 83–4, 89, 91
 recognition under common law
 of, 71, 73
 and respect of individual's bodily
 integrity, 126
 tenability of moral purpose
 argument for, 70, 75–6
 medical military officers, 14, 17
 medical paternalism, 46, 76, 69–84,
 90–3, 125, 127
 contemporary critiques of
 medical profession, 97–8
 doctor's 'sovereignty' and, 86,
 88–9
 in doctor–patient relationship,
 85, 86–7
 habitus of doctor and patient
 and, 101, 108, 117, 120–1, 128
 and Nazi medicine, 130
 views of medical practitioners on,
 99–103
 see also paternalistic attitudes;
 Moll, Albert
 medical police, 8
 medical practice, 8, 9–10, 13–14, 21,
 41, 76, 87, 91, 95, 97, 105,
 107, 123
 common issues in, 96
 and difficulties in complying
 with consent
 requirements, 70
 doctors' conduct outside, 19, 20,
 27, 38, 39
 and free, competitive business, 7,
 16, 36
 medical commentators' writings
 on, 111–19, 127
 patient confidentiality in, 54
 and recommending 'secret
 remedies', 16
 state-authorised professional
 control of, 23
 and uniformity in qualification
 and training, 100, 102
 medical practising license
 (*Approbation*), 10, 11, 19,
 25, 50
 medical practitioners, 7, 8, 9, 16, 17,
 18, 32–3, 46, 92–3, 121,
 122–3, 129
 advice literature, 84–9, 95–6,
 110–17
 and confidentiality, 47
 and conflicts in their roles, 43
 consent as precondition, 70
 intra-professional competition
 among, 20, 22, 36, 104–9
 medical deontology and, 104
 social identity of, 118–20
 views of, 99–103
 see also licensed doctors
 (*approbierter Arzt*); non-
 licensed healers (so-called
 Kurpfuscher); qualified doctors
 medical profession, 2, 6–9, 30, 45–6,
 68, 93–4, 95–6, 101–2, 115–17,
 121, 130, 132nn.11–12,
 133n.35, 138n.124
 Bavarian system of medical
 chambers, 21–9
 and confidentiality, 123–4
 reporting cases of criminal
 abortion, 64–7
 tabooed diseases, 53–61
 and courts of honour, 122
 disciplinary cases against, 40–4
 legislative measures of control of,
 10–20, 31–9

- medical profession – *continued*
 efforts at legal reform,
 89–92, 99
 medical representative bodies in
 Prussia, 14
 patient consent, 74–7, 88,
 125–6
 quandary over giving evidence in
 court of, 49–52
 relationship with health
 insurance boards of, 3,
 138n.116
 social identity of members of,
 118–20
 medical professional court (*ärztliches
 Berufsgericht*), 30, 123
 medical professional ethics, 3, 39,
 42, 96, 98, 109, 112
 see also professional ethics
 medical purpose (*ärztlicher Zweck*),
 71, 72
 ‘medical reform’ (*Medizinalreform*), 9
 medical secrecy, 49, 54, 57, 61,
 125, 130
 preventative character of, 51
 legal exceptions from, 67–8, 124
 professional privilege of, 56, 124
 medical societies, 16
 Medical Society of Frankfurt/
 Main, 17
 medical students, 63, 97, 99, 101,
 107, 109, 117, 119, 148n.42
 call for ‘serious’ habitus of, 103
 German special path (*Sonderweg*)
 and, 129
 punishment for unauthorised
 disclosure by, 125
 medical studies, 3, 101–2,
 148nn.37, 42
 medical treatment/treatments, 4,
 15, 56, 69, 71, 73, 74, 78–9,
 85, 90, 92, 108, 112–14,
 115–16, 119, 125, 126,
 132n.12, 143n.11
 court cases for patient’s prior
 consent of, 87–8
 and collision with penal law, 70,
 76, 77, 80–4, 86
 of dying persons, 98
 mandated in contagious diseases,
 55, 56, 57, 69–70
 and palliative care, 4–5
 refusal or breaking-off of, 109
 tacit consent to, 93–4
 medical–deontological writings/
 medical–deontological
 literature, 2, 103, 119
 medico-legal questions, 49, 119
 ‘medics’, 4, 56, 59, 128, 129
 Mensinga, Dr Wilhelm (Flensburg)
 (pseudonym ‘Dr. med.
 C. Hasse’), 101–2, 103
 mental illness, 62, 115
 Mestrum, Xaver, 12
 Mettenheimer, Carl von, 106
 ‘Mundus vult decipi’ (the world
 wants to be deceived), 106
 Mettenheimer, Heinrich, 106
 Middle Franconia, 28
 military officers, 6
 military tribunals, 32
 Minister for Medical Affairs, 14,
 41, 60
 Minister for Religious, Educational
 and Medical Affairs, 13, 17,
 83, 147
*Ministerial-Blatt für Medizinal- und
 medizinische Unterrichts-
 Angelegenheiten* (ministerial
 periodical), 31
 Ministry of the Interior, 21, 25, 26,
 27, 28, 29, 30, 31
 minors, 81, 82, 83
 misconduct, 6, 9, 16–17, 31–35, 38,
 135n.74
 Mittelstadt, Otto (1834–1899), 76
 Moll, Albert (1862–1939), 1, 5, 58,
 65, 66, 85, 86, 88, 109, 110,
 111, 112, 113, 114, 115, 116,
 117, 118, 119, 120, 126, 129,
 141n.51, 142n.82, 145n.71,
 150n.112

- Moll, Albert – *continued*
Ärztliche Ethik: Die Pflichten des Arztes in allen Beziehungen seiner Thätigkeit (Medical Ethics: The Doctor's Duties in All Aspects of His Work), 1, 110–18
 attitude towards medical experimentation, 121, 145n.68
 comments on abortion (1911), 65, 116–17
 contractual nature of doctor–patient relationship, 85–6, 110
 and ethical conflicts, 109–10, 117
 and evolutionary ethics, 111
 and life-shortening measures, 121–2
 rejection of eugenic proposals, 115
 and self-determination of patients, 126
 tacit consent of patients, 112
 truth-telling to patients, 113–14
 moral conflicts, 119, 127
 moral philosophy, 111
 moral theology, 112
 morality, 42, 46, 98, 101, 112, 115
 morphine, 114, 115, 127
 Mulert, Dr, 41
Münchener Freie Presse (liberal newspaper), 82
Münchener Medizinische Wochenschrift (medical professional journal), 28, 31, 77, 80, 117, 127
Münchener Post und Augsburger Volkszeitung (Bavarian newspaper), 23
 Munich, 16
 narcosis, 79, 80, 87, 144n.29
 narcotics, 98, 115
 Nassau, 12, 48
 Nassauer, Max (1869–1931), 127
 National Liberal Party, 13, 18
 National Socialist regime, 66–7, 126
 National Socialist *Reichsärzteordnung* (Reich Doctors' Ordinance), (13 December 1935), 123, 124, 125, 126
 natural unification, 2
 natural sciences, 97, 99, 101, 103, 107, 121
 naturopaths/naturopathy, 19, 36, 39, 74, 75, 103, 120, 138nn.113
 competition, 99
 difficult relationship with medical profession, 138n.116
 persecuted by medical disciplinary tribunals, 122
 Nazi medicine, 126, 128, 130, 182n.31
 Nazism/Nazi period, 2, 126, 128, 129, 130, 152n.33
 'negative selection', 128
 negligence (of doctors), 39, 59
 Neisser, Albert (1855–1916), 56–7, 58, 82–3, 84, 86, 111, 141n.44
 Neisser experiment (1892), 82–3
Neue Heilkunst (naturopathy journal), 75
 Nieberding, Arnold (1838–1912), 52, 89, 90
 Nietzsche, Friedrich, 114
Götzendämmerung, 114
 Noack, Thorsten, 76, 77
 Nolte, Karen, 74, 147n.17
 non-consensual medical treatment (*eigenmächtige ärztliche Behandlungen*), 90
 exceptions in 'counter draft code' (*Gegenentwurf*), 91
 non-licensed healers (so-called *Kurpfuscher*), 87, 99, 103, 129
 North German Confederation, 7
 Nuremberg, 13

- Oberrealschulen*, 148n.42
- Oldenburg, 20, 151n.5
- Oppenheim, Lassa (1858–1919), 69, 70–4, 75
- ‘The Medical Right to Bodily Interventions on Sick and Healthy Persons’ (public lecture)
- Oppenheim–Stooss controversy, 70–3, 75
- osteosarcoma, *see* cancer
- Osterloh, Paul, 79
- Oswald, Richard (filmmaker) (1880–1963), 54
- Dürfen wir schweigen?* (May we remain silent?, 1926), 54
- Es werde Licht!* (Let there be light!, 1917), 54
- Ottmer, F. (pen name of Ottilie Franzos), 53
- Das Schweigen* (novella, 1902), 53
- ‘overcrowding’ (of medical profession), 3, 4, 99, 101–3, 109, 122
- Pagel, Julius (1851–1912), 86–7, 106, 107, 108, 109, 121, 145n.41, 146n.71, 149n.70
- beneficia non obtruduntur* (benefits are not imposed), 86–7
- pain relief, 115–16
- palliative care/palliative treatment, 4, 97, 98–9, 115, 121
- see also* euthanasia/‘medical euthanasia’
- palliative treatment, *see* palliative care/palliative treatment
- panel doctors (*freie Arztwahl*), 105, 107, 112, 120, 128
- parapsychology, 111, 118
- parliamentary commission, 26–7
- paternalistic attitudes, 4, 5, 69
- see also* medical paternalism
- paternalistic mentality, *see* medical paternalism; paternalistic attitudes
- patient information and consent, 4, 93–4, 113, 122, 125, 130, 141n.44
- ethical conflicts of, 115–16, 118, 119
- and extent of information provided, 91–2
- legal positions in, 70–9
- medical comments and advice on, 84–8
- in Nazi period and human experimentation, 126
- and physical injury, 73–4
- public discussion on legal reform on, 89–92
- for treatment and experimentation, 80–3
- see also* information; doctor–patient relationship; ‘presumptive consent’
- patients’ interests, 5, 40, 46, 129
- patients’ self-determination, 69–93
- Peiper, Erich (1856–1938), 87–8, 109, 119
- penal law reform commission (*Strafrechtskommission*), 90, 91, 92
- penal law reform, 52, 60, 67, 89–93, 125
- see also* penal law
- penal law, 70, 76, 83, 89, 146n.78
- ‘Dresden case’, 76–9
- ‘Hamburg case’, 74–5
- Oppenheim–Stooss controversy, 70–3, 75
- see also* penal law reform
- Percival, Thomas, 95
- Medical Ethics* (1803), 95
- personal honour, 3, 77, 98
- personal integrity, 10, 123
- physical injury (*Körperverletzung*), 4, 59, 73, 84, 90–2, 125
- erroneous assumption of consent and, 88
- interventions without consent and, 71, 77, 8081

- physical injury
 (*Körperverletzung*) – continued
 and *lege artis*, 75–6
 and ‘presumed’ consent, 79–80
- physical interventions, *see* bodily interventions (on patients)
- Placzek, Siegfried (1866–1946), 61, 65, 66
- Das Berufsgeheimnis des Arztes*
 (medical standard text on professional secrecy), 61
- Ploetz, Alfred (1860–1940), 114
- Ploucquet, Wilhelm Gottfried, 95
- Der Arzt* (1797), 95
- political control, 17, 18
- political unification, 7
- Pomerania, 90
- poor law physician, 107, 149n.70
- Preliminary Draft Code (*Vorentwurf*)
 (April 1909), 62, 90, 91
- Preliminary Draft of a New German Penal Code (1909), *see* Preliminary Draft Code (*Vorentwurf*) (April 1909)
- ‘presumptive consent’, 75, 79
 see also patient information and consent
- Prevention of Hereditarily Ill Offspring (*Gesetz zur Verhütung erbkranken Nachwuchses*)
 (14 July 1933), 124
- compulsory sterilisation, 124, 151n.7
- prior consent, 63, 70, 81
- privacy, 4, 61, 63, 68
- professional codes (*Standesordnung*), 11, 16, 19, 24, 26, 30, 45, 133n.40
- direct transfer into law of, 27
- disciplinary tribunals and, 123
- legal binding of, 19, 20, 22, 28, 39
- Mayer’s reform proposals on, 28–9
- structures of disciplinary control for, 23
- warnings to doctors deviating from, 25
- see also* disciplining doctors; misconduct; professional conduct
- professional conduct, 11–12, 16–17, 21, 38, 42, 43, 60, 80–3, 99, 103, 107, 108, 112, 119, 123
- advice literature, 84–9, 95–8
- outside medical practice, 39
- professional code, 25, 26, 4, 56
- requirements of courts of honour and, 19–20, 31–5
- women patients, 101
- see also* disciplining doctors; misconduct; professional codes (*Standesordnung*)
- ‘professional consciousness’ (*Standesbewußtsein*), 42, 103
- professional control (of medical practice), 23, 124
- professional courts (for doctors), *see* medical professional court (*ärztliches Berufsgericht*)
- professional discipline, 40–5
- professional ethics, 2, 40–6, 81, 84, 96, 98, 109, 122, 131n.12
- and confidentiality, 47–8
- ‘general duty of advice’ and (*allgemeine Beratungspflicht*), 126
- and preventing atrocities of Nazi medicine, 130
- see also* medical ethics
- professional etiquette, 12, 16, 109, 119
- ‘professional honour’ (*Standesehre*), 40–5
- professional honour, 3, 7, 42, 43, 54, 80, 123
- collective cultural capital of, 44
- discreetness and, 68
- and medical ethics of Imperial Germany, 129
- of medical profession, 44, 98
- in protection of patients, 46

- professional misconduct, 6, 8, 13,
16, 31–2, 33, 34, 35, 123,
135n.74
- professional organisation, 10, 11, 21,
148n.48
- professional politics, 3, 5, 76,
110, 122
- professional practice, 11, 17, 24, 59,
62, 121
- professional relations/professional
relationships, 16, 36, 109
- professional reputation, 5, 41, 129
- professional right (*Berufsrecht*), 70,
71, 76, 90
- professional secrecy, 4, 48–50, 62,
65, 67, 68, 97, 124
Das Berufsgeheimnis des Arztes
(medical standard text on
professional secrecy), 61
medical courts of honour and, 60
moral duty above legal duty,
51–4, 56–7, 61
and provisions of section 300
(Penal Code) and of Code of
Criminal Procedure, 52,
57, 64
Supreme Court's decision on, 59
see also medical secrecy
- prognosis, 87, 97, 106, 113–14, 126,
147n.17
- Progressive Democratic Party
(*Fortschrittliche Volkspartei*), 52
- Prussia, 2, 6, 7, 8, 11, 14, 16, 23, 26,
30, 119, 133nn.32, 40,
148n.37, 151n.5
establishment of medical
representative bodies, 14, 17,
20, 45
disciplining doctors, 31–9
professional secrecy, 59
information and consent made
official, 83, 100
medical professional code, 123
- Prussian Court of Honour
(*Ehrengerichtshof*) for Doctors,
19, 31, 36, 38, 60, 61, 123,
142n.60
- animosity against Trade
Ordinance, 42
disciplinary convictions, 41
'a medical law of honour' (*ein
ärztliches Ehrenrecht*), 39
- Prussian General Common Law
(1794), 6, 47, 54
- Prussian Law on Medical Courts of
Honour (1899), 59, 61
new interpretation of 'authorised'
disclosure, 61
- Prussian law, 6, 20, 60
- Prussian Medical Edict (1725), 47
- Prussian Parliament, 13, 14, 18, 19,
20, 55, 61, 82, 123
applying disciplinary regulations
to medical profession, 17
Berlin case subject of debate in, 60
'Neisser case' the subject of
debates in, 82
unsuccessful motion to abolish
courts of honour in, 123
- Prussian Penal Code (1851), 6, 8
confidentiality provisions in, 48
- Prussian Sanitary Regulations
(1835), 54, 57, 64
doctors to report syphilitic
infections, 54–5
- psychiatric care, 49, 62–7, 72
- psychiatric treatments,
see psychiatric care
- public health policy/public health,
2, 4, 9–10, 21, 68, 132n.16,
142n.60
and disclosure of cases of
contagious diseases, 4, 55–6,
60–1
and medical courts, 123–4
and professional code, 24, 91
Royal decree of 1887 and, 14
and sickness insurance
legislation, 20
- public health, *see* public health
policy/public health
- public hospitals, 2, 88
- public interest, 4, 90, 125
see also medical confidentiality

- public reprimands, 22, 25
- quackery/quacks (*Kurpfuscher*), 24, 36, 56, 57, 60, 99, 129, 132nn.11–12
see also lay healers (unqualified) (*Kurpfuscher*)
- qualified doctors, 56, 107, 119
see also licensed doctors (*approbierter Arzt*); medical practitioners
- Quidde, Ludwig (1858–1941), 82, 141n.44
- racial hygiene, 114, 128
- Rapmund, O., 119
- Realgymnasien*, 99, 101, 102, 148n.142
see also *Gymnasien*
- Regensburg, 22
- Reich Doctors' Ordinance (1935), 124, 125
- Reich Health Week (*Reichsgesundheitswoche*) (1926), 129
- Reich Justice Office, 52, 89
- Reich Medical Chamber (*Reichsärztekammer*), 123–4
- Reich Military Court, 94
- Reich Penal Code (*Reichs-Strafgesetzbuch*) (1871), 3–4, 62, 64, 115
 confidentiality provisions in, 48–9
- Reichsgesundheitsrat* (Reich Health Council), 125
- Reichstag* (German Parliament), 13, 14, 15, 48, 52, 55, 125
 law on 'combat of diseases constituting a danger to the public' (*Gesetz, betreffend die Bekämpfung gemeingefährlicher Krankheiten*), 55
- religious control (of doctors), 23, 24
- Rhine Province, 18, 90, 91
- Ritzmann, Iris, 95
- Rochus Hospital (Frankfurt/Main), 51
- Rohlf, Heinrich, 99
- Rosenbach, Ottomar (1851–1907), 111
- Rosenberg, Werner, 81
- Rostock, 61
- Royal decree (1847, Prussia), 6
- Royal decree (1887, Prussia), 14, 16, 17
- Royal decree (1895, Bavaria), 21, 22, 30
- Royal Disciplinary Court for Civil Servants (*Königlicher Disziplinargerichtshof für nichtrichterliche Beamte*), 82
- Runge, Karl Friedrich Ferdinand (1835–1882), 12
- safety (of patients), 2, 41
- Salvarsan (arsphenamine), 125
- sanctions (disciplinary), 9, 16, 30, 123
- savoir faire* (know-how), 84, 96, 97, 106
- Schimmelbusch, Kurt, 150n.105
- Schleswig-Holstein, 18, 90
- Schmidt, Dr Heinrich, 99, 100, 103, 121
- Schmidt, Richard (1862–1944), 81
- Schmiedebach, H.-P., 128
- Schnitzler, Arthur, 44
Lieutenant Gustl (novella), 44
- Scholz, Friedrich (1831–1907), 84–5, 87, 106, 126
- Schomerus, Georg, 118, 119
- Schopenhauer, Arthur, 109
- Schulz, Julius Henri, 110
- Schwenger, Ernst (1850–1924), 120, 126, 129, 146n.113
Der Arzt (1906), 120, 125
- Second Reich (1871), 2, 46
- 'secret remedies' (*Geheimmittel*), 16, 24, 69, 130
- self-determination (of patients), 4, 73, 86, 88, 93, 126
 contract-based ethics and, 121
 and 'Dresden case', 76–9

- self-determination (of patients) –
continued
 and extent of information
 provided, 91–2
 and ‘Hamburg case’, 74–5
 traditional paternalism of doctors
 and, 87
see also information; patient
 information and consent;
 physical injury
 (*Körperverletzung*)
- self-regulation, 6, 13
- sense of honour (*Ehrgefühl*), 45, 123
- sexology, 110, 118
- sexual misconduct (of doctors), 38,
 39, 43, 123
see also sexual offences
- sexual offences, 38–9, 130
see also sexual misconduct
 (of doctors)
- sickbed, 4, 97
- sickness insurance funds, 15, 18,
 24, 122
- sickness insurance scheme/sickness
 insurance system, 2, 3, 4, 16,
 18, 23, 37, 46, 107, 122,
 128, 129
- Simmel, Georg (1858–1918), 39, 43,
 45, 46, 111, 122
 conception of honour, 7
Soziologie (1908), 42
- Sinn, Marianne, 74, 77
- ‘situation ethics’, 110
- smallpox, 4, 55
- social identity (of doctors), 118–21
- social authority, 46
- social capital, 44–5
- social circles, 43
- Social Darwinism/Social Darwinist,
 2, 111, 114, 115
- Social Democracy/Social
 Democratic movement,
 18, 46
- social groups, 7, 43, 45, 96, 122, 123
- social insurance organisations
 (*Landesversicherungsanstalten*),
 61
- social sanctions, 16, 42
- social-democratic doctors, 18, 19,
 20, 39
- ‘Society for Experimental
 Psychology’ (Berlin), 111
- society’s assembly, 22, 25
- ‘sovereign’ doctor, 85, 87, 88, 93,
 108, 120, 129
- state medical chambers
 (*Landesärztekammer*), 30
- state-authorized courts, 21, 29, 30, 31
- state-recognised medical chambers
 of doctors (*Ärztkeammern*),
 10, 21
- Bavarian medical chambers,
 20–31
- Stenglein, Melchior (1825–1903),
 80, 118
- sterilisation, 79, 102, 105, 124, 128,
 151n.7
- Stooss, Carl (1849–1934), 70–4, 75,
 76, 80, 81, 144n.25
- Strasbourg, 81
- ‘struggle for existence’ (*Kampf ums
 Dasein*), 104–10
- student duels (*Paukarzt*), *see* duels/
 duelling
- Stuttgart, 90, 100, 106, 110
- Supreme Court (*Reichsgericht*),
 Leipzig, 9, 50, 60, 61, 62, 63,
 68, 74, 77, 84, 88, 89, 91, 92,
 126, 141n.51
- doctrine of the ‘collision of
 duties’, 67
- ‘general duty of advice’
 (*allgemeine
 Beratungspflicht*), 125
- judgements on medical secrecy,
 51–3, 57, 58–9, 64–5
- landmark decisions, 75–6, 79–80
- operating on minors, 81
- surgeons, 4, 47, 73, 81, 88–9,
 127, 130
- patients’ explicit refusal, 74,
 78–9, 84
- patients’ personal wishes or
 views, 4

- surgery, 4, 70, 77, 78, 80, 83–4, 85, 92, 118, 125
see also surgical procedures
- surgical interventions, 77, 87, 93, 143n.16
- doctors' dilemma, 80
- patient's right to self-determination, 86
- penal law interpretation of, 76, 81, 84, 90–1
see also surgery; surgical operations; surgical procedures
- surgical operations, 69, 77, 87
see also surgery; surgical interventions; surgical procedures
- surgical procedures, 4, 5, 71
see also surgery; surgical interventions; surgical operations
- syphilis, 50–51, 63, 71, 84
 medical confidentiality issues, 53–62
 Neisser's experiment, 82–3, 111, 141n.44
see also venereal disease (VD)
- tacit consent, 59, 76, 78, 81, 89, 93
- therapeutic experimentation, 125
see also human experimentation/human experiments
- therapeutic intention, 4, 72
- therapeutic interventions, 83, 125–6
- Thiersch, Dr Justus, 76, 77
- Tille, Alexander (1866–1912), 114
- torts (*unerlaubte Handlungen*), 81
- Trade Ordinance (*Gewerbeordnung*) (1869/1871), 7, 8, 9, 10, 11, 14, 27, 42, 89, 123, 132n. 29, 133n.35
 and conservative critique of Heinrich Marx, 96–8
 dissatisfaction with, 132n.12
 and doctor's 'freedom to cure' (*Kurierfreiheit*), 112
 Dr Heinrich Schmidt's views on, 99–100
 predominant causes of disciplinary punishments, 36–7
see also German Trade Ordinance (1869/71)
- traders (*Gewerbetreibende*), 8, 132n.29
- trades (*Gewerbe*), 14, 96
- truth-telling, 4, 96, 97, 106, 113, 117, 126, 147n.17
- tuberculin treatment, 69, 72, 143n.11
- tuberculosis, 55, 69, 72, 100, 144n.25
- Ughetti, J. B., 106
- 'unauthorised' (*unbefugte*) disclosure, 58–9, 62, 124, 125
- underbidding/undercharging, 15, 24–5, 105
- undercharging, *see* underbidding/undercharging
- 'unworthy of the profession' (*standesunwürdig*), 42
- Upper Bavaria, 26, 29, 132n.12
see also Bavaria
- Usborne, Cornelie, 67
- utilitarianism, 112, 115
- venereal disease (VD), 4, 125, 141n.48
 confidentiality and, 54–62, 67
 and public interest, 124, 142n.60
 and refusal to give evidence in court, 49–50
 Supreme Court's decision (1903) on, 53
see also contagious diseases; infectious diseases; syphilis
- Vierordt, Hermann (1853–1943), 103
- Virchow, Rudolf (1821–1902), 13, 14, 17
- vivisectionists, *see* vivisections/anti-vivisectionists

- vivisections/anti-vivisectionists, 97, 100, 147n.10
- Volkmar, Lothar (1852–1902), 75
- Von Angerer, Ottmar (1850–1918), 77, 78, 80
- Von Ärzten und Patienten: Lustige und unlustige Plaudereien* (On Doctors and atients: Amusing and Non-Amusing Conversations, 1899), 84
- Von Bar, Ludwig (1836–1913), 81, 83
- Von Feilitzsch, Baron Maximilian (1834–1913), 24, 27, 28, 136n.84
- Von Goßler, Gustav (1838–1902), 14, 17, 147n.27
- Von Hutten-Czapski, Count, 60
- Von Jaksch, Rudolf (1855–1947), 108, 117
- Von Landmann, Anton (1841–1917) (Bavarian MP), 27, 30
- Von Lilienthal, Karl (1853–1927), 81, 91
- Von Liszt, Franz (1851–1919), 70, 91, 146n.78
- Von Waller, Johann Ritter, 71
- Von Zedlitz-Trützschler, Count Robert (1837–1914), 17
- Von Ziemssen, Hugo (1829–1902), 102–3, 104, 108
Klinische Vorträge (series), 102
- voting rights (active and passive), 14, 16, 25, 31, 33, 42
- Waitz, Dr Heinrich, 74, 75, 76, 84
- Wallichs, Julius (1829–1916), 12, 13, 18, 20
- Weimar Republic, 30
- Weindling, Paul, 2
- Westphalia, 40
- Wiesbaden, 12, 108
- Wiesing, Urban, 120
- Wilhelm II, 19
- Wilhelman society/Wilhelman Germany, 18, 108
- Wolff, Jacob, 104, 105, 106, 107–8, 121
medical deontology/advice literature, 104–5
- women, 3, 4, 64, 65, 66, 116, 142n.60
abortion-related cases, 67, 121
admission to medical studies, 102
ethical conduct in obstetrics and women's diseases, 101
word of mouth recommendation of doctors, 105, 148n.37
- Württemberg, 2, 7, 11, 114, 151n.5
- Zeitschrift für Schweizer Strafrecht* (law publication), 72
- Ziemssen, Oswald, 108
booklet on medical ethics, 108–109
- Zitelmann, Ernst (1852–1923), 81, 90