

Dynamics of Duty of Care in Medical Profession: A Critical Appraisal of Ethical Breaches in Nigeria

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Abstract

From the initiation of medical treatment to full recovery, the foremost duty of medical professionals, along with the entire healthcare team, is to ensure the patient's well-being. Such attentive care and diligent patient assessment are not merely commendable practices but are legally mandated duties, referred to as the duty of care, breach of which incurs corresponding penalties. The practice of medicine in Nigeria has witnessed its fair share of unfortunate incidents. Despite regulatory frameworks and advancements in medicine, Nigerian hospitals and healthcare facilities have become hotspots for persistent breaches of the duty of care. The purpose of this study is to thoroughly assess the Duty of Care in the Nigerian Medical Profession and identify the factors leading to the failure to observe and enforce this duty. This study employs a doctrinal approach, primarily relying on library-based research. Findings reveal that institutional flaws exist, which result in inadequate application of relevant medical legislation, including Nigeria's Code of Medical Ethics. The paper argues that breaches of duty of care in medical negligence have led to misdiagnoses and incorrect treatments, often resulting in complications or death for patients, which is increasingly common in Nigeria. The study recommends that relevant government agencies and mass media should raise awareness among citizens about their rights to seek remedies for injuries resulting from a physician's breach of duty of care.

Keywords: Appraisal, Care, Duty, Dynamics, Ethical Breaches, Medical Professions.

Introduction

Disease stands as one of humanity's greatest adversaries. Interestingly, medicine has emerged as a crucial weapon in the battle against this formidable foe (Ezejiofor, *et al.*, 2013). The art of healing has been closely linked with human society since ancient times. In essence, medicine encompasses the scientific and artistic endeavors involved in identifying, treating, and preventing diseases and injuries. It comprises a spectrum of healthcare approaches developed to sustain and restore health by averting and addressing illnesses in humans (Ezejiofor, *et al.*, 2013). Fundamentally, medicine aims to prolong, enhance, and make more active the lives of individuals while minimizing suffering and disability. Consequently, from the initiation of medical treatment to full recovery, the foremost duty of medical professionals, along with the entire healthcare team, is to ensure the patient's

well-being (Orkuma, & Ayia, 2014). Hence, they carefully observe the patient, performing detailed and regular evaluations, and executing timely nursing interventions in all aspects of the patient's care, customized to the particular nature and context of the medical procedure being performed (Ezejiofor, *et al.*, 2013). This concerted effort aims to facilitate the patient's return to a state of optimal functioning in a manner that is both safer and more expedient, ensuring comfort throughout the process. Such attentive care and diligent patient assessment are not merely commendable practices but are legally mandated duties, referred to as the duty of care, breach of which incurs corresponding penalties (Riitta, 2014).

In Nigeria's medical landscape, legal and judicial authorities have established that once a patient is accepted for treatment, a duty of care arises due to the establishment of a doctor-patient fiduciary relationship (Riitta, 2014). As a result, a doctor can be held responsible for not promptly attending to or treating a patient, just as they can be for providing negligent care. Therefore, when a doctor agrees to treat a patient, regardless of whether there is a formal agreement, they are bound by a duty of care to that patient. This duty is not owed to just anyone needing assistance and capable of being reasonably aided. The effective fulfillment of this duty of care and treatment by healthcare providers is a significant concern that underpins the quality of service delivery worldwide within healthcare systems (Riitta, 2014). In essence, clinical effectiveness and patient safety are critical factors determining the perceived quality of duty of care provided by healthcare personnel.

The paper focuses on examining various duties of medical professionals guided by ethics and consequent breaches inherent in the course of discharging their responsibilities.

Statement of the Research Problem

The practice of medicine in Nigeria has witnessed its fair share of unfortunate incidents. Patient injuries, incorrect drug administrations, and erroneous surgeries have occurred, resulting in harm to patients. This highlights the issue of medical negligence, especially in cases of misdiagnosis leading to improper treatment, often resulting in complications or death. Such occurrences have become alarmingly common in Nigeria, leading to premature deaths, avoidable injuries, and significant hardships for victims and their families. Despite regulatory frameworks and advancements in medicine, Nigerian hospitals and healthcare facilities have become hotspots for persistent breaches of the duty of care. Medical mishandlings have been on the rise, regardless of the ethical standards expected of medical professionals. Misdiagnoses or poor management of diseases not only endanger lives but also erode trust in the medical profession.

Consequently, healthcare workers grapple with the daunting challenge of medical errors while dealing with patients' lives and well-being. In light of these issues, several crucial questions arise:

1. What are the legal principles and case law governing the duty of care within the Nigerian medical profession?

2. Are there issues or shortcomings in the legal system and case law that obstruct effective compensation for victims of medical negligence in Nigeria?
3. What are the legal responsibilities of doctors for failing to uphold the duty of care in Nigeria?
4. Why do patients in Nigeria frequently ignore instances where medical practitioners breach their duty of care?

Aim and Objectives

The purpose of this study is to thoroughly assess the Duty of Care in the Nigerian Medical Profession and identify the factors leading to the failure to observe and enforce this duty. The study intends to provide recommendations to enhance compliance with the legal duty of care that physicians owe to their patients. To accomplish this purpose, the study will focus on the following specific objectives:

1. Examine the legal framework and jurisprudence concerning the duty of care in the Nigerian medical profession.
2. Identify challenges or gaps in the legal framework and jurisprudence that hinder efficient compensation for victims of medical negligence in Nigeria.
3. Analyze the liabilities of physicians for breaching the duty of care in Nigeria.
4. Outline the reasons why patients in Nigeria frequently overlook breaches of the duty of care by medical practitioners.

Methodology

This study employs an explorative research method, primarily relying on library-based research. This method is used to investigate a problem which is not clearly defined, it is often referred to as grounded theory or interpretive research as it is used to answer questions like what, why and how. Thus, it will scrutinize materials sourced from primary and secondary outlets. Primary sources include legal documents and court decisions related to breaches of the duty of care in the Nigerian medical profession. Secondary sources include books, journals, articles, newspapers, and online resources pertaining to the subject matter. Analyzing these materials will serve as the foundation for achieving the study's objectives, as well as for drawing conclusions and making recommendations aimed at bolstering compliance and effective enforcement of duty of care in the Nigerian Medical Profession.

Theoretical Framework

Role theory holds that a substantial proportion of observable, day-to-day social behaviour is simply persons carrying out their roles, much as actors carry out their roles on the stage or ballplayers theirs on the field. Role theory is, in fact, predictive. It implies that if we have information about the role expectations for a specified position (e.g., doctors, nurses, sister, mother, teacher), a significant portion of the behaviour of the persons occupying that position can be predicted (Biddle, 1986).

Role theory also argues that in order to change behaviour it is necessary to change roles; roles correspond to behaviours and vice versa. In addition to heavily influencing behaviour, roles influence beliefs and attitudes; individuals will change their beliefs and attitudes to correspond with their roles. The functionalist approach sees a role as the set of expectations that society places on an individual. By unspoken consensus, certain behaviours are deemed *appropriate* and others *inappropriate*. In the functionalist conception, role is one of the important ways in which individual activity is socially regulated: roles create regular patterns of behaviour and thus a measure of predictability, which not only allows individuals to function effectively because they know what to expect of others, but also makes it possible for the sociologists to make generalisations about society (Hindin, 2007). Collectively, a group of interlocking roles creates a social institution; the institution of health, for example, can be seen as the combination of many roles, including; doctors, nurses, pharmacists, laboratory technologists, and patients.

Role theory includes the following propositions:

1. People spend much of their lives participating as members of groups and organizations
2. Within these groups, people occupy distinct positions
3. Each of these positions entails a role, which is a set of functions performed by the person for the group
4. Groups often formalize role expectations as norms or even codified rules, which include what rewards will result when roles are successfully performed and what punishments will result when roles are not successfully performed
5. Individuals usually carry out their roles and perform in accordance with prevailing norms; in other words, role theory assumes that people are primarily conformists who try to live up to the norms that accompany their roles
6. Group members check each individual's performance to determine whether it conforms with the norms; the anticipation that others will apply sanctions ensures role performance.

Empirical Review

Scholars have extensively explored the concept of duty of care both generally and within the Nigerian Medical Profession. For instance, Akhabue (2012) delved into the components of actionable negligence. The author elucidated that negligence as a civil wrong entails a duty of care, its breach, and resulting loss. He emphasized the interconnectedness of these components, stressing that in Nigeria, merely proving a product's defectiveness isn't sufficient; the claimant must establish the producer's negligence in its production. Despite avenues for legal recourse available to victims, obstacles to justice in Nigeria exist, including prohibitive costs and lengthy proceedings, often leading some Nigerians to forego seeking redress. Akhabue's work sheds light on the essential elements needed for a successful negligence claim. Though focused on duty of care in the medical field, it is pertinent as it aids in understanding negligence more broadly.

Kamorudeen (2018) investigated the factors leading to medical errors in Osun State. The author emphasized the alarming rate of medical errors in Nigeria's healthcare system, partly due to limited access to responsive healthcare facilities. Patients frequently receive substandard care from poorly equipped facilities, heightening the risk of medical errors. Kamorudeen (2018) identified several types of medical errors, including diagnostic, medication, surgical, procedural, and injection errors. These errors are partly attributed to patients' low socio-economic status, which compels them to seek care from incompetent practitioners and inadequately equipped facilities. While commendable, this research is limited to identifying factors contributing to medical errors, whereas this study seeks to explore the legal framework for duty of care in Nigeria's medical profession.

Enemo (2012) explored Medical Negligence and the Liability of Health Care Providers and Hospitals, noting Nigeria's long-standing issues with healthcare quality and accessibility. He highlighted that many, especially the poor, still lack access to medical services and often receive substandard care due to negligence. Enemo (2012), also pointed out that patients resorting to unqualified practitioners exacerbates harm. He suggested stiffer penalties for such individuals. While insightful, Enemo (2012), did not specify appropriate punishments for negligent medical professionals, a gap this research aims to address.

Bayero (2016) assessed the legal duties and liabilities of Physicians in Nigeria, noting the increasing incidents of medical mishandling despite ethical expectations. They attributed this partly to misdiagnosis or poor disease management, eroding trust in the medical profession. Bayero et al. (2016), recommended increased public awareness of citizens' rights to seek redress and better equipment provision in public hospitals. While aligned with these recommendations, they didn't thoroughly explore legal gaps hindering efficient compensation for victims of medical negligence, a void this research aims to fill.

Ibitoye (2018) analyzed the application of the Doctrine of Res Ipsa Loquitur in medical negligence cases in Nigeria, recognizing medical negligence as an ongoing issue. He emphasized patients' difficulty in proving negligence and the burden of proof shifting to defendants under this doctrine. Ibitoye (2018), also discussed elements of negligence and suggested disciplinary bodies take action against habitual negligence. While highlighting a major challenge in enforcing duty of care in Nigeria's medical profession, Ibitoye's (2018) recommendation of automatic deregistration for habitual negligence may not always be fair, a concern this research shares.

Babalola (2013) investigated the Legal Implications of Ethical Breaches in Medical Practice in Nigeria. He underscored the role of medicine in diagnosing, treating, and preventing diseases and injuries, with the overarching goal of enhancing people's quality of life. Despite its significance, Babalola (2013) noted that ethical and legal issues arise in medical practice, risking the profession's integrity and eroding public trust. He outlined potential consequences of ethical and legal breaches, including conviction, damages, suspension, or deregistration. Babalola (2013) stressed the need for practitioners to stay updated with advancements in medical techniques and cautioned against reckless experimentation on patients. He advocated for strict regulatory oversight to prevent negligent practices. While

comprehensive, Babalola's focus was primarily on the legal implications of ethical breaches, overlooking challenges in the legal framework hindering compensation for victims of medical negligence.

Analysis of Duty of Care in the Medical Profession in Nigeria

The core tenets of ordinary negligence form the basis for professional negligence within the medical domain, often termed medical negligence or malpractice. Medical negligence, synonymous with medical malpractice, entails an action or omission by a healthcare practitioner that diverges from the recognized standard of medical care (David, 2018). Essentially, medical negligence transpires when a healthcare provider neglects to deliver suitable treatment, omits necessary actions, or provides inadequate treatment, leading to harm, injury, or fatality for a patient (David, 2018). For example, this may occur when a medical practitioner, despite having a patient's consent for treatment, fails to adhere to the legal standards imposed on them.

The core components of negligence encompass the presence of a duty of care, a violation of said duty, and the reasonably foreseeable harm resulting from the breach (Christian, 2017). Nevertheless, it is crucial to acknowledge that for a medical professional to be deemed to owe a duty of care to a patient, there must first exist a defined doctor-patient relationship between them. This relationship entails a patient seeking medical treatment from a healthcare provider, the provider offering to administer treatment, and the patient consenting to the treatment arrangement. As a result, there arises an implicit contractual obligation for the medical practitioner to exercise reasonable care and expertise in treating the patients (Breen, 2010).

Accordingly, once a medical practitioner agrees to provide treatment, they are obligated to exercise reasonable care. This duty of care is not owed to just anyone in need of assistance but specifically to the patient under their care. Regardless of the existence of a formal agreement, the medical practitioner is bound to provide adequate counseling, inform patients of treatment risks, conduct thorough examinations, make accurate diagnoses, and administer treatments properly. This duty also extends to ensuring the avoidance of wrongful treatments and the proper execution of diagnostic and therapeutic procedures (Okonkwo, 1989).

Standard of Care in Medical Profession in Nigeria

It has been demonstrated that medical practitioners are obligated to exercise caution in the treatment of their patients. However, there must exist a certain benchmark against which the actions of healthcare providers are evaluated. It is crucial to recognize that the required standard of care is variable, contingent upon factors such as time, location, and the availability of resources (Ojerinde, et al., 2014). For example, in an emergency, the expected standard of care may be lower than in regular conditions due to the possibility that the provider may not have the essential equipment. However, this does not release a practitioner from liability if they deliberately treat patients in settings with inadequate

facilities, especially when a nearby hospital or medical facility has appropriate resources available. The standard that is anticipated of a healthcare provider is that of a common, reasonable practitioner with the defendant's level of expertise. As long as the practitioner followed approved treatment standards, the mere occurrence of an adverse event does not show negligence on their behalf. In a similar vein, the quality of treatment one expects from rural healthcare practitioners might not match standards in urban areas where notable technical developments have occurred. Smaller towns with fewer resources should not be held to the same standards as larger cities' physicians, as made clear in the ruling in *Warnock v. Kraft*. Thus, the responsibility of a physician is based not just on the idea of "duty" to patients but also on "skill" and "knowledge" (Ezeome, 2011).

Furthermore, any healthcare professional who represents to a patient that they have specialized knowledge in a given field—be it a physician, nurse, anesthetist, or another—must demonstrate the same standard of care and competence as those who work in that field regularly. As such, a nurse doing a sophisticated operation such as In-Vitro Fertilization (IVF) surgery needs to follow the same guidelines as a licensed obstetrician. Failure to do so renders them liable for negligence, given their acknowledgment that they lack the requisite skill, knowledge, and facilities for such a procedure. In such cases, the standard of care is determined by the professional group to which they claim membership. Therefore, the expected standard of care increases with the professed degree of competence and knowledge (Shehu, 2013).

Essentially, the benchmark is the average competence level of a person who practices the occupation. Discipline-specific disciplinary organizations use practice standards or guidelines from several professional disciplines to evaluate the performance and competency of providers. In the event that providers fail to meet these requirements, they may be held accountable for violating their duties.

The Medical and Dental Council of Nigeria was established by the Medical and Dental Practitioners Act (2004) in Nigeria, which regulates the medical and dental fields. Furthermore, faults in treatment, a failure to offer suitable counsel, an inaccurate diagnosis, and a failure to attend to patients are among the acts that constitute professional negligence in Nigeria, as outlined in Rule 28 of the Code of Medical Ethics (Law of the Federation of Nigeria, 2004). In a case decided under Section 17 of the Medical and Dental Practitioners Act (2004), a doctor was found guilty by the Medical and Dental Practitioners Disciplinary Tribunal (M.D.P.D.T.). After the woman's surgery, the doctor was charged with neglectfully leaving a sizable surgical instrument within her abdomen. The 2004 Medical and Dental Council Act prohibited him from practicing for six months.

Breach of Duty of care in the Medical Profession in Nigeria

When the defendant's acts do not meet the necessary standard of care, it is considered a breach of duty (Goudkamp, 2015). When a medical professional does not offer the required level of care, they are in violation of their obligation to the patient. The Medical and Dental Council of Nigeria (MDCN) establishes and revises the requirements for medical

professionals in Nigeria. For instance, professional negligence is defined under Rule 28 of the Rules of Professional Conduct for Medical and Dental Practitioners, also known as the Code of Medical Ethics in Nigeria (2004). These acts include:

- i. Failing to provide a patient in need of immediate attention while you have the opportunity.
- ii. Displaying incompetence in patient assessment.
- iii. Making a misdiagnosis when clinical signs were evident enough that any reasonably skilled practitioner should have recognized them.
- iv. Failing to inform or providing incorrect advice about the risks of a treatment or operation, especially if it might cause serious side effects like deformity or organ loss.
- v. Proceeding with a surgical procedure or treatment without obtaining necessary patient consent (informed or otherwise).

Thus, a doctor who negligently performs an operation in violation of these standards, resulting in injury or death, may be sued (Cook *et al.*, 2003). For the same wrongdoing, a careless healthcare provider may face both civil and criminal prosecutions. The provider is accountable for unjustified duty breaches.

Liability for Breach of Duty of Care in the Medical Profession in Nigeria

Depending on the gravity of the wrongdoing, medical malpractice may be heard in court or before the MDCN. The extent of liability is determined by the impact of the malpractice. If it results in death or severe bodily harm, the state may initiate criminal proceedings against the responsible medical personnel (Carr, 2012). In cases of civil wrongs, a patient or their representative can file a civil lawsuit for any injuries sustained. Additionally, the patient, their family, or their representative can commence disciplinary proceedings before the MDCN to challenge a civil wrong.

The Unskilled Person

Even though an inexperienced person chooses to offer healthcare, they cannot defend their acts by saying they tried their hardest if their efforts fall short of the necessary quality of care. For example, if a carpenter poses as a doctor and does surgery, he must exhibit the ordinary level of skill expected of a licensed medical professional. He will bear the penalties if he does not live up to this standard. The law mandates that he have and use the required abilities. It will only be negligence that he would be found guilty of. This also applies to a nursing sister who conducts a cesarean section on a patient who is bleeding to death while posing as a doctor and managing a maternity home. Her lack of a surgeon's expertise makes her conduct reckless and incompetent, leading to her being liable for the resulting harm. The actions of unqualified individuals in healthcare have significantly impacted many Nigerians, particularly women. Courts, therefore, impose severe penalties for their negligent acts to serve as a deterrent. Quack received a nine-year term for manslaughter in

State vs. Okechukwu. "The evil of medical quackery must be eliminated to protect innocent lives from sudden and unnatural deaths," the court said.

It is extremely dangerous for an ignorant individual like the accused to engage in medical practices for which he is unqualified. This type of offense is very common nowadays, and a deterrent sentence is called for (Chukwuneke, 2015). Ignorant persons should not be allowed to experiment with the lives of others." Despite such rulings, the activities of quacks persist. Stricter punishments, such as life sentences, may be necessary to deter these dangerous practices.

Liability for Refusal to Treat and Report Victims of Gunshot Wounds

Some laws have resulted in the intimidation of medical professionals and the impediment of injured people's care. "Any person, hospital, or clinic that suspects someone of having a gunshot wound and admits them, treats them, or gives them medication must report the incident to the police immediately," states the Robbery and Firearms (Special Provisions) Act. If you do not comply, you face a five-year prison sentence or, in the case of hospitals and clinics, closure along with a hefty fine. Many victims of gunshots have refused treatment as a result of the execution of this regulation. The former UN Special Rapporteur on extrajudicial, summary, or arbitrary executions observed during a 2005 visit to Nigeria that police have encouraged the practice of medical professionals not treating people with gunshot or knife wounds without prior police authorization. Numerous avoidable deaths have resulted from permission-related delays or denials.

In December 2017, the Compulsory Treatment and Care for Victims of Gunshot Act was ratified by the President. This Act compels hospitals to treat gunshot victims right away, whether or not the police authorize it, and it also requires the police to assist in getting such treatment (Abdul Ganiyu, 2018). Section 13 of the law states that "any hospital that stands by or omits to do its part, resulting in the unnecessary death of any person with bullet wounds, commits an offense and on conviction is liable to imprisonment for 5 years, a fine of N50,000.00 or both." This law represents a significant step in improving medical care for gunshot victims and supporting the healthcare providers who treat them. However, there are several issues with the law that could pose challenges for medical practitioners in Nigeria. For example, the requirement for hospitals to report to the police within two hours of treating a gunshot victim could create unnecessary hardship, especially for small hospitals or facilities with limited staff. A doctor might face the dilemma of whether to abandon a patient to report the incident or continue treatment and risk a fine that could exceed the treatment fee. If the doctor leaves the victim to report the incident and the victim dies or suffers harm, the doctor could be liable for culpable homicide (if the victim dies) or face imprisonment for not less than five years and not more than 15 years without the option of a fine. Furthermore, some remote villages in Nigeria lack a police outpost or station, requiring medical personnel to travel long distances at their own expense to report such matters. Additionally, the law imposes a duty on every hospital that receives a gunshot

victim to contact the victim's family within 24 hours, regardless of whether the hospital has the resources to do so.

Civil Liability for Breach of Duty of Care in the Nigerian Medical Profession

A doctor may be subject to a civil lawsuit for medical negligence if they treat a patient negligently and cause them physical or psychological harm. A patient may file a lawsuit for negligence and demand payment from the doctor for any medical costs they incur in addition to damages for any physical, mental, or psychic injury they may have prevented (Avanti, 2017). In a case for medical negligence, the patient, like in any other negligence claim, must establish the following:

- i. The doctor had a legal obligation to treat the patient with reasonable care and attention;
- ii. The doctor did not treat the patient with the required level of reasonable care; and
- iii. That the doctor's negligence resulted in the patient suffering injury.

Reasons Nigerian Patients Frequently Ignore Duty of Care Breach

Medical professionals who violate their duty of care may suffer serious consequences for their patients, such as job loss, lifelong disability, diminished quality of life, and other misfortunes. Also, victims could have to pay more for other demands like special diets. Moreover, sufferers of medical blunders may be unable to participate in regular activities like sports, religious rituals, and family responsibilities. Many victims of medical negligence are hesitant to pursue the many remedies that are open to them.

Legal attention is primarily drawn to breaches of duty of care by complaints made by victims or their families (Ahmed-Kazeem, 2016). Nonetheless, healthcare settings frequently do not promote the voluntary reporting of such violations by the accountable medical professionals. Some patients consider unfavorable medical outcomes to be "God's will" or feel that it was "God's time" for them to pass away, which is another explanation for the inaction. This religious attitude prevents victims and their families from filing complaints with regulatory agencies or pursuing legal action, which permits hospitals and doctors who commit negligence to carry on inflicting suffering and fatalities.

Socioeconomic variables are also quite important. A large number of victims of medical malpractice are less well-off and cannot afford to sue hospitals or medical professionals. Furthermore, a lot of Nigerians don't know what their rights are. People's fundamental rights are frequently violated in a culture where ignorance and poverty are common, and poor victims do not have the means to seek restitution. There is a lack of public awareness regarding medical errors in Nigeria's healthcare system. Medical professionals asked to provide expert testimony are typically unwilling to testify against their peers or may cover up for them, which hinders the prosecution of such cases. Even those who are aware of this and decide to sue frequently find the procedure disheartening (Enya, 2016).

Moreover, the efficacy of enforcing relevant regulations, like Nigeria's Code of Medical Ethics, is questionable. Because of this, the majority of medical professionals' negligence

claims in Nigeria are only publicized in newspapers. Although the media is vital in drawing attention to these problems, it is unable to give a thorough understanding of the scope of medical malpractice in the nation. For Nigerian patients who have been the victims of medical neglect, these difficulties pose serious obstacles.

Findings

The study has determined the following particular findings, which are based on the discussions:

- i. There is a lack of public understanding in Nigeria on the rights of victims of medical negligence. Medical professionals asked to give expert testimony are typically unwilling to testify against their peers or may cover up for them, which hinders the prosecution of cases. Even those who are aware of this and choose to pursue litigation may find this discouraging.
- ii. It is clear that institutional flaws exist, which result in inadequate application of relevant medical legislation, including Nigeria's Code of Medical Ethics. As a result, the majority of medical professionals' negligence claims in Nigeria never go beyond the pages of the newspaper.
- iii. The Compulsory Treatment and Care for Victims of Gunshot Act's Section 13 may put Nigerian doctors through needless challenges. For example, in communities without a police presence, it could be challenging for a hospital to notify the authorities of a gunshot victim within two hours. Medical personnel might have to travel long distances at their own expense to report the matter. Additionally, small hospitals or facilities with limited staff may struggle to report within the required timeframe, as the medical officer responsible for reporting might be the one resuscitating the patient. This situation forces the doctor to choose between abandoning the patient to report the matter or risking a fine of N50,000 for failure to report. Worse, if the doctor abandons the patient and the patient dies or suffers damage, the doctor could be liable for culpable homicide or face imprisonment of five to fifteen years without the option of a fine.

Conclusion

The paper argues that breaches of duty of care in medical negligence have led to misdiagnoses and incorrect treatments, often resulting in complications or death for patients, which is increasingly common in Nigeria. In Nigeria, hospitals and health institutions have turned into settings where patients regularly encounter violations of duty of care, despite legal frameworks and medical improvements. It further contends that incorrect diagnoses or poor management of diseases endanger lives and erode confidence in the medical profession.

Recommendations

In light of the identified problems, the study offers the following specific recommendations:

1. Relevant government agencies and mass media should raise awareness among citizens about their rights to seek remedies for injuries resulting from a physician's breach of duty of care. Furthermore, medical negligence victims and their families should be able to denounce negligent healthcare providers to the Federal and State Governments through their respective Ministries of Justice in order to receive compensation and retribution. In Nigeria, this would work as a system of checks and balances between healthcare providers and a deterrent to careless medical professionals.
2. The ideal hospital setting, furnishings, and facilities should be precisely defined by the Nigerian Medical and Dental Council. Government-owned or privately run hospitals that do not fulfill these standards should be promptly closed by the government, which should also do frequent inspections to make sure they are being followed. The government should also spend money modernizing general hospitals around the country by obtaining the required supplies and planning recurring medical staff training sessions in public hospitals. Raising the bar for medical practice as a whole will help it to conform to global best practices.
3. Section 13 of the Compulsory Treatment and Care for Victims of Gunshot Act should be amended. The amendment should stipulate that the medical officer or hospital treating gunshot victims must report the matter to the police only after the victim has been fully resuscitated. Additionally, the amendment should allow for the report to be made to the nearest traditional authority in the village where the medical facility is located if there is no nearby police outpost or station. This adjustment would save the hospital time, energy, and resources, allowing them to manage the victim and other patients more effectively, especially in cases where the hospital is short-staffed.

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