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PROTECTING PATIENT CONFIDENTIALITY IN NIGERIA: LEGAL, ETHICAL, AND PUBLIC HEALTH PERSPECTIVES

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Abstract
Confidentiality is the cornerstone of civil claims requesting compensation for a damage caused by health care professionals. Poor awareness and illiteracy in the community today have made most individuals unwilling to seek their legal entitlements stemming from medical secrecy. This study looked at professional and medical confidentiality in Nigeria. The purpose was to investigate the legal, ethical, and public health dimensions of patient confidentiality and the barriers preventing its effective protection. This study adopted a doctrinal methodology, examining existing legal frameworks, ethical guidelines, and relevant judicial precedents pertaining to medical confidentiality in Nigeria. Due to false information, misunderstandings, budgetary constraints, and a fear of the unknown, it was found that there are either none at all or very few medical confidentiality suits in existence today. Many Nigerians are ignorant of their rights on matters of medical secrecy. Therefore, this study concludes that a significant lack of awareness and numerous socio-economic barriers severely limit the enforcement of patient confidentiality rights in Nigeria, undermining both legal recourse and public health outcomes. The researchers recommend that strict measures should be taken to educate the public on their rights to medical confidentiality. The court should discourage the act by penalising the offenders, which will in turn serve as a deterrent to others. To inform medical professionals of their legal obligations to their patients, hospital administrations should set up training sessions on confidentiality or law and medicine.

Keywords: Confidentiality, patients, ethics, public health

1. Introduction

The main function of a health record, which serves as the cornerstone of health care delivery, is to record the progression of a patient's treatment and to serve as a communication tool for present and future use by medical personnel. A substantial amount of data must be disclosed and documented in order to achieve these goals[1]. Furthermore, their capacity to maintain confidentiality affects the quality of the information provided to medical specialists. If not, the patient might conceal important facts, which could lower the standard of care.

Confidentiality is the basis of the legal elements of health records; it is the ethical cornerstone of effective treatment and it is indeed crucial for developing trust between practitioners and patients[2]. It is sometimes used interchangeably with privacy when discussing medical data, however the two terms have different connotations. Privacy in health care is defined as the protection of a patient

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[1] IT Adeleke and others, 'Knowledge, Attitudes and Practice of Confidentiality of Patients' Health Records among Health Care Professionals at Federal Medical Centre, Bida'. *Nigerian Journal of Medicine* [2011] (20) (2) 228-235.

[2] EK Huffman, *Medical Record Management* (Berwyn Illinois, Physicians' Records Company 1990) 596-597.

from any disclosure of personal health data by securing the patient and his or her health records[3]. On the other hand, confidentiality refers to the restricting of the use of information gathered from and about a patient to only those for whom it is suitable[4].

Patients gain from confidentiality because it creates a safe space where they are more inclined to seek medical attention and, when they do, to disclose their ailment honestly and completely. It shows respect for patients' autonomy, which states that people have the right to decide who can access their personal information. Additionally, a rule of secrecy for medical professionals gives patients peace of mind that they can pick who can access their private information. In terms of the healthcare sector, it promotes public trust in healthcare services in general.[5] The idea that a health record is the physical property of the healthcare facility is widely acknowledged[6]. Except in situations where this is restricted by law or if the healthcare facility needs to protect its interests or the patient's best interests, the patient does, nevertheless, have control over the information in the record[7]. Few people are aware of the patient's ownership rights over the information contained in their medical records. Health care practitioners do not have the primary authority to regulate the distribution of the information in the record, even if they are held accountable for creating it. The patient or the patient's legal agent may exercise this privilege.

According to research conducted from the viewpoint of the patients, patients generally understand confidentiality to be the safeguarding of information, and they are impacted by situational factors when determining whether or not doctors should violate confidentiality[8]. If physicians took the time to inform people that their conversation is totally private, they would be more inclined to share additional details.[9] One of the main duties of health information management (HIM) professionals, who play a significant role in the healthcare sector, is to ensure that patient health information is kept private. This is reflected in the code of ethics, which states that HIM professionals must protect patient health record confidentiality as required by law, professional standards, and employer policies. They also have an obligation to spread the principles of confidentiality to others[10]. The heads of the relevant healthcare facilities are also given this duty, as they are required to maintain the confidentiality of any information pertaining to a patient's condition, course of treatment, or overall stay in their hospital[11].

More clinicians have always had a duty to respect their patients' confidentiality and acknowledge their autonomy, which is a principle of modern medical ethics[12]. Despite these ethical and legal

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[3] M Guedj and others. 'Do French Lay People and Health Professionals Find it Acceptable to Breach Confidentiality to Protect a Patient's Wife from a Sexually Transmitted Disease'. *Journal of Medical Ethics* [2006] (32) 414-419.

[4] L Davis and others, 'Attitudes of First-year Students Toward the Confidentiality of Computerized Patient Records'. *J Am Inform Assoc.* [1999] (6) 53-60.

[5] 'Why Confidentiality is Important' <http://www.asph.nhs.uk/attachments/1220_2009-10-22%20Confidentiality%20Scenarios%20with%20Notes.pdf,> accessed 10 March 2025.

[6] Ibid (n 3).

[7] Ibid.

[8] Ibid (n 5).

[9] J Carlisle, D Shickle, M Cork, et al. 'Concerns Over Confidentiality May Deter Adolescents from Consulting their Doctors.' *J. Med Ethics* [2006] (32) 133-137.

[10] 'Why Confidentiality is Important' (n 5).

[11] The Nigerian Senate, National Health Bill (SB.50). Federal Republic of Nigeria, *The Senate*; 2008 p15-16. <www.Unicef.Org/nigeria/ng_publicationsnational_health_bill_2008.pdf>, accessed 10 March 2025.

[12] MD Perez-Carceles, E Pereniguez and E Osuna, 'Primary Care Confidentiality for Spanish Adolescents: Facts or Fiction'. *J. Med Ethics* [2006] (32) 329-4; World Medical Association Declaration of Helsinki. 20008. <www.Wma.Net/en/ 30publications/10policies/b3/index.html>, accessed 10 March, 2025; RM Yousuf, ARM Fauzi, SH How, et al. 'Awareness, Knowledge and Attitude Towards Informed Consent among Doctors in Two Different Cultures in Asia: A Cross-Sectional Comparative Study in Malaysia and Kashmir'. *Singapore Med J* [2007] (48) 559-5.

duties, unauthorised access to sensitive patient information is becoming increasingly common in today's health care service environment, according to patient discovery. For example, in South Australia, it has been claimed that patients have lost faith due to mistrust based on unauthorised information. Unfortunately, due to a lack of information found throughout search efforts, not much has been done to ascertain whether this is an issue among Nigerian healthcare providers. Thus, the purpose of this study was to assess the legal, ethical, and public health perspectives in protecting patient confidentiality in the Nigerian healthcare sector.

2. Protecting Patients' Privacy and Confidentiality Rights in Nigerian Medical Law

The Constitution of the Federal Republic of Nigeria 1999, as amended (the Constitution), which guarantees citizens' rights to privacy and the privacy of their homes, correspondence, telephone conversations, and telegraphic communication, is the source of Nigeria's system for protecting patients' privacy and confidentiality rights. Section 37 of the Constitution thus protects citizens' rights to privacy, and patients' privacy and confidentiality rights are therefore extensions of those rights. The main piece of legislation governing the delivery of healthcare in Nigeria is the National Health Act (NHA). According to section 1(1) of the NHA, the NHA serves as the foundation for the establishment, management, and regulation of Nigeria's national health services. The NHA in Section 26(1, 2), requires the person in charge of a health facility to maintain the confidentiality of each patient's medical records; any disclosure to a third party must have the patient's consent. According to section 29 of the NHA, the person in charge of health facilities must put in place controls to stop illegal access to data.

According to section 23 of the NHA, all healthcare providers are required to provide patients with pertinent information about their health and any necessary treatment related to their status, unless there is compelling evidence that doing so would be against their best interests. This information includes the range of diagnostic procedures and treatment options that the patient is typically eligible for, the benefits, risks, costs, and consequences that are typically associated with each option, the patient's right to refuse health services, and the implications, risks, or obligations of doing so. The act further stipulates that the relevant health care professional must, wherever feasible, communicate with the patient in a language that the patient can comprehend and in a way that considers the patient's literacy level. Medical professionals are sworn to protect patient anonymity on this basis. This is demonstrated by their oath, which is found in the Medical and Dental Council of Nigeria (MDCN) Code of Medical Ethics. In this oath, practitioners promise to practise their profession with dignity and conscience, prioritising the health of their patients. They also state that they will respect the confidentiality of any information that patients confide in them, even after they pass away.[13] Under the rules governing the medical profession, patients are entitled to a variety of rights. These include the patient's right to privacy and the right to know his health status. Confidentiality protection is generally only appropriate for private subjects. Section 37 of the 1999 Constitution provides protection for a patient's medical records. Medical workers are not the only ones subject to the duty of medical secrecy; anyone who ever comes into possession of a patient's medical records is equally subject to it. In the case of *Attorney-General v Guardian Newspapers*[14], the court concluded that a duty of confidence arises when such secret material comes into the knowledge of a confidant who is aware that such information is to be kept as confidential.

3. Legal and Ethical Frameworks for Maintaining Patient Confidentiality in Medical Practice

The Rules of Professional Conduct provision in Rule 44[15] mandates that the patient's consent be obtained before any disclosure can be made, even if the patient's identity is anonymous[16], to prevent

[13] See Article 44 of the Medical and Dental Council of Nigeria Code of Medical Ethics.
[14] [1990] 1 AC 109
[15] (2004) *Section 44*, the Medical and Dental Practitioners Act, pp: 221.
[16] Ibid.

professionals from using the information they have collected from their clients to falsely claim that it has been blinded with anonymous information. According to the general principle, a duty of confidence arises when a person (the confident) learns of confidential information in situations where he has notice, or is presumed to have agreed, that the information is confidential, with the result that he should be prohibited from disclosing information to others[17]. The medical professional has a duty to be aware of the limitations of his or her healing abilities while also being compassionate towards the patients[18]. A doctor's duty of confidentiality as couched in the right of privacy is based on the Hippocratic Oath, which states, in part, "...whatever I shall see or hear in the course of my profession as well as outside my profession in my intercourse with men if it be not what should be published abroad I will never divulge, holding such things to holy secrets[19]." A doctor is expected to respect the rights of patients, colleagues, and other health professionals, as well as to protect patient confidence within the law.

The Rules of Professional Conduct in Medical and Dental Practitioners Act and other various laws will be analysed in order to determine the legal framework for the role of medical practitioners. The Nigerian Constitution[20] and other pertinent legislation[21] both enshrine the fundamental right to medical confidentiality, which should be exercised in the best possible way, taking into account the definition of privacy and the concept of medical confidentiality, the patient's rights, and the role of medical practitioners in exercising those rights in the best interests of the patients while protecting the fundamental rights of other citizens. The Universal Declaration of Human Rights' standards serve as the foundation for the need to protect and advance patients' rights[22]. Other international human rights instruments include the International Labour Organisation (ILO) and the Instruments concerning employment discrimination, worker privacy protection, and workplace safety and health[23], as well as the African Charter on Human and Peoples' Rights[24] and the International Covenant on Economic, Social, and Cultural Rights[25]. Many of these rights are included in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

A breach of confidentiality occurs when a doctor discloses private information to a third party without the patient's permission or a court order. This kind of disclosure can be communicated verbally, in writing, over the phone, or by any technological means. A patient's file may contain information that would be accessible to several people, each of whom would have a legitimate justification. Medical students who are still in training and not under oath are exposed to patient data in the majority of teaching hospitals; they are intended to keep this information secret, but this is difficult to enforce.

4. Balancing Patient Confidentiality with Public Interest: The "Best Practice" Principle and its Application in Nigeria

'Best Practice' refers to a strategy or practice that is widely acknowledged as superior to any alternative, generates outcomes that are superior to those obtained through other means, or has become the usual way of doing things[26]. Confidentiality is commonly considered of as an ethical concern, but it is also a legal responsibility that healthcare practitioners are typically required to

[17] (1990) His Majesty's AG v Guardian Newspaper. Per Lord Geoff, USA, pp: 281-282.
[18] AR Johnson, Siegler (Eds.) *Medical Ethics: Cases in Medical Ethics* (N.Y., Oxford University Press, 2001).
[19] See Hippocratic Oath that is always administered to New Doctors.
[20] (1999) Section 37 Constitution of the Federal Republic of Nigeria. Constitution of the Federal Republic of Nigeria.
[21] International Labour Organisation (2014). National Health Act.
[22] United Nations Human Rights Treaty Bodies (1993). Ratified by Nigeria.
[23] DJ Abiodun DJ (2012). 'Impediments to Human Rights Protection in Nigeria', *Annual Survey of International and Comparative Law* (2012) 18(1).
[24] Laws of Nigeria (2004). Ratification and Enforcement Act, pp: 10.
[25] Ratified by Nigeria in (1993).
[26] Best-practice.

uphold in their patient contracts. There is a common law responsibility to keep professional confidence; also, the Constitution of the Federal Republic of Nigeria[27] guarantees people' right to privacy, which is the father of medical confidentiality in Nigeria. Both the constitution and the National Health Act, which is the primary legislation governing the Nigerian healthcare sector, as well as other related legislation, make it illegal to disclose information on a health service user without the user's consent, unless authorised by law.

On occasion, the law requires that a physician's obligation to the public take precedence over the notion of secrecy. One such circumstance is the need to warn people about possibly violent threats to their lives. This technique is based on the groundbreaking judgement in *Tara off v Regents of the University of California*[28]. Following an appeal to this finding, the decision was rephrased, resulting in the establishment of what is known as the Tarasoff principle, which for this purpose qualifies as the "Best Principle". "A physician has an obligation to use reasonable care to protect the intended victim against such danger when he determines, or according to the standard of his profession should determine, that his patient represents a serious danger of violence to another," the Californian court said in the appeal[29]. This well-known case makes it abundantly evident that the patient's right to secrecy may be superseded, at the very least, by the responsibility to protect. It is clear from this concept (Best Practice principle) that public policies have supported confidentiality protection in situations where disclosure is necessary to prevent harm to others, such as the sick person's sexual partner.

Deducing from the above case, disclosure to protect others or the public require certain circumstances. The first requirement is that the possible harm must be predictable. Before a doctor may disclose, there must be a reasonably high level of risk to others[30]. In the Nigerian legal system, the law is determined on this premise in instances involving HIV/AIDS patients. It gives a spouse in a married or cohabiting relationship the right to know his or her partner's HIV status if he or she is at risk of infection[31]. Practicing this clause in the best form will imply that an infected individual must refuse to reveal his/her status to his lover or spouse with a high likelihood of engaging in unprotected sex with his lover before a physician may warn the unaware lover or spouse. Second, there must be a significant danger. The danger posed to the third party must be actual, not hypothetical. Even though warning a third party is the only option available to a doctor when his patient is adamant about disclosing his status to his sex partner, this warning should only be given with the patient's full knowledge after a significant effort to motivate the patient to give it. We believe that a married couple whose spouse has been diagnosed with an infectious transmittable disease has a right to know because they are physically attracted to each other. The serious harm that could justify an infringement on confidentiality has to do with loss of health or death.

It is important to note that there are situations in which a patient's interest conflicts with that of the general public, which may require disclosure, such as life-threatening infections. The primary goal of disclosing such sensitive information for the public's benefit is to prevent others from becoming infected. However, the law did not define the best interest test for determining public interest. We have established that the Federal Republic of Nigeria's constitution also imposes a legal duty on physicians to violate patients' confidentiality when it is reasonably justifiable in the interest of defence, public safety, public order, public morality, or public health[32]. It is implied that there is

[27] (1999) *Section 37* CFRN as amended.
[28] (1976) *Tarasoff v Regents of the University of California*. 17Cal. 3d 425; 551 p.2d 334, 131 Cal. Rptr.14 54, 58, 59.
[29] Ibid.
[30] IE Otor, 'Medical Confidentiality and Professional Secrecy in Nigeria'. *Journal of Criminology and Forensic Studies* [2024] (6) (1) 180060.
[31] Section 8 (2) HIV and AIDS Anti-Discrimination Act.
[32] (1999) section 45 (1) (a) CFRN as amended.

now insufficient clarity or consistency in Nigeria's sharing of patients' private information for the public good.

5. Balancing Individual Rights and Public Health Concerns: Objective Standards and Dynamic Definitions in Exceptions to Patient Confidentiality

Confidentiality is not a rigid obligation. Information about a patient may occasionally be disclosed by a medical professional. Therefore, a health care professional or health worker may reveal such information in accordance with section 26(2*)* of the National Health Act (NHA):

(a) with the user's consent[33]
(b) where a court order mandates that information be disclosed
(c) upon the request of a parent or guardian in the event that a juvenile or someone else is incapable of giving permission; and
(d) where withholding information would endanger the public's health.

Similar clauses are also included in somewhat greater depth in Rule 44 of the Code of Medical Ethics. Under some circumstances, section 27 of the NHA permits a disclosure to a different healthcare professional. As we can see today, there are five requirements to be covered by that clause. Initially, the disclosure needs to be made to another healthcare professional or employee[34]. Therefore, a disclosure to a non-health provider would not be covered by the clause. Second, the circumstances must require the disclosure. Naturally, the question of need is a factual one. Thirdly, it needs to have a valid reason. Additionally, it must fall within the regular course or purview of the job. This implies that the disclosure must fall within the scope of the participating health provider's regular or customary practice. Lastly, the disclosure ought to be beneficial to the user. Failure to comply with any of these stringent and conjunctive requirements will not excuse a disclosure under that provision.

The implications of sections 26 (a-c) will often offer no difficulty because they look self-explanatory. When a patient consents, he cannot be heard to protest later. The premise is embedded in latin maxim: *volenti non fit injuria*. Furthermore, when a court of law issues an order requiring a medical practitioner to reveal secret information, the order must be followed, and failing to do so may result in contempt. Unless and until such an order is overturned on appeal, it remains valid and must be followed by the person against whom it is issued[35]. Furthermore, it is only acceptable and rational for a person's guardian or person in loco parentis to grant permission on his behalf when the individual is unable of doing so for whatever reason. The final limb in paragraph (d), however, is expressed in extremely vague language and could require more thought to define its extent, in contrast to the other limbs. It goes without saying that the issue will centre on the definition of a public health danger. Is the exam subjective, objective, or a combination of the two? In this perspective, what constitutes a hazard to public health is entirely a matter of fact. It's worth noting that what constitutes a hazard to public health is relative. It depends on a variety of parameters, including the disease's death rate, the availability of a cure, the rate of transmission, and so on. Also, a sickness that is a hazard now may not be a threat tomorrow. Over time, advancements in medical science may reduce the risk posed by a disease to a bare minimum, if not eliminate it entirely[36]. And when this occurs, it is unreasonable to continue to regard the disease as a threat to public health.

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[33] According to section 64 of the National Health Act, a user is someone using a health service or obtaining treatment in a medical facility; if the user is younger than the majority, this definition also includes his parent or legal guardian.

[34] Even though the NHA used the phrase 'any other person', it must be construed in light of the qualifications which follow, in line with the *ejusdem generis* rule of interpretation.

[35] *Okoya v Santili* (1990) 3NWLR (Pt 131) 172

[36] Okeke Miracle Ifenna, 'Medical Practitioners' Duty of Confidentiality in Nigeria: The Legal Perspective'. Available at: <https://ssrn.com/abstract=4033352>, accessed 10 March 2025.

Additionally, it is argued that an objective criteria is the most suited for determining what exactly qualifies as such a danger. It would be a disservice to the rationality of that provision to use a subjective test in this situation. The medical professional's belief that non-disclosure would pose a risk to public health is insufficient[37]. Instead, the pertinent question one would be tempted to ask is: Was there a danger at all? The reasonable man's criteria should be used to address this. Medical professionals would be able to freely reveal private information and avoid responsibility if it were left up to their whims, even in situations when there was no actual risk to the public. Diabetes is an example of a medical illness that obviously poses no hazard to the general population. If we were to employ a purely subjective standard, a practitioner would be exempt from responsibility if he could demonstrate that he genuinely thought diabetes posed a harm to the public, even though that notion was completely irrational and betrayed nothing more than ineptitude[38]. The exam being both subjective and objective could be a reasonable compromise. However, two things are certain. First, while determining what poses a threat under that clause, objectivity cannot be completely excluded. Furthermore, the exam cannot be entirely subjective because the outcomes would be extreme. Therefore, we may either use an entirely objective exam or a combination of the two. It is argued that the former is the superior strategy.

Would HIV represent a public health danger to the extent that a disclosure would be warranted, if we were to revisit the passage that was referenced at the start of this study? The response to this question is overwhelmingly negative. It is explicitly stated in Rule 44 of the Code of Medical Ethics that the ethical standards cover information on criminal abortion, venereal disease, attempted suicide, concealed birth, and drug dependence, but they do not cover circumstances where a discretionary breach of confidentiality is required to safeguard the patient or the community. The virus can only spread through specific channels by nature, but these may be avoided with a few easy steps. For instance, using contraceptive sheaths during intercourse would significantly reduce the risk of viral transmission. Additionally, sterilising sharp items like clippers would provide a high level of protection. Furthermore, because anti-retroviral medications allow one to live a normal life with the virus, the disease's fatality rate has significantly decreased due to advances in medical technology. For a disease like COVID-19, where the rate of transmission is rather high, especially through means that are part of the necessities of our everyday lives, this may not be the case.[39]

The High Court of Ireland in *Child and Family Agency v A.A and anor*[40] took this scenario into consideration in a recent decision. The Child and Family Agency ('CFA') initiated the proceedings against 'A', a juvenile who was HIV positive and had been under the CFA's statutory care. At the time, 'A' was seventeen years old. The CFA requested permission from the High Court to violate patient confidentiality in order to issue a warning to A's "girlfriend," "B," to exercise caution. The fact that 'A' denied ever having sex with 'B' and that there was a factual disagreement between the parties made the situation a little more problematic. While the CFA initiated the proceedings in this case because it had relevant information about 'A's HIV status and the alleged sexual relationship between 'A' and 'B', the court made it clear that it could just as easily have been a doctor who had the same information and was seeking a court order clarifying the scope of patient confidentiality. The order sought in this case to violate patient 'confidentiality' for the benefit of a third party was unprecedented in the Irish courts.

The court adopted the standard of whether ‘on the balance of probability, the omission to violate patient confidentially presents a considerable danger of death or very serious damage to an innocent third person’. The court found that the facts in this case did not warrant a breach of patient confidentiality. It determined that the CFA had not shown on the balance of probability that ‘A’

[37] Ibid.
[38] Ibid.
[39] As has earlier been noted above, this may change with advancements in medical science.
[40] [2018] IEHC 112.

was having sexual relations with 'B', and that even if they were, it was unlikely to be unprotected. In addition to stating that HIV was "no longer a terminal condition, but rather a chronic and lifelong condition that can be managed," it decided that there was little chance of HIV infection even if the parties were having unprotected sex. The court rejected the requested order because it believed that, if it were approved, it would place "an intolerable burden" on physicians to decide whether patient confidentiality had to be violated each time a patient had a contagious disease. The court considered the balancing of interests between "A," whose privacy was at risk, "B," the person at risk of harm, and the public interest in maintaining confidence in sharing private health information with doctors and remaining truthful and forthright in doing so when determining whether the threshold of a "significant risk of death or very serious harm" had been crossed. The case highlights the significance of patient confidentiality, which, unless in the most dire situations, must be strictly adhered to. It is obvious that this Irish court ruling illustrates two previously stated arguments. First, there is an objective standard for determining what poses a risk to public health. Second, the definition of a public health concern is dynamic and subject to change. Therefore, a doctor has no right to share that medical information with a third party. Therefore, it is argued in the Twitter passage above that, despite the fact that it may be ethically wrong, the doctor has a legal duty to keep such medical information private unless there is a compelling cause to share it.

6. Legal Consequences of Breaching Patient Medical Confidentiality in Nigeria

Both statutes and common law principles recognise that doctors have a duty of confidentiality to their patients. In *Mclnerney v MacDonalt*[41], the Supreme Court of Canada classified the doctor-patient relationship as a fiduciary duty. In *Hay v University of Alberta Hospital*[42], Picard described the right of confidentiality as the cornerstone of the doctor-patient relationship, and this is recognised in a number of international ethical codes, including the Hippocratic Oath. A doctor may share patient information with the patient's consent or when legislation expressly permits a breach of confidentiality to protect the public's health or the safety of a third party. Nonetheless, a number of laws take severely an unreasonable violation of confidentiality. Unjustified violations of medical confidentiality are punishable by law in Nigeria; depending on the specific facts and circumstances of each instance, the index patient may seek remedy before an administrative panel or a competent court[43].

The National Health Act establishes a method for a person to file a complaint regarding the treatment he or she receives at a health facility for inquiry[44]. The Act requires the minister, commissioner, or other relevant body to develop a mechanism for filing complaints within the sectors of the national health system for which the federal or state ministry is responsible. As a result, any physician found guilty of violating a patient's right to secrecy commits an offence punishable by up to two years in jail, a fine of N250,000, or both[45]. In a similar vein, the HIV and AIDS (AntiDiscrimination) Act offers renewed hope for HIV/AIDS sufferers' safety. The Act required the minister to oversee the legal implementation of patient confidentiality while safeguarding the private information of AIDS patients[46].

Among other things, the Minister of Justice must investigate any alleged breach of patient confidentiality, provide any necessary recommendations to an organisation or individual in response to the investigation, and file a criminal case against the violator in a court with the

[41] (1992) 2 SCR 138.
[42] (1990) 69 DLR, 4th (Edn.), pp: 755.
[43] Otor IE, 'Medical Confidentiality and Professional Secrecy in Nigeria'. *Journal of Criminology and Forensic studies* [2024] 6(1): 180060.
[44] (2014) *Section 30 (1), (2)* National Health Act.
[45] Ibid, Section 29 (2) (j) (ii).
[46] (2004) HIV and AIDS (Anti-Discrimination) Act.

appropriate authority[47]. This implies that, as it is a public obligation, the impacted patient may request an order of mandamus against the minister in order to guarantee compliance in cases where there is a claim of a confidentiality violation and the minister has failed to take action. Nigeria's strong stance on medical secrecy has also been made lawful by the National Health Insurance Scheme Act. In essence, if a violation of patient confidentiality is proven against an official operating under the Act, it may result in a conviction or damages totalling at least N20,000 against the offending party alone[48]. The aforementioned makes it clear that the legal ramifications of a breach of medical confidentiality are not solely the responsibility of professional tribunals; the court of law also has jurisdictional competence, and patient confidentiality is a fundamental right protected by the applicable constitutional provisions[49]. Once the court finds a practitioner guilty of the violation, it falls under the category of cases that are submitted to professional tribunals for the purpose of enforcing disciplinary measures against the offending practitioner in accordance with the Act[50].

7. Conclusion

It is our considered view and recommendation that the Nigerian Medical Council, in partnership with the government, adopt rigorous measures to educate the public about their right to medical secrecy. The court should discourage the act by punishing the perpetrators, which would serve as a deterrent to others. Hospital administrators could organise training sessions on confidentiality or law and medicine to educate medical practitioners on their legal responsibilities to their patients. The section of the Medical and Dental Practitioners Act that provides for the suspension of a medical or dental practitioner from practice for six (6) months should be amended to include more time, as there are cases that may necessitate a punishment of more than six months but are not serious enough to warrant striking the practitioner's name from the register. Hospital administration should also guarantee that facilities required for proper execution of duty are obtained on a regular basis.

[47] Ibid, Section 24.
[48] (2004) *Section 38* National Health Insurance Scheme Act.
[49] (1999) Chapter four of the CFRN as amended.
[50] (2004) Section 13 (1) (b) of Medical and Dental Practitioners Act.