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Legal Appraisal of Patients' Rights to Non-Disclosure of Medical Errors in Nigeria

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Abstract

Humans are not infallible thus they are prone to making certain mistakes in their daily lives. Medical personnel are humans and thus are not excused from having weaknesses and their imperfections. Medical errors are bound to occur while carrying out their professional services on their patients. However, the most important thing is what comes after these errors have occurred. Non-disclosure of Medical Errors is against the patients' rights as a person, and equally threatens the public trust in medicine as it involves deception. The study's objectives are to legally appraise the rights of the patient as regards non-disclosure of medical errors and also show that non-disclosure of medical errors to the patients and/or their family is a violation of human right and has no justifications. The study also evaluates the situation in Nigeria and what is obtainable in foreign countries with respect to non-disclosure of medical errors. The study finds that medical errors are prevalent in Nigeria; it also finds that patients in Nigeria no longer have confidence in their health officers, and the NMA is yet to speed up efforts to stem the ugly tide of medical errors.

Keywords: Medical errors, Disclosure, Non-disclosure, Patients, Rights, Medical Personnel

1. Introduction

Humans are fallible and as such they will make mistakes in their lives and work, be they lawyers, bankers or doctors[1]. Medical errors are bound to occur as medical practitioners carry out their day to day professional services. A medical error is a preventable adverse effect of medical care, whether or not it is evident or harmful to the patient[2]. Medical error is the inability of a planned medical action to be completed as initially intended (an error of execution) or the use of wrong medical methods to achieve a result[3].

The Nigerian health care system has recorded unimaginable incident of medical errors. This is partly attributable to difficulty in accessing responsive health facilities by many Nigerians. When accessed, patients receive compromised health care from ill-equipped health facilities, thus, exposing patients to suffer medical errors. Medical errors can occur in any health care setting in the form of an 'adverse drug event, improper transfusion, surgical injuries and wrong site injuries, suicide, restraint-related injury or death, falls, bum, pressure ulcers and mistaken patient identity. Available data suggest that over 2.7 million people die annually around the globe of causes traceable to medical errors.[4] The case appears to be worse in developing countries like Nigeria where confirmed reports revealed that 7 out of every 10 deaths in medical facilities have their roots in medical errors.[5] Although it is very difficult to come to terms with these ugly statistics, it is even worse to realize that these errors are not communicated to the unsuspecting victims.

When errors occur, ethics, professional policy and the law suggest that timely and candid disclosure be the standard practice and studies have shown that patients expect disclosure of errors.[6] This is despite the fact that ethical and professional guidelines recommend disclosure of such errors to patients when they occur. Although most doctors do believe that errors should be disclosed to patients when they occur, in

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[1] J O Lokulo-Sodipe '"Who is the Victim?" - The Effect of Medical Error on Physicians and Patients' (2009) 2 (1) *International Journal of Development in Medical Sciences.*

[2] T Brennan *et al*, 'Incidence of Adverse Events and Negligence in Elospitalized Patients: Results of the Harvard Medical Practice Study', (1999) 324 (3) *INEJM*, 70- 76.

[3] Institute of Medicine (IOM) Report 1999, pi.

[4] LL King, 'Medical errors in Africa', (2009) 9 (3) *Journal of Health Sciences*, 23-34

[5] U Madu, 'Cases of medical errors in Nigeria' (2013) 1 (9) *Journal of Health Communication*

[6] T H Gallagher *et al*, 'Patients and Physicians'Attitude Regarding the Disclosure of Medical Error', <http://www.jama.com> accessed 25 June 2024.

reality, most doctors and institutions do not disclose such mishaps to patients and their families. Rather, they engage in extensive cover ups under the guise of protecting the doctor-patient relationship and not causing harm to patients. This is supported by evidence in the literature that doctors disclose errors to patients in less than half of instances when a serious error occurs[9].Since doctors are ethically bound to disclose errors that cause or may cause harm to patients, this study will show the various rights of the patients against non-disclosure of medical errors by medical practitioners. It will equally show that non-disclosure of medical errors to patients and/or their families is a violation of ethical principles and human rights and cannot be justified.

2. An Overview of Medical Errors

The Institute of Medicine's report[7], "To Err is Human: Building a Safer Health System" bears witness to the fact that medical errors are not uncommon. According to this report, an error is defined as "the failure of a planned action to be completed as intended or the use of a wrong plan to achieve an aim".

Reason[8] defined medical errors as the failure of a planned action to be completed as intended (an error of execution) or the use of a wrong plan to achieve an aim (an error of planning).He saw medical errors as deviations from the process of care, which may or may not cause harm to the patient. Leape[9] defined it as an unintended act (either of omission or commission) or one that does not achieve its intended outcome. Medical errors can occur anywhere in the health care system: hospitals, clinics, outpatient surgery centers, Doctors' offices, nursing homes, pharmacies and patients' homes. The World Health Organization (WHO) said that "millions of people die each year from medical errors and infections linked to health care. It said that if the checklist is effectively used worldwide, about 500,000 deaths could be prevented each year".[10] It is worth noting that these figures are likely to be an underestimate of the true picture; this is because of a well-recognized culture of under- reporting in almost all health-care systems.[11]

Examples of medical error include transfusion of HIV infected blood, mis-match of blood at transfusion, leaving foreign bodies like sponge or instrument in surgical wounds; extravasations of drugs into necrosis; forgetting a tourniquet in the upper arm resulting in arm gangrene and amputation, and medication errors. The causes of medical errors are complex. Some causes are; communication error; the increasing specialization and fragmentation of health care; human errors resulting from overwork and burnout; manufacturing errors; equipment failure; diagnostic errors and poorly designed buildings and facilities. The occurrence of a medical error has a ripple of effects. The error can affect the family of the patient, friends and even the co-workers. The patient faces a lack of productivity, loss of quality of life, depression, traumatisation and increase in fear of an error re-occurring in the future.

There are countless cases of medical errors in Nigerian hospitals. Popular among such events is what took place in 2006, where a child became HIV-infected through blood transfusion in a Nigerian teaching hospital even though both parents were HIV-negative. A commission of inquiry recommended the dismissal of the Chief Medical Director and payment of damages to the family.[12]

Similarly, a drug manufacturing company was charged for medical malpractices for testing a drug on Nigerian children in 1996, which resulted in injuries, disabilities and deaths[13].

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[7]J Reason, *Human error (*Cambridge: Cambridge University Press, 1990).

[8] JT Reason, 'Understanding Adverse Events: The Human Factor' in C Vincent, ed, *Clinical Risk Management: Enhancing Patient Safety.* (London: BMJ Publishing Group, 2001) p. 9-30.

[9]L Leape. Error in medicine. JAMA 1994; 272:1851-7.

[10]JB Cooper *et al*, 'Preventable Anaesthesia Mishaps: A Study of Human Factors', (1978) 49 Anesthesiology 399-406.

[11]MA Krahenbuhl *et al*, 'Drug Related Problems in Hospitals: A Review of the Recent Literature'. 2007;30:379-407.

12D Aladelokun and I Chiedozie. Govt Suspends Four LUTH Officials over Baby Infected with HIV. The Punch. 2006 Jun 21

[13]AS Jegede, 'What Led to the Nigerian Boycott of the Polio Vaccination Campaign? PLoS Med. 2007;4(3):e73.

2.1 Classification of Medical Errors

A recognized classification of medical errors also developed by the Canadian Safety Institute[14] identifies the following broad categories of errors.

Near misses: Are errors that do not cause harm to patients by chance or because the error was corrected before harm could occur.

i. Mistakes: Are errors in the planning of an action.
ii. Slips or lapses: Are errors in the execution of an action that often occur as a result of distraction or momentary failure of concentration.
iii. Technical errors: Occur when there is a failure to carry out an action successfully even if the plan of action and technique are appropriate.

Medical error is an umbrella term for all errors including mishandled surgery, diagnostic errors, equipment failures, and medication errors[15].

3. Medical Errors: The Need for Disclosure

When errors occur, disclosure, apology and restitution are expected. When medical errors occur, physicians should take the lead in disclosing error to patients and their families.[16] Full disclosure to the patient is the ethically and professionally responsible course of action. Disclosure of error is consistent with ethical advances in medicine toward more openness with patients and the involvement of patientsin their care,[17] advances on informed consent and truth telling.[18] Disclosure is vital for the improvement of patient safety and quality of care. By not disclosing adverse events, the physician fails the patient in terms of honesty, openness and respect. Furthermore, nondisclosure may put the patient at risk for future harms because he or she does not know what happened. Disclosure provides the patient with potentially vital information for making future health care choices and decisions. Disclosure is also expedient out of respect for patients as persons. Thus, they have a right to know about critical incidents even if they are not physically harmed by them. Furthermore, by the principle of justice or fairness, patients when harmed, should be able to seek appropriate restitution or recompense. This ethical rationale for disclosure, based on a strong notion of autonomy, goes beyond what the law might require one to do. On the other hand, failing to disclose errors to patients undermines public trust in medicine because it potentially involves deception and suggests preservation of narrow professional interests over the well-being of patients. This failure can be seen as a breach of professional ethics and aa violation f human rights of the patient as a person. Similarly, patients may be caused avoidable harm if they are injured further by the failure to disclose. Non disclosure of error may undermine efforts to improve the safety of medical practice if the error is not reported to the appropriate authorities. When practitioners witness errors made by other health care providers, they have an ethical and legal obligation to act on that information.

Disclosing errors can be challenging for practitioners.[19] Medical professionals have high expectancy of themselves; therefore, they find it difficult to admit errors openly.[20] The physician should however, be the one to reveal the error. It is not proper for the patient to take the lead in disclosure. The patient and family must be informed in an objective way and must be permitted to express any concerns that they may have.

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[14]Established by Health Canada in 2003, the Canadian Patient Safety Institute (CPSI) works with governments, health organizations, leaders, patients and healthcare providers to inspire extraordinary improvement in patient safety and quality.

[15]MA Ghaleb and ICK Wong, 'Medication Errors in Paediatric Patients. Archives of disease in childhood - Education & practice edition. 2006; 91(1):ep20. [Google Scholar]

[16]PC Hebert, etal. Bioethics for Clinicians: 23. Disclosure of Medical Error. 2009 <https:// www.cmaj.caaccessed 30 June 2009.

[17]PC Herbert., 'Doing Right: a Practical Guide to Ethics for Medical Trainees and Physicians' (Toronto: Oxford University Press, 1996) 74.

[18] E Etchells et al. 'Consent', in P A Singer, ed *Bioethics at the Bedside* (Ottawa: Canadian Medical Association; 1999) 1-7

[19]D Hilfiker, 'Facing Our Mistakes', (1984) 310 *NEJM,* 118-22.

[20]D Finkelstein *et al*, 'When a Physician Harms a Patient by Medical Error: Ethical, Legal, and Risk-Management Considerations', (1997) 8 *Journal of Clinical Ethics,* 330-5.

An open or transparent approach will help strengthen, rather than weaken the doctor-patient relationship.[21] Where the adverse effect requires medical attention, doctors ought to disclose and offer help. It is reassuring to patients to know that their doctor is also trying to set the harm right by a clearly defined course of action. All relevant information regarding the sequence of events leading to the adverse outcome is presented as clearly as possible. Disclosure should, take place at the right time, when the patient is medically stable enough to absorb the information, and in the right setting.[22] Failure to inform the patient of adverse events caused by a medical error compromises the autonomy of the patient, as they are unable to properly consider and consent to proposed medical decisions that may be in their best interests.[23] It also jeopardizes the opportunity to enhance quality improvement in health care, as many medical errors are the result of systemic problems that are difficult to detect unless the errors are reported.

In summary, the duty to disclose medical error exists for at least three reasons:

a. To enable patients informed decision-making in response to the error and its disclosure;
b. To protect the trust patients place on the medical profession, by promoting transparency; and
c. To safeguard patient welfare and safety[24].

4. The Issue of Non-disclosure: The Nigeria Reality

In Nigeria hospitals, non-disclosure of medical errors has become the order of the day and this is so because Nigeria has no legal provision whatsoever on the issue of disclosure of medical errors. This is one major reason physicians commit errors and conceal it without fear knowing fully well that they have not violated any provision of the law. The writer opines that for the issue of non-disclosure of medical errors and violation of the Patient's rights to be dealt with, it is imperative that there should be an adequate provision of the law on that. It is also not commendable and indeed very surprising that the major regulatory instrument guiding the practice of Medicine in Nigeria has no trace of disclosure of medical errors in it. The National Health Act 2014 which is the first comprehensive legislation on health in Nigeria and which also provides a legal framework for the regulation, development and management of the Nigeria's Health System and The code of the conduct which all registered doctors and dental surgeons shall, in all areas of their professional conduct, Practice and comportment, in professional and other relationships with their patients and other persons, be guided and bound by the rules contained in these medical codes of Nigerian system did not in any way make provisions regarding the issue of medical error. In order to encourage open disclosure more specifically by physicians, a number of countries have enacted disclosure laws mandating disclosure of medical errors under specific circumstances (McLennan et al., for example, mention Sweden, Canada, Australia, New Zealand, the United Kingdom and the United States as countries having such laws).[25]

The Ghana Medical Association Guiding Principles 2008 states:

> *Patients have a right to receive relevant information about their own medical condition and its management…Medical and Dental practitioners must always inform patients promptly of any significant errors that may be occurred in the course of investigation or treatment.*

The American Medical Association Principles of Medical Ethics 2020 also states that:

> *A doctor shall …be honest in all professional interactions". In addition, when "a patient suffers significant medical complications that may have resulted from the doctor's*

[21] Ibid
[22] SP Kalantri, 'Medical Errors and Ethics', < http://medind.nic.in.>
[23] PC Hebert, AV Levin, G Robertson. Bioethics for clinicians: 23. Disclosure of medical error. Can Med Assoc J. 2001; 164(4): 509-513. Web site. https://repository.library.georgetown.edu/handle/10822/943911. Accessed August 30, 2016
[24] The Bell Law Firm"Medical Error: What Your Doctors Must Tell You About the Mistakes They Make" <https://www.belllawfirm.com/medical-error/>>accessed 24 Feb 2023.
[25] S McLennan, S Engel, K Ruhe, et al, 'Implementation Status of Error Disclosure Standards Reported by Swiss Hospitals', accessed 3rd March 2024.

> *mistake … the doctor is ethically required to inform the patient of the facts necessary to ensure understanding of what has occurred"*.

A doctor is thus ethically bound to admit mistakes to the patient. The above provisions of the code of Medical ethics in the above jurisdictions show that our health care system is lagging behind. The Nigerian minister of health, Osagie Ehanire, on 19th September 2022, at an event held to commemorate the 2022 World Patient Safety Day with the theme 'medication safety' and the slogan: 'medication without harm', lamented about the high incidence of medical errors across health institutions which often leave patients in severe conditions or result in death.

The minister expressed concerns that medication errors are underreported. Quoting a study conducted by Ogunleye *et al* on medication errors among health care professionals in 10 tertiary hospitals, he said 35.5 percent of 2386 professionals that participated in the study reported medication error, while 33.4 percent did not think reporting was necessary.[26] He disclosed that a high incidence of major medication errors related to prescription of incorrect antiretroviral therapy (ART), protocols, potential drug-drug interaction in Nigeria's HIV treatment programme was reported.

According to him, apart from medication error, there are quite a number of surgical errors which include but are not limited to operations on the wrong side, ligation of ureters during hysterectomy, including stories of how surgical instruments, sponges and needles were left inside a patient. There are also cases where the wrong patient was wheeled into the operating room because they were bearing similar names etc."Errors are not limited to medical or surgical services alone; some errors have also been recorded in our laboratories. Recently, a young lady was said to have been transfused with the wrong blood following which she developed severe transfusion reactions and eventually died. The case was reported by the Business Day Newspaper this year," the minister added.

5. The Rights of Patients against Non-disclosure of Medical Errors

This is the fundamental thing in the study. The rights a patient can exercise, the actions they can take, the options available to them regarding the issue of non-disclosure. This section is looking at how a patient can legally or otherwise enforce his rights to disclosure of medical errors when they have been violated by medical practitioners. A victim of non-disclosure of medical error can enforce his rights in the following ways.

A. Institute a Civil Action for Damages: The victim of Medical errors and its subsequent non-disclosure has a number of options for redress; he may pursue civil claims against physicians or other health care providers for alleged "torts", that is, breaches of duty that result in personal injury. Once he can prove that the medical practitioner did not exercise the required duty of care in rendering professional services which caused him damage. To worsen the issue, the medical practitioner did not disclose his errors to the patient and his family. Then a successful civil action will mean that damages should be awarded in favour of the patient. In claiming for damages, the patient should ask for a separate damage for the medical error and a separate damage for failure to disclose. When this is done and the medical practitioner pays a huge amount for his unethical and unprofessional conducts, he will be forced to be accountable in his dealings with other patients. It will equally serve as a lesson to other medical practitioners.

B. File a Complaint with the Regulatory: The patient can make an official report to the regulatory bodies such as the Medical and Dental Council of Nigeria, Nigerian Medical Association etc. He should bring forward evidences supporting his claims and show any health complications or physical impairments he has suffered due to the medical errors. The regulatory bodies will take up the matter and make the necessary investigation. The Medical Profession in Nigeria is regulated by the Medical and Dental Council of Nigeria (MDCN). The MDCN in furtherance of its statutory functions as provided for

[26] G Onyedinefu, 'Minister Laments Incidence of Medical Errors in Nigeria', <https://www.google.com/amp/s/businessday.ng/amp/health/article/minister-laments-incidence-of-medical-errors-in-nigeria/>accessed 6 October 2024.

in Section 1 (2)(c) of the Medical and Dental Practitioners Act (MDPA), Cap M8, LFN 2004, codified the rules of professional conduct for Medical and Dental Practitioners in its Code of Medical of Ethics in Nigeria (2008). There are two organs responsible for the discipline of Medical and Dental practitioners.

Section 15(3) of the Medical and Dental Practitioners Act establishes the Medical and Dental Practitioners Investigation Panel ("The Investigation Panel") which is saddled with the responsibility of conducting preliminary investigation into any case where it is alleged that a registered person has misbehaved in his capacity as a medical practitioner or dental surgeon amongst other functions. The Investigation panel after investigation will determine whether or not a prima facie case has been established against the practitioner. If a prima facie case is established against the practitioner, the Investigation Panel will frame a charge against him before the Medical and Dental Practitioners Disciplinary Tribunal ("the Disciplinary Tribunal"). The Disciplinary Tribunal established by section 15(1) of the MDPA is charged with the duty of considering and determining any case referred to it by the investigation panel. Where the Disciplinary Panel finds a practitioner guilty of in-famous conduct in any professional respect, in line with the provisions of section 16(2) of the MDPA, the Disciplinary Tribunal may order the Registrar to strike the person's name off the register; or suspend the person from practice by ordering him not to engage as medical practitioner or dental surgeon for a period not exceeding six months; or admonish the practitioner. The drawback however, is that the provision for suspension was pegged at six months, it would have been better if it was made flexible because some offences are not grave enough to attract striking out the practitioner's name from the register but deserve more than six months suspension.

They have to institute a disciplinary action against the medical practitioner at fault. Where he is found guilty of the allegations, they should make him write a heartfelt apology even though it's already late, they can give him the adequate punishment like suspending him for a specific period, or indefinite suspension, slashing his salary and any other adequate sanctions.

C.Make a Police Report: He could also report to the Police who would conduct Criminal Investigation and where the investigation reveals gross negligence, recklessness or wanton disregard for life of the victim, the police can prosecute or forward the case file to the office of the Attorney General of the State for possible prosecution in deserving cases.

D. Petition for the Revocation of the Physician's License: The patient can make a petition to the court, praying that the doctor's license be revoked for his unethical conduct which has caused the victim a grievous harm and has threatened the life of the patient. So in order to save future victims from such ugly situation it's morally and legally right to revoke his license. This is one of the biggest punishment for a physician who violated the Patient's right go to information. The thought of inability to practice as a health care provider after all the efforts and years of hardwork, will instill fear in medical practitioners and they have no other option than to be accountable for their actions.

E. Vicarious Liabilities of Hospital Authorities: The victim of a tort which occurs in the course of the tort feasor's employment can sue the employer for that tort on the basis of the principle of vicarious liability. Because of the age long distinction between contract of service and contract for services, it was thought that this latitude would not be extended to victims of negligent acts or omission of consultant surgeons and physicians, these being persons with considerable degree of independent judgment, who are virtually free from the control of the Hospital authorities. The celebrated hospital cases have long exploded that erroneous belief. Today, Hospital authorities are vicariously liable for the negligence of their employees be they nurses, physiotherapists, pharmacists, laboratory technologists or even senior consultants.

The only exception is where the consultant does not act as the employee of the hospital or clinic as, for example, where the patient contracts privately with a consultant for necessary treatment or surgery and then contracts separately with the hospital or clinic for nursing and ancillary care. In *Roe v Ministry of*

Health[27] it was held that if one or two persons must have been negligent, they cannot both defeat the Plaintiff by silence or blaming each other.

In the same vein, the mere fact that the medical practitioner or consultant is a part-time employee over whom the Hospital authority has limited power as in the case of the consultants in the Teaching Hospitals in Nigeria who are permanent employees of the Universities, rendering clinical services to these institutions for a stipend called clinical supplementation is not enough to ground a waiver of vicarious liability of the Hospital authority. In the case of *Cassidy v Ministry of Health*[28] the English Court of Appeal stated that the relevant consideration in such a situation is whether the Doctor was engaged for the purpose of the treatment by the Hospital authority or by the patient. The correct position will therefore appear to be that once a Hospital authority has accepted a patient for treatment, it comes under a duty to treat the patient with reasonable care and skill and any breach of that duty is actionable regardless of who may be responsible for that breach.

F. Criminal Liability: Criminal law does not generally punish negligence. This is because section 24 of the Criminal Code says that no person can be criminally responsible for his unwilled acts or omission or even the accidental consequence of his willed acts. But that section is subject to the express provisions of the Code relating to negligent acts or omission.

Where medical treatment results in the patient's death in consequence of the gross negligence of the Medical Doctor, a charge may be sustained against him for manslaughter as was the case in *R v Akerele*[29] where a Medical Practitioner who applied overdose of sobita on a number of children which led to their death was held (by WACA, although later reversed by the Privy Council on technical ground) to have been criminally negligent and accordingly convicted for manslaughter. This is because under s.303 of the Code, every person, except in case of necessity, undertakes to administer surgical or medical treatment has a duty to have reasonable skill and to use reasonable care in administering the treatment and if any negative consequence results to the life or health of the patient as a result of his breach of this duty, he is held to have caused such consequence.

6. Challenges to Reducing Medical Errors and Enforcing Patient Rights on Non-Disclosure

Enforcement of rights against non-disclosure of medical errors has a whole lot of challenges hindering it, especially in a country like Nigeria. Nigeria as a country has a long way to go in terms of upholding human rights, safe guarding patient safety and everything that has to do with respect for the rights of the citizens. Let's look at some of the challenges hindering Patient's rights against non-disclosure of medical errors thus:

a. Cost of Litigation and Long Duration of Legal Procedure:

Cost of litigation can be very expensive. This is especially problematic in Nigeria where the patients are often without appropriate insurance and the legal aid system is ineffective. Also the US-Style contingency system, which allows the Lawyer to claim a percentage of the final award of damage is often not workable in this type of action because of high possibility of failure...In our country not only is the issue of disclosure of medical errors a wild spread bewilderment, the major concern has been that sometimes victims are blind or rather unaware that some actions of the health practitioner or doctors constitute breach of their rights as patients and inflict disaster on them. According to Temitayo,[30] very few cases of medical errors and non-disclosure are reported in Nigeria, let alone be prosecuted. She went further to state that long legal proceedings, severe trauma, and lack of financial resources are part of reasons why victims seldom file a suit to obtain justice.

[27](1954) QB 66
[28](1951) 2 QB 343
[29] (1941)
[30]Temitayo Bello, 'Why Arbitration Triumphs Litigation; Babcock University -School of Law and Security Studies'(2018) <https:/papers,ssm.com/sol3ipapers.cfm?abstract id-3354624 accessed 28th February 2023.

b. Lack of Accountability, Inadequate Health Personnel and Frequent Strikes by Health Workers:

The issue of wrong diagnosis has become rampant in the medical profession which needs urgent attention. Wrong diagnosis is one that is different from the aliment that the patient is suffering from. It occurs when medical advice sought for is in respect of a condition and it is incorrectly diagnosed. Also the health sector of Nigeria not being a favorable one has resulted to medical brain drain, most health worker for the quest of green pastures, also the effect of strikes in the health sector is of great decay resulting some negligence, poor health management and decayed health promotion.

c. Inadequacy of the Code of Conduct of the Nigerian Medical Association, NHIS (National Health Insurance Scheme) and other Relevant Medical/Health Practitioners Acts and Laws: Ordinarily, strict compliance of rules binding and compelling the health practitioner would have curbed significantly, medical errors, non-disclosure, negligence and breach of duty of care to its highest order. It's very bad that the code of conduct for medical practitioners[31] did not make any provision for medical errors neither did it provide for non-disclosure of medical errors and sanctions for any violation of the provision. . This is one major reason why doctors in Nigeria and other health personnels won't see their medical errors as a serious issue that can harm the patient safety, jeopardize their career.

d. Poor Remuneration and Compensation:

Human resources for health represent an essential component of health systems and play key role to accelerate progress towards universal health coverage. Many countries in sub Saharan Africa face challenges regarding the availability, distribution and performance of health workers, which could be in part addressed by providing effective financial incentives[32]. It is a common sense that a good pay if not anything should encourage a job well-done. The country has experience for quite a number of time strikes within the medical sector attributing to the ill alleged Low wages, salary or payment compared to the medical knowledge and work requirements.

e. Inefficiency and Corruption:

Human resources for health represent an essential component of health systems and play a key role to accelerate progress towards universal health coverage. Many countries in sub-Saharan Africa face challenges regarding the availability, distribution and performance of health workers, which could be in part addressed by providing effective financial incentives.[33]"Countries plagued by corruption can attest to the fact that, once it becomes entrenched. it can be found in all sectors of an economy. But in low and middle income countries the health sector is particularly vulnerable, according to Transparency International. This is because competence and integrity are undermined by poor working conditions and weak systems.

Corruption is a deadly trend affecting if not all aspect of life dealings. Corruption is one vice that has eaten deep into the heart of the Nigeria health sector. Corruption is a major hindrance to patient enforcing their rights against non-disclosure, where the health sector is corrupt they will do everything possible to shut the victims up and maintain their reputation. The justice system is not an exception in this issue of corruption. A patient who unfortunately brings his case before a corrupt judge may end up not getting justice and no compensation for the damages he has suffered. All these are the reasons why some don't bother enforcing their rights and leave everything to fate. The police is not even an alternative, it seems the issue of corruption has eaten deep into this set of people, you are expected to bribe them handsomely before they take your case into consideration.

[31]Code of Medical Ethics in Nigeria.

[32]M P Bertone & S Witter, 'The Complex Remuneration of Human Resources for Health in Low-Income Settings: Policy Implications and a Research Agenda for signing Effective Financial Incentives'.(2015) 13, 62 *Human Resources Health*< https://doi.org/10.1186/s12960-0 15-0058-72> accessed 3 March 2024.

[33] A Abelegbe, 'Critical Analysis of the Nigerian Health Sector", This Daylive newspay ps//www. thisdaylive.com/index.php 2020/05/16/critical-analvsis-of-the-nigerian-health Sector> accessed 3 March 2024.

f. Ignorance and Lack of Awareness:

Most of these patients are illiterates who are not exposed enough to know when an error has occurred. The doctors won't even bother telling them and they are not even the least suspicious about what is going on. They go home bearing the consequences of these errors temporarily and in some situation its permanent.

They are not aware of their basic human rights as citizens and their rights as patients. They swallow and follow everything the medical practitioner tells them both the truth and the lies hook, line and sinker. They are not aware that they have a say in their treatment. Even when they become aware that an error occurred and there was no disclosure no apology, they don't know how to act against such medical practitioner.

7. Implications of the Challenges

If nothing is done about the above challenges then it will escalate things than they already are. Failure to tackle to the above challenges hindering reduction of medical errors and patient's rights against non-disclosure will imply the following:

i. The law can no longer protect the citizens' right to life and patient safety.
ii. The hospital becomes a death trap that murders the patients that came to save their lives.
iii. Medical practitioners rather than life savers, they now become instrument that cuts patient's lives short or leaves them with a permanent deformity or harm to their health.
iv. High mortality rate which will indirectly affect the nation's workforce, economy and productivity.
v. It leaves a very bad reputation on the health sector and everybody working in it.
vi. It destroys the fiduciary relationship between the doctor and patient, which is the foundation of the doctor-patient relationship.

8. Conclusion

Medical errors constitute public health challenge in most countries of the world, Nigeria inclusive. While the public continues to cry endlessly for these errors, it is even more worrisome to note that the errors are not communicated to the victims or their relations or loved ones, in line with the ethics of the medical profession. All over the world, medical professionals are all expected to disclose errors of any kind to the patients whenever they occur. Contrary to these ethics, these errors are concealed when they occur. This work examines the issues of medical errors and non-disclosure of such errors by medical practitioners in Nigeria and legally appraised the rights of patients against non-disclosure of medical errors. The researcher concludes that medical errors are committed every day in Nigeria and that 8 out of every death in Nigerian hospitals is traceable to medical errors, the researcher further concludes that the errors are not often communicated to the victims, their loved ones and relations or to a corrective medical team. In the light of this, one begins to wonder what the Nigeria Medical Association (NMA), the mass media and the Judiciary are doing in ensuring that medical personnel communicate errors whenever they occur. The NMA by all standards is expected to ensure that errors are prevented and when inevitable, they should be reported. The mass media are also expected to set agenda against cases of medical errors in Nigeria. The judiciary is also expected to ensure that medical personnel who are negligent are charged in line with the dictates of the law of negligence.[34]

In order to successfully address the issue of non disclosure of medical errors, the writer therefore recommends provision of adequate legal framework on the disclosure of medical errors in Nigeria and the amendment of the code of medical ethics to include/state what medical errors are, what constitutes medical errors, how and what to be disclosed etc. The code should also state the actions to be taken against practitioners who fail to disclose their errors, such as calling for a disciplinary committee to look into the case, suspend or terminate license of the physician where necessary. The masses also should be educated on their rights as patients and the duty of care medical practitioners owe them.

[34] G Kodilinye & A Oluwola, *The Nigerian law of Torts* (Abuja: Spectrum Books Limited 2007).