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## The Medical Law

### The Hippocratic *The Law* and the Pseudo-Platonic *Minos*

#### Abstract

This paper explores the notion of law (νόμος) as linked to medical competency in the Hippocratic tract *The Law*, including an isolated reference to ‘the medical law’ in the Hippocratic *Oath* (§ 2). It goes on to compare the role played by ‘medical laws’ in the pseudo-Platonic *Minos* or *On Law*. Building on the core meaning of ‘law’ as that which is accepted among a particular community, both treatises explain the medical law in terms of codified knowledge (as opposed to opinion or appearance, δόξα). This form of knowledge functions as a standard for professional identity and conduct. The question is raised as to which conclusions can be drawn from the resemblances and differences between the compared texts.

**Keywords:** Law, Medicine, Knowledge/opinion, Hippocratic corpus, (Pseudo-)Plato, Orality/literacy

#### 1 The Hippocratic *The Law* and *Oath*

The collection of Greek medical treatises that in the course of time congealed into the ‘Hippocratic corpus’ includes a tract entitled *The Law* (ΝΟΜΟΣ), barely one page long in an average modern book.<sup>1</sup> I quote the text, followed by my translation, in full:

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<sup>1</sup> The ‘Hippocratic Question’, the problem as to which of these treatises, if any, was authored by Hippocrates (c.460–c.370 BCE) himself, goes back to Galen (129–c. 216 CE) and beyond. Hippocratic scholars today agree that the corpus forms a motley collection in terms of date, style and doctrinal content but continue to debate which of the older ones can be ascribed to the historical Hippocrates (or his circle), though with less enthusiasm than before. A related, arguably more important question is how far it is justifiable to identify a form of medicine as typically ‘Hippocratic’. See, e.g., Jouanna 1999, 56–71; Craik 2015, xix–xxiv; Craik 2018; Van der Eijk 2016.



## ΝΟΜΟΣ

(1) Ἱητρικὴ τεχνῶν μὲν πασῶν ἐστὶν ἐπιφανεστάτη· διὰ δὲ ἀμαθίην τῶν τε χρεομένων αὐτῇ, καὶ τῶν εἰκῆ τοὺς τοιοῦσδε<sup>2</sup> κρινόντων, πολὺ τι πασῶν ἤδη τῶν τεχνῶν ἀπολείπεται. Ἡ δὲ τῶνδε ἀμαρτὰς τὰ μάλιστά μοι δοκεῖ εἶχειν αἰτίην τοιῆνδε· πρόστιμον γὰρ ἱητρικῆς μούνης ἐν τῇσι πόλεσιν οὐδὲν ὄριστα, πλήν ἀδοξίης· αὐτὴ δὲ οὐ τιτρώσκει τοὺς ἐξ αὐτῆς συγκαίμενους. Ὅμοιοτάτοι γὰρ εἰσὶν οἱ τοιοῖδε<sup>3</sup> τοῖσι παρειαγομένοισι προσώποισιν ἐν τῇσι τραγωδίησιν· ὡς γὰρ ἐκείνοι σχῆμα μὲν καὶ στολὴν καὶ πρόσωπον ὑποκριτοῦ ἔχουσιν, οὐκ εἰσὶ δὲ ὑποκριταί, οὕτω καὶ ἱητροί, φήμη μὲν πολλοί, ἔργω δὲ πάγχυ βαιοί. (2) Χρῆ γὰρ, ὅστις μέλλει ἱητρικῆς ζύνεσιν ἀτρεκέως ἀρμόζεσθαι, τῶνδε μὲν ἐπήβολον γενέσθαι· φύσιος· διδασκαλίας· τόπου εὐφύεος· παιδομαθίας· φιλοπονίας· χρόνου. Πρῶτον μὲν οὖν πάντων δεῖ φύσιος· φύσιος γὰρ ἀντιπρησσοῦσης, κενεὰ πάντα· φύσιος δὲ ἐς τὸ ἄριστον ὀδηγεούσης, διδασκαλίᾳ τέχνης<sup>4</sup> γίνεται· ἦν μετὰ φρονήσιος δεῖ περιποιήσασθαι, παιδομαθία γενόμενον ἐν τόπῳ, ὁκοῖος εὐφύης πρὸς μάθησιν ἔσται· ἔτι δὲ φιλοπονήν προσενέγκασθαι ἐς χρόνον πολὺν, ὅκως ἢ μάθησις ἐμφυσιθεῖσα δεξιῶς τε καὶ εὐαλδέως τοὺς καρποὺς ἐξενέγκηται. (3) Ὀκοίη γὰρ τῶν ἐν τῇ γῆ φυομένων γεωργίᾳ<sup>5</sup>, τοιῆδε καὶ τῆς ἱητρικῆς ἢ μάθησις. Ἡ μὲν γὰρ φύσις ἡμέων, ὁκοῖον ἢ χώρη· τὰ δὲ δόγματα τῶν διδασκόντων, ὁκοῖον τὰ σπέρματα· ἢ δὲ παιδομαθίη, τὸ καθ' ὥρην αὐτὰ πεσεῖν εἰς τὴν ἄρουραν· ὁ δὲ τόπος ἐν ᾧ ἢ μάθησις, ὁκοῖον ἢ ἐκ τοῦ περιέχοντος ἡέρος τροφῇ γιγνομένη τοῖσι φυομένοισιν· ἢ δὲ φιλοπονή, ἐργασίη· ὁ δὲ χρόνος ταῦτα ἐνισχύει πάντα, ὡς τραφῆναι τελέως.<sup>6</sup> (4) Ταῦτα ὡν χρῆ ἐς τὴν ἱητρικὴν τέχνην ἐσενεγκαμένους, καὶ ἀτρεκέως αὐτῆς γνῶσιν λαβόντας, οὕτως ἀνά τὰς πόλιας φοιτεῦντας, μὴ λόγῳ μόνον, ἀλλὰ καὶ ἔργῳ ἱητροῦς νομίζεσθαι. < Ἡ μὲν γὰρ ἐμπειρίη καλὸς θησαυρὸς καὶ καλὸν κειμήλιον τοῖσιν ἔχουσιν αὐτὴν καὶ ὄναρ καὶ ὕπαρ, εὐθυμίας τε καὶ εὐφροσύνης πλήρης>. Ἡ δὲ ἀπειρίη κακὸς θησαυρὸς καὶ κακὸν κειμήλιον τοῖσιν ἔχουσιν αὐτὴν καὶ ὄναρ καὶ ὕπαρ εὐθυμίας τε καὶ εὐφροσύνης ἄμοιρος, δειλίας τε καὶ θρασυτήτος τιθήνη. Δειλίη μὲν γὰρ ἀδυναμίην σημαίνει· θρασυτής δὲ ἀτεχνίην. Δύο γὰρ, ἐπιστήμη τε καὶ δόξα, ὧν τὸ μὲν ἐπίστασθαι ποιεῖ, τὸ δὲ ἀγνοεῖν. (5) Τὰ δὲ ἱερὰ ἔόντα πρήγματα ἱεροῖσιν ἀνθρώποισι δείκνυται· βεβήλοισι δὲ οὐ θέμις, πρὶν ἢ τελεσθῶσιν ὀργίοισιν ἐπιστήμης (ed. Heiberg 1927/Jouanna 1996).

(1) Medicine is the most distinguished of all arts. But because of lack of education on the part of both its practitioners and those who casually pass judgement on such practitioners it now ranks far lower than all other arts. The error of these people has I think the following explanation above all: only for medicine there is no fixed penalty in our cities except loss of reputation; and this does not wound those who are compounded of it. Such people are very similar to extras in tragedies: for just as those have the appearance, dress and mask of an actor but are not actors, so too with doctors: many are doctors in repute, very few are doctors in reality. (2) Whoever is truly to fit himself out with an understanding of medicine must be in possession of these things: natural aptitude, training, a conducive environment, learning from childhood, industry and time. First of all, natural aptitude is necessary: for if nature opposes, everything is in vain, but if nature leads the way to what is best, instruction in the art comes about. Who-

2 τοιοῦτους Ambr. Jouanna 1996.

3 τοιοῦτοι Ambr. Jouanna 1996.

4 διδασκαλίᾳ τέχνη Jouanna 1996.

5 γεωργίᾳ Jouanna. θεωρήν M V.

6 ὁ δὲ χρόνος τολμᾷ τε ἐνισχύσαι πάντα καὶ τραφῆναι τελέως Ambr.

ever is naturally suited to learning must acquire the art with intelligence, by learning from childhood in the right environment. Further, he applies industry for a long time, in order that learning, implanted, may produce a fine and abundant harvest. (3) The learning of the art of medicine is like the tending of plants: our nature is like the land; the doctrines of the teachers are like the seeds; learning from childhood is like their timely falling to the ground; the place where one learns the art is like the nourishment that the plants derive from the ambient atmosphere; industry is like working the land; and time will strengthen them all so that they are raised perfectly. (4) Those who have brought these things to the medical art and have truly acquired knowledge of it and who only then travel around the cities must be accepted as doctors not only in name but in reality. Experience is a good treasure and a good asset for those who have it both waking and sleeping,<sup>7</sup> full of confidence and joy. Inexperience is a bad treasure and a bad asset for those who have it both sleeping and waking, having no part in confidence and joy, and a nurse of timidity and rashness. Timidity indicates powerlessness; rashness lack of art. For there are two things, knowledge and opinion, of which the former causes knowing and the latter to ignorance. (5) Holy things are revealed to holy men. It is not right for them to be revealed to the profane until they are initiated into the mysteries of knowledge (transl. author).

*The Law* is listed among Hippocrates' works by the glossographer Erotian (mid-first century CE), who, with some justification, groups it with three other tracts 'concerned with the art' (scil. of medicine), including what we call medical ethics: the far more famous *Oath* as well as *The Art of Medicine* and *Ancient Medicine*.<sup>8</sup> The title *The Law* has been taken for granted ever since. Yet it is worth noting that the noun νόμος is not found in the extant text. The title, then, should be handled with caution when it comes to interpreting the text, whose author, date and other contextual aspects are uncertain, as in the case of other treatises that found their way into the Hippocratic corpus. The title ΝΟΜΟΣ can nonetheless be related to particular elements in the text and may have old credentials. The cognate verb νομίζεσθαι (§ 4) is used of persons who must be 'accepted' or 'regarded' as real doctors. As students of ancient Greek know, the corresponding noun νόμος, has a broader range of meaning than just (positive, written) law, referring generally to what is accepted by a particular group of people: custom, accepted practice, code of conduct. In the later fifth century BCE the intellectuals that came to be known as 'Sophists' gave this common notion a more technical and wider sense in developing their famous νόμος vs. φύσις distinction. Being opposites, the two terms define one another, with φύσις standing for nature in the sense of what is objectively given and fixed, the 'external world',<sup>9</sup> and νόμος for what is human-made and so also

<sup>7</sup> I.e., 24/7.

<sup>8</sup> Erotian, *Praef.* p. 36.20 Klein.

<sup>9</sup> On the development of the concept of nature see Lloyd 1991.

alterable: what is agreed upon among humans forming a particular society, so ‘convention’ or even ‘culture’ or ‘civilisation’ (cf. the modern nature vs. nurture debate). This distinction proved fruitful and received many, and varying, applications; one of its seminal consequences lay in the possibility it opened for subsuming societal arrangements such as slavery or the position of women under νόμος and so for regarding them as conventional and reformable, after centuries in which the social status quo had been rooted in an immutable, divinely sanctioned order, an idea that went hand in hand with a growing interest in other nations and cultures as well as debates on the best constitution. A great deal has been written on the νόμος vs. φύσις distinction.<sup>10</sup> In fact, one may ask whether it is reflected by our treatise too, as it is by other Hippocratic treatises belonging to the older (late fifth century) stratum of the Hippocratic corpus.<sup>11</sup> The author uses φύσις to refer to ‘nature’ in the sense of natural *aptitude* as one of the factors indispensable for the successful study of medicine (§ 2). If the medical ‘law’ stands for the professional code with which the doctor should comply, there is then a natural basis, which is given and unalterable. Natural aptitude is mentioned alongside five other factors that need to be in place: training, conducive environment, learning from childhood, industry, and time. At the same time, it receives special emphasis: ‘First of all, natural aptitude is necessary: for if nature opposes, everything is in vain, but if nature leads the way to what is best, instruction in the art comes about’ (§ 2). The other factors, then, presuppose and build upon this natural basis: they are cultural or, more specifically, educational conditions, which can, in principle, be created and if needed improved by teachers and students. Even so, we are dealing with a kind of intellectual *koinê*: the text is not specific enough to label the tract as a *typical* product of the Sophistic movement (second half of fifth century BCE), let alone identify particular sophists as sources of influence, as has been attempted in an earlier era of scholarship.<sup>12</sup> Particular ideas were, so to speak, ‘in the air’ and were inevitably reflected by the literature written in the period concerned.

Whereas the word νόμος is not used by the Hippocratic author, we do find here the expression ‘it is not right’ or ‘lawful’ (οὐ θέμις) featuring a Greek noun, θέμις, which, as its root indicates, also expresses what is laid

<sup>10</sup> Heinimann 1965; Guthrie 1969, 55–134.

<sup>11</sup> *Aer.* 14.1, II 59 L. p. 224.2 Jouanna: φύσει ἢ νόμῳ, 16.2, II 64L, 229.11–13 Jouanna. νόμῳ, *Morb sacr* 14.3: VI 387 L 26.1 Jouanna, 17.2, 392 L. 30.5–6 Jouanna. Cf. Heinimann 1965, 170–209.

<sup>12</sup> For an overview of the earlier scholarship on *The Law*, cf. Müller 1940, who himself argues in favour of influence from the Sophist Protagoras of Abdera (c. 490–420 BCE).

down or established and so also ‘law’, albeit without our connotation of a *written* statute (which, as we have seen, also applies to νόμος). One may recall the general predominance of orality in Greek culture, in which more weight was attached to oral testimony, oaths, etc., notably in contractual and legal contexts (an example is the Hippocratic *Oath*). Θέμις had distinctly religious overtones and is used by the author as he draws a metaphor from mystery religion: it is not right (θέμις) to reveal secrets to the uninitiate, so too medical knowledge is not to be divulged among all and sundry (§ 5). This section has led Hippocratic scholars such as Elizabeth Craik to connect the tract to the practice of transmitting medicine within exclusive groups or guilds (often families such as the famous Asclepiads, to which Hippocrates belonged) – a more common form of organisation, as in the case of actors with whom doctors are compared in § 1.<sup>13</sup> This involves the idea of privileged access to the group’s knowledge for members only (see also below on the *Oath*).

A further legal intonation occurs at the beginning (§ 1) where the author laments the emergence of impostors posing as real doctors. Through their errors these individuals and their supporters have given medicine, that most distinguished of arts, a bad name: a paradox. There is no penalty ‘in the cities’ for these errors, just deserved ill repute, with any luck. So, effectively, medicine presents a picture of ‘lawlessness’ in the wider sense of law we have seen as borne by νόμος. Since the author goes on to specify the qualifications satisfied by the properly educated, real physician, it seems possible to see them as constituting the ‘medical law’ the author found lacking in his time and for which lacuna he intends to make up through his stipulations. It is, then, law in this sense by which the real physician can be recognised and selected.

Let us now have a look at the connection some have perceived with the expression ‘medical law’ found in the *Oath*, whose famous opening is as follows:

ΟΡΚΟΣ

“Ὅμνυμι Ἀπόλλωνα ἰητρὸν, καὶ Ἀσκληπιὸν, καὶ Ὑγίαν, καὶ Πανάκειαν, καὶ θεοὺς πάντας τε καὶ πάσας, ἴστορας ποιούμενος, ἐπιτελέα ποιήσιν κατὰ δύναμιν καὶ κρίσιν ἐμὴν ὄρκον τόνδε καὶ ξυγγραφὴν τήνδε· ἠγήσασθαι μὲν τὸν διδάξαντά με τὴν τέχνην ταύτην ἴσα γενέτησιν ἐμοῖσι, καὶ βίου κοινώσασθαι, καὶ χρεῶν χρηίζοντι μετάδοσιν ποιήσασθαι, καὶ γένος τὸ ἐξ αὐτέου ἀδελφοῖς ἴσον ἐπικρινέειν ἄρρεσι, καὶ διδάξειν τὴν τέχνην ταύτην, ἣν χρηίζωσι μανθάνειν, ἀνευ μισθοῦ καὶ ξυγγραφῆς, παραγγελίης τε καὶ ἀκροήσιος καὶ τῆς λοιπῆς ἀπάσης μαθήσιος μετάδοσιν ποιήσασθαι υἱοῖσί τε

<sup>13</sup> Craik 2017, summarised in Craik 2015.

ἐμοῖσι, καὶ τοῖσι τοῦ ἐμὲ διδάξαντος, καὶ μαθηταῖσι συγγεγραμμένοισί τε καὶ ὠρκισμένοις νόμῳ ἱητρικῷ, ἄλλω δὲ οὐδενί [...] (Vol. IV, pp.628–630 Littré; 1–2, p. 4 Heiberg).

#### OATH

I swear by Apollo the Physician, by Asklepios, by Hygieia, by Panakeia and by all the gods and goddesses, making them my witness, that I will carry out this oath and this contract according to my ability and judgment. I will regard my teacher in this art as equal to my own parents; give him a share in my livelihood; share with him my money if he is in need; consider his sons as my brothers; teach them this art without fee or contract if they wish to learn it. I will share written precepts, oral traditions and all other medical instruction with my own sons, the sons of my teacher, and with formally contracted pupils under oath *according to medical law* but with no one else (transl. author).

Unlike *The Law*, the *Oath* has unleashed a flood of literature, not least because of its being perceived, and in different versions still being used, as a foundational document for medicine and in particular medical ethics.<sup>14</sup> But it is in fact an odd and challenging text, which has led to rather divergent attempts at contextualisation.<sup>15</sup> What is of special concern to us here is the contractual stipulations it contains. The great historian of ancient medicine Jacques Jouanna has explained this feature as marking the moment when Hippocrates' Asclepiad family, a medical guild (on which see above, p. 184), opened up for others. Thus, contracts for non-family members had to be drawn up and, as was customary, sealed with an oath.<sup>16</sup> The text says this is done according to 'medical law' (or perhaps 'custom', νόμῳ ἱητρικῷ), indicating, it seems, a practice that had become established. Even so, the precise extent of reference of the expression is unclear. Does it qualify just the taking of an oath? One expects the medical law to have included more established practices or norms of behaviour, perhaps reflected by stipulations found in the rest of the *Oath* (some of which match more with what we would call medical ethics or 'deontology'). In consequence, it has been suggested that this occasioned the writing of our treatise entitled *The Law* (or, one may add, just the title). In theory, it may have been the other way round, but oath-taking and contracts for education are not mentioned in *The Law*; there is only compatibility in their both reflecting the organisation of the teaching and practice of medicine by closed groups, families or, as seems to be the case with the *Oath*, clans enlarged with other persons bound not by family ties but by contractual obligations. But there the resemblance may end. It is quite possible that the reference to the 'medical law' in the *Oath* has nothing to do with the extant *The Law*. To use the expression 'medical

<sup>14</sup> See, e.g., Schubert 2005; cf. Flashar and Jouanna 1996.

<sup>15</sup> Schubert 2005, with further references.

<sup>16</sup> See Jouanna 2017.

law' in the *Oath* to elucidate *The Law*, it has turned out, is trying to explain *obscurum per obscurius*. Nonetheless, what is clear is that the topic of the training of prospective doctors is very central to both texts. *The Law* reads like an address delivered by the head of a medical school to pupils about to begin their studies or, perhaps more plausibly, a graduation address for newly trained doctors who are about to embark on a career of their own and may become instructors themselves.<sup>17</sup>

As I will argue, it may be more rewarding to compare the pseudo-Platonic tract *Minos*, alternatively entitled *On Law*, in line with a common practice in the Platonic corpus. Before we do so it is necessary to highlight another feature of the Hippocratic *Law*, however. This is what I would call its salient use of epistemic terms, especially in § 4. Here the author argues that one should not only possess knowledge (γνώσιν cf. § 2 φρονήσιος) acquired through training but that one becomes a real doctor only after having travelled around the cities,<sup>18</sup> i.e., having gained experience (ἐμπειρίη). Experience is part of the art; its lack a state of 'artlessness' (ἀτεχνία). It is experience which is a wonderful source of guidance for the doctor and so engenders confidence and joy. These epistemic virtues (as they are called in present-day virtue ethics) are in their turn signs of competence. The counterparts are timidity and rashness, which mark the inexperienced doctor. § 4 ends with a reminder of the difference between knowledge (ἐπιστήμη, picking up γνώσιν and φρονήσιος) on the one hand and opinion (or mere appearance, δόξα) on the other, with the latter amounting to plain ignorance (τὸ ἀγνοεῖν). The distinction between ἐπιστήμη and δόξα is well-known from philosophical texts from Parmenides (active in the earlier part of the fifth century BCE) onwards and very prominent in Plato (429?–347 BCE) but for that reason hardly any guidance for contextualising the tract or specifying any specific sources. As to opinion (δόξα) being dismissed by our author as ignorance (τὸ ἀγνοεῖν), it is worth noting that Plato, while often opposing knowledge and opinion, sees δόξα in the sense of opinion as somewhere halfway between knowledge and not-knowing.<sup>19</sup> Even so, it marks out the author as a cultured and intellectual person (as do of course the literary flourishes of the text), who moreover uses his education to define the status and structure of medicine, that 'most distinguished of arts' (§ 1) in terms of cognitive status. This does seem to betray at least some grasp of

<sup>17</sup> See Craik 2015, 155.

<sup>18</sup> This element evokes the itinerant doctors of classical times, as known for instance from the Hippocratic *Airs, Waters, Places* which is designed as a guide preparing doctors for the diseases typical of various places and peoples.

<sup>19</sup> See, e.g., *Rep.* V.477c.

contemporary philosophical debate. The exposure of opinion as ignorance should be understood in terms of semblance or mere appearance, inherent in the semantic range of δόξα, including how one (here: the fake doctor) appears to others. The impostors create a semblance of knowledge, but this conceals ignorance – an idea which can be paralleled from Plato too.<sup>20</sup> They are exposed for what they really are by their attitude in dealing with patients, which is either too hesitant or too impulsive. Recognising the doctor for what he is brings us back to the distinction between real and fake doctors made at the beginning of the treatise (§ 1). Here, as we may remember, the problem was not just that of the gatecrashers in the medical profession but also of people judging them wrongly and supporting them. The presence of the (prospective) patient's viewpoint and that of their social environment here has not always been given due attention by modern interpreters.

## 2 The pseudo-Platonic *Minos*

The pseudo-Platonic dialogue *Minos* deals with the notion of law and its epistemic status; hence its alternative title *On Law*, Περὶ νόμου. The first title *Minos* is derived from the example of Minos, the just king and lawgiver of Crete,<sup>21</sup> who went on to become one of the judges in the Greek underworld.<sup>22</sup> Although no serious scholar today believes it is by Plato himself, it can be characterised as a Socratic and aporetic dialogue written very much in the style of that type of dialogue written by Plato. It is therefore seen as an 'inside job', – written in the Academy, perhaps not long after Plato's demise.<sup>23</sup> As such, it may have been designed as a kind of preamble to the Platonic *Laws*, which is on record as having been his last work.<sup>24</sup>

At the beginning of the dialogue Socrates tries to get at the essence of the notion of law, drawing, in his usual way, an analogy with one of the arts, medicine:

[ΣΩ] Ἐπειδὴ νόμῳ τὰ νομιζόμενα νομίζεται, τίνοι ὄντι τῷ νόμῳ νομίζεται; (b) πότερον αἰσθήσει τίινῃ ἢ δηλώσει, ὥσπερ τὰ μανθανόμενα μανθάνεται δηλούση τῇ ἐπιστήμῃ, ἢ εὐρέσει τίινῃ, ὥσπερ τὰ εὐρισκόμενα εὐρίσκεται, οἷον τὰ μὲν ὑγιεινὰ καὶ νοσῶδη ἰατρικῇ (314a6–b4).

20 Cf. *Lg.* IX 863c: ὅταν ἀμαθαινῇ τις μὴ μόνον ἀγνοίᾳ συνεχόμενος ἀλλὰ καὶ δόξῃ σοφίας.

21 Ps.-Pl. *Minos* 318d–321a.

22 Pl. *Apol.* 41a, *Gorg.* 526c.

23 Cf. Hutchinson 1997. Differently Dalfen 2009.

24 On King Minos in the *Laws* see I. 624a–b (from the prologue), 630d; cf. IV. 706a–b.



[SOCRATES:] Since it is by law that what is accepted is accepted, what is this law by which such things are accepted? Is it a form of perception or revealing, as what is learned is learned by the revelation of knowledge? Or is it a form of discovery, as what is discovered is discovered, for example, facts about health and sickness by medicine? (transl. Schofield).

Here the starting point is very much the felt connection between the noun νόμος and the verb νομίζεσθαι, which is also played on by the Hippocratic author in a relevant way (§ 4), viz. law as that what is accepted. Socrates then introduces a few mental or epistemic conditions as candidates for the role of that by which what is learned or discovered is grasped, as in the case of medicine things relating to health and disease. Knowledge (ἐπιστήμη) is there but also a few others absent from the Hippocratic tract. In the subsequent discussion law is defined by the friend (or ‘student’) as the resolution of a city in view of its political function. This is then pinned down by Socrates as a kind of judgement or opinion or appearance, using the term δόξα:

ΣΩ. Τί οὖν ἂν τούτων ὑπολάβοιμεν μάλιστα τὸν νόμον εἶναι; ΕΤ. Τὰ δόγματα ταῦτα καὶ ψηφίσματα, ἔμοιγε δοκεῖ. ΕΤ. Τὰ δόγματα ταῦτα καὶ ψηφίσματα, ἔμοιγε δοκεῖ. τί γὰρ ἂν ἄλλο τις φαίη νόμον εἶναι; ὥστε κινδυνεύει, ὃ (c) σὺ ἐρωτᾷς, τὸ ὅλον τοῦτο, νόμος, δόγμα πόλεως εἶναι. ΣΩ. Δόξαν, ὡς εἰοικε, λέγεις πολιτικὴν τὸν νόμον (314b8–c2).

[SOCRATES:] Which among these alternatives, then, would we be most inclined to suppose law to be? [FRIEND:] The resolutions and decrees themselves, in my view. What else could one say that law is? So it looks as though the answer to your global question about the law has to be: resolution of a city. [SOCRATES:] Political judgement [or: opinion], it appears, is what you call law (transl. Schofield).

In what follows Socrates, continuing the analogy with medicine, sets out to refute his interlocutor by showing it is law as knowledge (ἐπιστήμη) rather than opinion (δόξα) that marks the real doctor. Perhaps playing on the alternative use of τέχνη for the treatise instead of the art itself, Socrates explains law (νόμος) by reference to medical *writings* as the place where the medical law qua knowledge is stated. Here Socrates also refers to treatises expounding other arts: the political art and agriculture (316e–317a), the latter of which is also used by the Hippocratic author of *The Law* to explain the factors involved in medical education, though nothing much should hang on this parallel (§ 2). Compare the following passage, where note again the play on the cognate verb:

ΣΩ. ἤδη ποτὲ ἐνέτυχες συγγράμματι περὶ ὑγιείας τῶν καμνόντων; – ΕΤ. Ἐγώ γε. – ΣΩ. Οἶσθα οὖν τίνος τέχνης τοῦτ' ἐστὶ τὸ σύγγραμμα; – ΕΤ. Οἶδα, ὅτι ἰατρικῆς. – ΣΩ. Οὐκοῦν ἰατροὺς καλεῖς τοὺς ἐπιστήμονας περὶ τούτων; – ΕΤ. Φημί. – ΣΩ. (d) Πότερον οὖν οἱ ἐπιστήμονες ταῦτ' ἀπὸ τῶν αὐτῶν νομίζουσιν ἢ ἄλλοι ἄλλα; – ΕΤ. Ταῦτ' ἔμοιγε δοκοῦσι. [...] ΣΩ. Οὐκοῦν καὶ οἱ ἰατροὶ συγγράφουσι περὶ ὑγιείας ἄπερ (e) καὶ

νομίζουσιν εἶναι; – ET. Ναί. – ΣΩ. Ἱατρικὰ ἄρα καὶ ἱατρικοὶ νόμοι συγγράμματα ἐστὶν τὰ τῶν ἱατρῶν. ET. Ἱατρικὰ μέντοι (316c6–e3).

[SOCR:] Have you ever come across a treatise on health for the sick? [FRIEND:] I have. [SOCR:] Then you know what art it is that this is the treatise of? [FRIEND:] I do know: medicine. [SOCR:] Don't you call those who possess knowledge of these matters doctors? [FRIEND:] I agree. [SOCR:] Do people who possess knowledge accept the same things on the same matter, or do different people accept different things? [FRIEND:] The same things, in my view [...] [SOCR:] So the doctors in their treatises on health write what they accept as being so? [FRIEND:] Yes. [SOCR:] Then these treatises of the doctors are medical, and medical laws. [FRIEND:] Medical, to be sure (transl. Schofield).

In other words, law is a common body of knowledge: written down and so stable and fixed; it codifies standards, as exemplified by our Hippocratic work. Its emphasis on experience alongside knowledge is not found in the *Minos* but may be implied by the very notion of an art, an aspect made explicit, also with reference to medicine, elsewhere in the Platonic corpus.<sup>25</sup> The real and fake doctors recall similar passages in Plato too, most notably the pretenders who have gatecrashed philosophy in the sixth book of the *Republic* (VI.487d–489d): they are not the real experts to whom the art of governing the city should be entrusted but succeed in persuading the masses that they in fact are. This last point recalls the complaint of our Hippocratic author about the fake doctors being misjudged and not recognised for what they are (§ 1).

### 3 Conclusion

However problematic its contextualisation in other respects, the Hippocratic *The Law*, clearly reflects, and attempts to obviate the need for a set of standards for the medical profession of its time, standards that had to be realised through medical training in the first place. In so doing it uses the notion of νόμος and related terms (νομίζεσθαι, θέμις) as well as a set of epistemic conceptions. The reference in the Hippocratic *Oath* to the 'medical law' is intriguing but of little help when it comes to understanding *The Law*. The comparison between this tract and the pseudo-Platonic *Minos* has yielded a bit more: it strongly suggests that the authors of the two treatises share a common ground in the way they link the notions of *written* law, knowledge (as opposed to opinion or semblance, δόξα) and (medical) expertise or art (τέχνη). But we have to tread carefully: it is not as if the Hippocratic author can be shown to have read the *Minos* or conversely. The

<sup>25</sup> E.g., Plato, *Resp.* III, 408d8–e5.

Socratic dialogue hints at knowledge of medical literature but does so in a more general way: the medical law is laid down in the body of medical literature; any medical treatise represents this law, it seems. But the results of our comparison reveal enough of a pattern to encourage the inference that the Hippocratic *The Law* should be studied against a Socratic and Academic rather than Sophistic, let alone Presocratic, backdrop (and be roughly dated accordingly: mid- or late fourth century rather than earlier as has often been proposed). It appears to reflect a technicality, e.g., in its specification of epistemic virtues, that presupposes an antecedent intellectual history of some length. In addition, I have pointed to a few ideas (e.g., that of the gatecrashers in the medical profession) that invite comparison with (undisputed) Platonic works such as *Republic* and *Laws*. This seems worth exploring further in future research.<sup>26</sup>

By way of epilogue, I would like to note that the expression, or notion, of ‘medical law’ did not last. The immensely influential Galen of Pergamum (129–216 CE), who more than anyone else shaped the later image of Hippocrates and Hippocratic medicine, showed no interest in *The Law* (or for that matter other so-called deontological tracts in what became the Hippocratic Corpus).<sup>27</sup> Another factor was the far greater appeal exerted by the *Oath*, which provided stipulations that fit in better with medical ethics as understood by later generations (viz. in the sections following the one cited above). Galen was also pivotal in establishing the ideal of a unitary medical science, marked by broad consensus among its participants about its fundamental principles, after centuries of division of the medical profession into schools. This ideal can be said to have been anticipated by the *The Law* with its absolute distinction between knowledge/ignorance and real/counterfeit medicine, and by the *Minos* with its essentialist approach to the medical ‘law’ qua normative body of knowledge. It is a curious twist of history that this ideal failed to be realised until it was taken up by Galen centuries later.<sup>28</sup>

<sup>26</sup> It may also be worth comparing with the *Law* other so-called ‘deontological’ treatises preserved in the Hippocratic corpus, viz. *Precepts*, *Decorum* and *Physician*, which however do not refer to the notion of medical law. See Ecca 2016; Ecca 2017; Ecca 2018.

<sup>27</sup> A commentary on the *Oath* is ascribed to Galen by Arabic sources but its authenticity is disputed: see Rosenthal 1956. On Galen and the deontological treatises in the Corpus Hippocraticum Jouanna 2012 (on Galen and the *Oath*, see 262–263 and prev. n.).

<sup>28</sup> Galen anchored his idea of a unitary medicine in Hippocrates (though without appeal to *The Law*), see Tieleman (forthcoming).

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