

Legal Implications of Ethical Breaches in Medical Practice: Nigeria a Case Study

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ABSTRACT

Medicine is the science and art of diagnosing treating and preventing disease and injury with the goals to help people live longer happier and more active lives with less suffering and disability. The importance of medical profession to humanity cannot be over-emphasize. However, in the course of practice, ethico-legal issues arise which if not arrested can underline the integrity of medical profession and erode people confidence in the practitioners. The aim of this paper therefore is to examine the legal implication of ethical breaches in medical practice using Nigeria as a case study. This was done with particular references to legal frame-work and some decided cases by Medical Practitioners Disciplinary Tribunals as well as regular courts in Nigeria and elsewhere. This paper is a desk-based research which relies on both primary and secondary sources of data. It is the finding of this paper that, expectedly, the Professional Tribunals view ethical breaches strictly as against the liberal approach adopted by the regular court. Also, it is find out that ethico-legal issues are fundamental aspect of medicine which should continually be developed with continuous medical ethical education for medical practitioners.

KEY WORDS: *Ethics, Oaths, Legal-frame work, Negligence, informed consent, confidentiality, abortion, Euthanasia, Remarks.*

1. INTRODUCTION

Disease has been one of humanity's greatest enemies. Medicine simpliciter is the science and art of diagnosing, treating, and preventing disease and injury. It encompasses a variety of health care practices evolved to maintain and restore health by the prevention and treatment of illness in human beings.¹ Our understanding of prehistoric medical practice is from the study of ancient pictograms that show medical practice procedures, as well as the surgical tools uncovered from anthropological sites of ancient societies. Several systems of medicine, based primarily on magic folk remedies and elementary surgery existed in diverse societies before the coming to the more advanced Greek medicine about the 6th Century BC.²

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¹ en. wikipedia. org/wiki/medicine.

² Microsoft (R) Encarta (R) 2009.

Contemporary medicine applies health science, biomedical research, and medical technology to diagnose and treat injury and disease typically through medication or surgery, but also through therapies as diverse as psychotherapy, external splints and traction, prostheses, biologics, ionizing radiation and others. The goal of medicine is to help people live longer, happier and more active lives with less suffering and disability. Medicine goes beyond the bedside of patients. A sick or injured person can obtain medical care in several different places, such as medical offices, clinics, hospitals, nursing home and home care e.t.c.

Today, vaccines, better drugs and surgical procedures, new instruments, and understanding the sanitation and nutrition have had a huge impact on human well being. In addition, medicine is a business. It is part of the health care industry and among the leading employers in most countries. It is one of the oldest and prestigious professions known to mankind.

2. CONCEPTUAL FRAMEWORK

(i) Ethics

Ethics is a system of moral principles or rules of behaviour.³

(ii) Professional Ethics

Professional ethics encompass the personal and corporate standards of behavior expected of professionals.⁴ It partly comprises of what a professional should and should not do.⁵ Every profession or calling has ethical code which are more often than not universally observed.

(iii) Legal Ethics

Legal ethics encompasses an ethical code governing of the conduct of persons engaged in the practice of law.⁶

(iv) The Nursing Ethics

The Nursing ethics too encompasses the values and ethical principles governing nursing practice, conduct and relationship. The code for Nurses adopted by the American Nurses Association (ANA) in 1950 and revised periodically is intended to provide definite standards of practice and conduct that are essential to the ethical

³ Oxford Advanced/Learner's Dictionary, 5th Ed. Ethics, also known as moral philosophy, is a branch of philosophy that involves systematizing, defending and recommending concepts of right and wrong conduct. See <http://wwwiep.utm.edu/ethics/>; <http://en.wikipedia.org/wiki/Ethics>. Hence, ethics can come in various forms and types e.g meta-ethics, normative ethics, applied ethics (such as bioethics, geo-ethics, business ethics, relational ethics, machine ethics, military ethics, political ethics, public sector ethics etc) evolutionary ethics, descriptive ethics etc.

⁴ en.wikipedia.org/wiki/Professional_ethics It is otherwise called work ethics

⁵ it.toolbox.com/./professional_ethics

⁶ See Rules of Professional Conduct for Legal Practitioners 2007; Legal Practitioners Act Cap. L.11, Law of Federation of Nigeria 2004; www.Legal_ethics.com/.

discharge of the nurse's responsibility.⁷ It is pertinent to mention that even the orthodox/tradomedical practitioners and herbalist have professional ethics which they holistically comply with.

(v) Medical Ethics

Medical ethics is a system of moral principles that apply values and judgments to the practice of medicine.⁸ Medical ethics is a guide for practicing physicians regarding ethical issues and ethical policies.⁹ There are a lot of ethical issues that practicing physicians are likely to encounter in their training and daily practices.¹⁰ There is hardly any area of medicine that does not have an ethical aspect. For instance, Medical Rehabilitation Therapist (Registration) Act Law of Federation of Nigeria (LFN) 2004 provides for discipline of erring member in reported cases of ethical breach.

This paper examines ethical breach in medical practice in a holistic manner. It examines ethical codes, medical negligence, informed consent, duty of confidentiality, abortion and euthanasia among others and ends with a concluding remarks.

(3) MEDICAL ETHICS AND THE ROLE OF MEDICAL AND DENTAL PRACTITIONERS COUNCIL OF NIGERIA

The Medical and Dental Practitioners Act 1990 (Decree No 23 of 1988) now LFN 2004 provides for the establishment of the Medical and Dental Council of Nigeria hereinafter called the Council.

Section 1 Subsection 2 (c) of the said Act provides for the statutory functions of the Council principal among which is;

“ Reviewing and preparing from time to time a statement as to the code of conduct which the Council consider desirable for the practice of the professions in Nigeria ”

Section 2 (d)(e) of the Medical and Dental Practitioners Decree No 78 of 1992 as amended empower the Medical and Dental Council of Nigeria to supervise and control the practice of traditional medicine, homeopathy and other forms of alternative medicine in Nigeria.

Pursuant to the enabling law, the Medical and Dental Council of Nigeria has been constituted in accordance with the provision of the law. The statement as to the Code of Conduct which the Council consider desirable for the practice of the profession in Nigeria has been prepared and reviewing from time to time. It was first titled “ Rules of

⁷ Medicaldictionary. the freedictionary.com.

⁸ en.wikipedia.org/wiki/medical_ethics. See also Fadare J.O Desalu O .O, Jemiloun A. C, Babatunde A.O “Knowledge of Medical Ethics among Nigerian Medical Doctors” *Niger.Med. J. (Serial online) 2012, 53: 226-30*. Available from: <http://www.Nigeriamedj>. Ong W.Y, Yee C.M, Lee A, “Ethical Dilemmas in the Care of Cancer Patients near the End of Life” *Singapore Med.J. 2012, 53:11-6*.

⁹ www.ama-assn.org/ama/pub/physician.

¹⁰ See The Journal of Medical Ethics (BMI Journals) a leading international journal that reflects the whole field of medical ethics. jme.bmj.com. see generally www.bma.org.uk/ethics/index.jsp. Medical Rehabilitation Therapists have their own ethics. See the Medical Rehabilitation (Registration) Act Law of Federation of Nigeria, 2004 which provides for disciplinary measures for ethical breach by members.

Professional Conduct for Medical and Dental Practitioners in Nigeria” but later titled “CODE” in consonance with its legal status.¹¹

The Council desires that every Medical and Dental Practitioner should familiarize himself or herself with the provisions of the code so that he or she would practice the profession with conscience, dignity, and within the provisions of the code, thus bringing the incidence of ethical breaches or violations to the barest minimum, as ignorance of law admits no excuse.

Compliance with the code will enhance the image of the profession; increase the confidence of the public in the practitioners, and offer protection to the conscientious practitioners. Considering the paucity of books on medical ethics here in Nigeria this code also serves as information booklet for Medical Students, Medical Teachers, Legal Practitioners who are engaged in Medical Jurisprudence and even Laymen and Patients who may be obliged to seek information on these aspects of medical and dental profession in Nigeria.

(4) CODE ON MEDICAL ETHICS IN NIGERIA¹²

The Code of Medical Ethics in Nigeria was revised in 1995 and a new edition has been published as Code of Medical Ethics in Nigeria since 2004. It is divided into eight parts thus:

Part A of the Code contains Sections 1-24 which deals with preamble and general guidelines, which include: the objective of the rule, induction of newly qualified medical or dental practitioner into the profession, Declaration and Oath, Registration, payment of practicing fee and annual license, guidelines for non-indigenous medical and dental practitioners, clinic etiquette, self-medication by registered practitioners, professional services to colleagues, telemedicine, management of HIV/AIDS and other socially dreaded diseases e.t.c¹³

Part B of the Code contains Sections 25-31 which deals with professional conduct, professional brotherhood of good repute and competency, professional negligence e.t.c¹⁴

Part C of the Code contains Sections 32-39 which deals with malpractices in general respect, deceit of patient to extort fees and service charges, aiding and abetting unprofessional practice of medicine and dentistry e.t.c¹⁵

Part D of the Code contains Sections 40-48 which deals with improper relationship with colleagues or patients, instigation of litigation, case referrals to colleagues, movement of

¹¹ www.mdcnigeria.org/Downloads/CODE .

¹² www.mdcnigeria.org/ethical%2520cond also www.mdcnigeria.org/mandateframe.htm.

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

patients among practitioners, confidentiality, adultery or other improper conduct or association e.t.c¹⁶

Part E of the Code contains Section 49-53 which deals with aspect of private practice, decency and decorum in professional transactions e.t.c¹⁷

Part F of the Code contains Sections 54-59 which deals with self advertisement or procurement of advertisement, media publication of pending treatment, media publicity, touting and canvassing, signboards and sign posts e.t.c¹⁸

Part G of the Code contains Sections 60-62 which deals with conviction for criminal offences which include abortion, aiding criminals in clinics or hospital premises, conviction of a registered practitioner in a court of law e.t.c¹⁹

Part H of the Code which is the last but not the least contains Sections 63-75 which deals with miscellaneous items such as alcohol, drugs, improper financial transaction (fraud), Torture, Euthanasia, fitness to practice, enforcement of sanctions e.t.c²⁰

Medical Practitioners are duty bound to comply with the foregoing Codes of medical ethics or face sanctions for ethic breach.

(5) DECLARATION BY A PROSPECTIVE MEDICAL OR DENTAL PRACTITIONERS IN NIGERIA

Prospective Medical and Dental Practitioners being inducted to practice in Nigeria are required to publicly DECLARE their readiness to obey professional rules and regulations thus:

“I, Dr. XYZ do solemnly and sincerely declare that as a registered medical/dental practitioner of Nigeria, I shall exercise the several parts of my profession to the best of my knowledge and ability for the good, safety and welfare of all persons committing themselves to my care and attention and that I will faithfully obey the rules and regulations of the Medical and Dental Council of Nigeria and all other laws that are made for the control of the Medical and Dental profession in Nigeria.”²¹

(6) PHYSICIAN OATH SWORN IN NIGERIA

In addition to the Declarations mentioned above the Medical and Dental Practitioners in Nigeria are made to subscribe to the PHYSICIAN OATH as follows^{21(a)}:

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

²¹ Ibid

*“I (Dr) XYZ SOLEMNLY PLEDGE to consecrate my life to the service of humanity;
I WILL GIVE to my teachers the respect and gratitude which are their due;
I WILL PRACTICE my profession with conscience and dignity;
THE HEALTH OF MY PATIENT WILL BE my first consideration;
I WILL RESPECT the Secrets which are confided in me even after the patient has died;
I WILL MAINTAIN by all means and in my power the honour and the noble traditions of
the medical/dental profession;
My COLLEAGUES WILL be my brothers and sisters;
I WILL NOT PERMIT consideration of religion, nationality, race, party politics or social
standing to intervene between my duty and my patients;
I WILL MAINTAIN the utmost respect for human life from the time of conception.
Even under THREAT I WILL NOT USE my medical knowledge contrary to the laws of
humanity.
I MAKE THESE PROMISES SOLEMNLY , FREELY and upon my HONOUR.”*

The foregoing is also referred to as the Declaration of Geneva (Physician Oath Declaration) adopted by the General Assembly of World Medical Association at Geneva, Switzerland in September 1948 and amended by the 22nd World Medical Assembly at Sydney Australia in August 1994.²²

(7) HIPPOCRATIC OATH

The above Physician Oath is the modern version of what is popularly called the Hippocratic Oath which is the foundation of the code of medical profession.²³ The signature of the doctor or dentist taking oath is appended and it is also dated appropriately. Every medical practitioner in Nigeria is thus expected to be guided by the code of professional ethics as complemented by the combinations of the Declaration and the Physician Oath in the performance of his professional responsibilities. Every member of the medical profession must abide by the dictates of the physician's oath²⁴ Embodied in this oath are the guidelines for behavioral interaction between practitioners and their patients; practitioners and their teachers; as well as practitioners and the public as represented by the law and the government.²⁵

Fundamental to these ethical guidelines is an ALLEGIANCE which every doctor or dentist mandatorily owes to the corporate body of the profession. This corporate body of the profession by traditional practice or convention through the ages has assumed the responsibility for maintaining and constantly enhancing the standard of services provided

²¹ (a) Ibid

²² www.medterms.com/script/main/art.asp

²³ Hippocrates 1760-337, a Greekman and the greatest physician of antiquity regarded as the father of medicine Hippocratic Oath is the Physician Oath of today.

²⁴ www.britannia.com/Hippocratic-oath

²⁵ www.imagerynet.com/hippo.ama.html

to the public as well as protecting the profession from unwarranted incursions by charlatans and quacks.²⁶

(8) LEGAL FRAMEWORK FOR ENFORCEMENT OF MEDICAL ETHICS IN NIGERIA

To ensure ethical compliance or sanctions as the case may be the Medical and Dental Practitioners Act LFN 2004, provides for the Establishment of Medical and Dental Practitioners Disciplinary Tribunal²⁷. There is a provision for the establishment of an Investigation Panel called the “Panel”²⁸ The Panel investigates and report cases of professional misconduct.

Section 16 of the Act provides for penalties for all forms of professional misconducts. The penalties range from admonition; and suspension; to the striking out of name of erring person from the register of doctors.²⁹

By virtue of Section 16(6) of the Medical and Dental Practitioner Act, under reference; there is a right of appeal from the decision of the Disciplinary Tribunal to the Court of Appeal.

Section 17 of the Act contains a long list of offences, for instance, it is an offence to impersonate or make false representation as to status, name and identify.³⁰ It is also an offence to administer, supply or recommend the use of dangerous drugs within the meaning of Dangerous Act Part V, LFN 2004.³¹

(9) LEGAL IMPLICATION OF BREACH OF MEDICAL ETHICS IN NIGERIA

The legal implication of any ethical breach depends on the circumstances of each case. While some ethical breach would amount to commission of crime, other amount to civil wrong, while again, others are neither here nor there. Where ethical breach constitutes a known crime, the culprit either get acquitted or convicted in the regular court of law. Where the ethical breach constitutes a civil wrong the aggrieved gets compensatory damages for the injury suffered. Legal implication of ethical breach has been further analyzed under the following heads.

(i) Medical Negligence from Legal Periscope.

²⁶ Evans-experientialism. freewebspace. There are two arms of this corporate body namely the statutory arm represented by the Medical & Dental Council of Nigeria which is the regulatory body set up by law, and the Nigerian Medical Association a quasi voluntary association of all medical doctors and dentist

²⁷ See Section 15 (1) of the Medical & Dental Practitioners Act Law of Federation of Nigeria 2004.

²⁸ Section 15 (3) Ibid

²⁹ Section 16 (2) Ibid.

³⁰ Section 17 (1) a-c Ibid

³¹ Section 17(7) Ibid. It is however not an offence to allow therapeutic medicine traditionally in use or practice. See Section 17 (6) Ibid. See the celebrated case of *Abdullahi V Pfizer Inc.2002, U.S.District LEXIS 17436 at 4-7*. The fact of the case is that, in 2002, a group of Nigerian minors and their guardians sued Pfizer in the USA District Court for the Southern District of New-York alleging that they suffered grave injuries from an experimental antibiotics administered by defendant Pfizer Inc, without their consent. The Federal Government of Nigeria also filed suits against Pfizer. In February 2009, Pfizer decided to settle the multi-billion dollar Nigerian case out of court

In the Nigerian case of *Diamond Bank Ltd v Partnership Investmentco Ltd*,³² the Supreme Court of Nigeria defined negligence thus:

“(Negligence is generally defined as the failure to exercise the standard of care that a reasonable prudent person would have exercised in a similar situation; any conduct that falls below the legal standard established to protect others against unreasonable risk of harm..” per Ogbuagu JSC pp 52-53”

Negligence is a question of fact and each case depend upon its own peculiar particular facts or circumstances. The TEST of negligence is foreseeability of the injury or damage caused³³. Medical negligence is a branch of negligence which has its root in medical law. Medical negligence law covers the consequences for medical practitioner’s non-exercise of appropriate care and rights of patients when a medical practitioner makes an error or fails to provide an acceptable level of care in the execution of his duty. This is called “fault liability”. Negligence has been defined by Baron Alderson in the case of *Blyth v Birmingham Water Works* as:

“ the omission to do something which a reasonable man would do or doing something which a reasonable or prudent man would not do. ”³⁴

In *Hucks v Cole*,³⁵ Lord Denning M.R took the view that in order to reach the conclusion that a doctor was negligent, his conduct should be deserving of censure or it should be inexcusable. In strict legal analysis, negligence means more than heedless or careless conduct. The negligence equation can therefore be expressed in terms of DUTY OF CARE, + BREACH OF THIS DUTY+ DAMAGES ARISING THEREFROM.³⁶ Hence, for a doctor to be liable in negligence, duty of care must exist.

³² (2010) 13 WRN P.42

³³ *Shell Petrol Development. Co Nigeria Ltd V Ikonta* (2010) 45 WRN (CA) See Sections 303, and 343 (1) (e) of the Criminal Code Act Law of Federation of Nigeria 2004 for criminal negligence. *Section 303* deals with duty of persons doing dangerous act of surgical or medical treatment to use reasonable care in doing such act or be held liable for any consequences of his omission. *Section 343 (1) (e)* deals with negligence of a medical professional

³⁴ (1856) I Ex. Div 781 @ 784

³⁵ (1986) 1125 S.J. 484

³⁶ See *Donoghue V Stevenson* (1932) AC 562. Hence, toying with human life is aggravated negligence. It is a settled law that the standard of care expected is objective not subjective. It eliminates the personal predilections as well as idiosyncracies and takes no account of the particular weaknesses of the defendant/practitioner. Similarly, relevant here on medical negligence is the leading English authority of *Wisher v Essex Area Health Authority* (1986) 3 All ER 801. In that case, Martin Wisler was born prematurely suffering from various illnesses including oxygen deficiency. He was placed on special care baby unit in the hospital. While in the unit, a catheter was twice inserted into a vein rather than an artery and on both occasions he was given excess oxygen. The doctors administering the oxygen were juniors and were negligent in their attempts respectively. The position of the catheter was not in itself negligent, as it was a mistake a competent doctor could make. The catheter could be checked by means of an X-ray, which was in fact done in this case. However, the senior Registrar failed to spot the mistake. The baby Wisler was subsequently found to be suffering from retrolental fibroplasia which caused blindness. In the court of Appeal, it was argued that the standard of care expected of the junior doctors was not the same as that of

With respect to duty of care, once a patient is accepted for treatment, a duty of care arises as there is already a doctor- patient fiduciary relationship. In that case, a doctor may be liable for failure to attend or treat patient promptly, just as much as for careless treatment. It is a safe presumption that every doctor who offers medical advice, issues medical report and treatment has the required skill and experience to do so. There is no justification for wrong diagnosis, because wrong diagnosis automatically leads to wrong treatment which can be suicidal.

In the case of *State of Haryana v Smt Santra*³⁷, the Supreme Court of India held that:

“Every doctor has a duty to act with a reasonable degree of care and skill”

Medical negligence can occur in an infinite number of ways, for instance, misdiagnoses, failure to diagnose on time, surgical error, failure to follow up with treatment, failure to attend to patient promptly, anesthesia error, medication or prospective error, failure to sterilize surgical equipment, failure to cross match blood transfusion, use of out-dated techniques or procedure, use of patient for experimentation, incompetence in the assessment of the patient, deficient treatment arising from inadequate pre-operative investigation, deficient operative procedure and poor and faulty post operative management. See the Nigeria case of *Akintade v Chairman Medical and Dental Practitioners Disciplinary Tribunal (MDPDT) (2005) 9 NWLR (pt. 930) 338 p.5*

A competent doctor should know when a particular case is beyond his professional competence. When this situation arises he owes a duty to invite more skilful practitioner(s) or transfer the patient to another hospital where better skilled treatment is available. Thus, it is sheer anomaly for a general practitioner to perform the work of nephrologists in an hospital without inviting an expert in that field. He would be liable for medical negligence if the patient dies or is incapacitated as a result of the operation.

A doctor such as a psychiatrist or clinical psychologist, owes a duty of care to his psychiatric patients and this duty requires the doctor to take reasonable steps to protect the patients from harming themselves, including in some instance the prevention of suicide attempts. A good illustration is provided by the case of *Dickson Igbokwe v University College Hospital Board of Management*³⁸ In this case, the deceased was an in-patient in one of the maternity wards in the defendant's hospital where she jumped to death from the fourth floor of the defendant's hospital. She had just given birth to a child following which her case was diagnosed as a suspected psychosis. She had been given sedative treatment, and the doctor on duty that day instructed a staff nurse to keep an eyes

their experienced counter-parts. It was said that junior doctor had to learn on the job, otherwise, it would be impossible for medicine to develop and function. It is therefore unavoidable that mistakes would be made. Sir Nicholas-Brown- Wilkinson V.C agreed with this argument (stating at P.833): *“a doctors should only be held liable for acts and omission which a careful doctor with his qualifications and experience would not have made.”* But majority of the Court of Appeal dismissed this argument. Glidewell L.J. applied the Bolan test, commenting (at P. 831) that *“if there was not a uniform standard of care then, ...inexperience would frequently be urged as a defence to an action for professional negligence.”*

³⁷ (2000) 5 SCC, Air 2000 SC 3335

³⁸ (1961) W.N.L.R. 173 This incident occurred in University College Hospital, Ibadan Nigeria. In *Mahon v Osborne (1939) 2 K.B. 14* where consequent upon an abdominal operation, swabs were left in the body of the patient, court held that the maxim *res-ipsa-loquitur* applies.

on her. The nurse who was instructed to keep watch over her failed to do so. Patient jumped-down from the fourth floor of the hospital and died. The court upheld the plea of *res-ipsa-loquitur* (meaning the fact speak for itself) and awarded a heavy damages against the defendant i.e University College Hospital, Ibadan, Nigeria.

With respect to infectious disease,^{38(a)} where a doctor negligently permits a person to contact contagious disease there would be no difficulty establishing a breach of duty of care, whether that person was the doctor's patient or not. In the case of *Lindsey Country v Marshall* ^{38(b)} the House of Lords in England held that the defendants was liable for negligently failing to warn the plaintiffs of the risk of puerperal fever when she was admitted into their maternity home followings a recent outbreak of the disease. In the Nigerian case of *R v Akerele*,³⁹ the appellant a medical doctor had given injections of a mixture to a number of children suffering from yaws including the deceased. The deceased died as a result of the injection. At his trial for manslaughter, evidence that other children died as a result of injection from same mixture was admissible. Negligence in professional context was thus established and the conviction was affirmed.

In the Nigerian case of *Olaye v Chairman, Medical & Dental Practitioners Disciplinary Tribunal(MDPDT)*⁴⁰, appellants and three other medical practitioners were charged before the Disciplinary Tribunal for negligence by *their non-attendance to a patient contrary to the ethics* of the medical profession. Though the appellant denied liability, the tribunal found him liable and directed that his name be struck off the Register of Medical and Dental Practitioners in Nigeria . Regrettably, the Nigerian Court of Appeal allowed the appellant's appeal on mere technical ground of non-observance of rules of natural justice by the tribunal.

In the Nigeria case of *Denloye v Medical & Dental Practitioners Disciplinary Tribunal(MDPDT)*⁴¹ Denloye was charged with neglecting in a prolonged manner between 29th June 1966 and the 10th July 1966 a patient very seriously ill, extortion of the sum of 30 guineas from the patient's father as an inducement for him to treat the patient among other allegation. The Tribunal pronounced him guilty of infamous conduct in a professional respect and ordered removal of his name from the Medical Register. On final appeal to the Supreme Court of Nigeria, it set aside the decision of Tribunal also on technical ground of non observance of rules of natural justice.

In Nigeria *Akintade v Chairman, Medical & Dental Practitioners Disciplinary Tribunal(MDPDT)* (2005) 9 NWLR (pt. 930) 338 p.5 Court of Appeal held that:

“the term “infamous conduct” include, failure to attend to patient promptly, incompetence in the assessment of the patient, deficient

^{38(a)} S.O. Akintola “ Medical Negligence in Nigeria: An Appraisal “ *University of Ado-Ekiti, Law Journal Vol.1, 2002 pp.35-46, at 38.*

^{38(b)} (1937) AC 97

³⁹ (1943) AC 255 at 261, (1942) 8 W.A.C.A. 5 at p.9. The Supreme court of Nigeria held in *Kim v State* (1992) 4 NWLR (pt 233) P.17 at 39 that the degree of negligence required both in medical and legal profession to render the practitioner liable for negligence is that it should be gross and not mere negligence.

⁴⁰ (1977) NMLR pt 506 P. 550

⁴¹ (1968) 1 All NLR 306.

treatment arising from inadequate pre-operative investigation, deficient operative procedure and poor and faulty post operative management.”

In *Alakija v Medical Disciplinary Committee*⁴² the committee ordered the removal of Alakija's name from the Register of Medical Practitioners for two years. The Supreme Court of Nigeria was to later quash the decision on technical ground of non-observance of rules of natural justice.

In *Denloye v Medical & Dental Practitioners Disciplinary Tribunal(MDPDT)*. (supra) the Supreme Court held that where the unprofessional conduct of the practitioners amounts to a crime, it is a matter for the courts to deal with; and once the court has found the person guilty of an offence, it comes within the type of cases referred to in Section 13 (1) (b) of Medical and Dental Practitioners Act, then the Professional Tribunal may proceed to deal with him under the Act.

Similarly, *Eso JSC in Federal Civil Service Commission & or v Laoye* said

“ This is clear enough, conduct amounting to crime must first be a matter for the court with criminal jurisdiction, before disciplinary issues could be raised”.

Professional tribunals are administrative tribunals which cannot usurp the criminal jurisdiction of regular court over crime.

In the case of *Okezie V Chairman Medical & Dental Practitioners Disciplinary Tribunal(MDPDT)*⁴³, Dr Okezie a registered Specialist Obstetrician and gynecologist and a lecturer at University of Nigeria Teaching Hospital, Enugu was found guilty of infamous conduct and gross professional negligence in 2001. He was suspended from practices for six months for losing his patient (Mrs. Obiekwu) after a caesarian operation. The charges against him include negligent failure to secure the professional services of an anesthetist and also of qualified registered nurses to provide necessary professional care as required before, during and after the caesarian operation; failure to provide cross-matched bloods and oxygen which would have been used to resuscitate the patient at the time of impending respiratory failure which eventually set in post operatively; operating at an unregistered institution known as Christian Miracle Hospital et.c. About 10 years later, the decision of the Disciplinary Tribunal was however set aside for non-observance of fair trial by the Court of Appeal on 29th April 2010.

Employers of health operators will be held vicariously liable for negligence committed by a healthcare operator in the course of his employment.^{44a}

What could be deduced from the foregoing Nigerian case-laws is that while the professional tribunals in Nigeria have been very justifiably strict on reported cases of ethical breaches against members, the Nigerian courts are more liberal in their approach to cases of ethical breach against doctors and have repeatedly quashed the decisions of the professional tribunals.

Also, relevant here though at the international plane, is the celebrated case of Michael Jackson's doctor – Dr Conrad Murray who was found guilty of involuntary

⁴² (1959) FSC 38

⁴³ (2010) 26 WRN

manslaughter in the death of the singer and King of Pop. He was tried in Los Angeles, the prosecution triumphed after six weeks of impassioned arguments and witness testimonies arguing that Murray was responsible for a lethal overdose of anesthetic propofol which killed Michael Jackson. Dr. Conrad was sentenced to four years jail term and his medical practice license suspended for five years.^{44b} The Judge said, Murray 58, treated Jackson like a “ medical experiment” He was sentenced on 29 November 2011.⁴⁵

(ii) Legal Position on Informed Consent to Medical Treatment

This is also an ethico-legal issue. It centres on both the common law and constitutional right of a patient to object to a form of treatment. Sometimes, doctors in treating certain patients tend to override their objection to certain form of treatment on the basis of medical ethics. A doctor who disregard the opinion of the patient would be liable to the tort of assault and battery as well as infringement of the fundamental right of the patient as preserved under Section 37⁴⁶ and 38⁴⁷ 1999 Constitution of Nigeria

Therefore, a Jehova Witness has a right to refuse blood transfusion under any circumstances even if the decision entail risk as serious as death.⁴⁸ In *Malette v Shulman* (supra) the Court dismissed an emergency situation which requires an urgent life saving need for blood.

The right of the patient to be informed of the risk of the surgical treatment has been developed in some jurisdiction in the United State and has found favour in the Supreme Court of Canada in the doctrine of informed consent.⁴⁹

The above foreign cases on informed consent have been approved by the Supreme Court of Nigeria in *Medical & Dental Practitioners Disciplinary Tribunal(MDPDT) v Okonkwo*⁵⁰ where that Court held:

“I am completely satisfied that under normal circumstances no medical doctor can forcibly proceed to apply treatment to a patient of full age and sane faculty without the patient's consent, particularly where the treatment is of a radical nature such as surgery or blood transfusion. So doctor must ensure that there is a valid consent and he does nothing that will amount to a trespass to the patient. Secondly, he must exercise a duty of care, advise and inform the patient of the risk

^{44a} see Michael. A. Jones, *Medical Negligence* (Sweet & Maxwell 1991),

^{44b} abcnews.go.com

⁴⁵ gma.yahoo.com/Michael-jackson-doctor.

⁴⁶ The privacy right of citizens is guaranteed and protected. See Nasiru Tijani, ‘Physicians, Patients and Blood: Informed Consent to Medical Treatment & Fundamental Human Rights’ *Ikeja Bar Journal, Vol.1 Parts 1&2, 2006-2007 P. 96-108*. Emiri O.F. *Medical Jurisprudence*, Jeroilromah Press, PR 191-192. See also, BYRE: “Compulsory Live Saving Treatment for the Competent Adult,” 44 *Fordham L.Rev. 1 at 29* (1975)

⁴⁷ Freedom from Religions Thought and Conscience.

⁴⁸ *Malette v Shulman* (1990) 47 NLR.

⁴⁹ *Sidway V Board of Governors of Bethlemlen Royal Hospital* (1985) WLR 480: Ikilic 1. “Bioethical Conflict between muslim patients and German Physicians and the principles of Biomedical Ethics” *Med.Law* 2012, 21:243-56.

⁵⁰ (2002) 7 NWRL (pt 711) 206, See also Sanetmanli Murthec, “Shared Decision Making, Paternalism and Patient Choice” *Health Care Anal* (2010): 18:60:84

involved in the contemplated treatment and the consequence of his refusal to give consent”.

Hence, patient's objection to medical treatment is founded on fundamental rights. In *Okekearo v Tanko*,⁵¹ a medical doctor amputated the left centre finger of a 14 year old boy without his consent. The boy's action for exemplary damages succeeded. The doctor's appeal to the court of Appeal failed and his further appeal to the Supreme court was dismissed.

Consent by its own nature is an act of giving approval or acceptance of something done or proposed to be done. It could be express or implied. Thus, an incompetent adult who mentally ill cannot give a valid consent, rather court may authorize the treatment and nothing stops his family as next of kin from making such decision rather than court. In the case of a minor, the parents and guardian are usually the ones to give the consent. A person below the age of 14 years would qualify as a minor in Nigeria. If after explaining the pros and cons of a transfusion to a patient of that sect and it is refused by the patient, a doctor is free to reject the patient.

Hence, in Nigeria, on the authority of *Medical & Dental Practitioners Disciplinary Tribunal (MDPDT) V Okonkwo*

“ a patient has a right to determine his own medical treatment and that right is superior to the physician's duty to provide necessary care ”

Also, in *Rivers v Katz*^{51(a)} the court held that the state interest in maintaining the ethical integrity of the medical profession though important, cannot outweigh the fundamental individual rights.

From the foregoing it will be apt to conclude that the issue of patient's informed consent to treatment is sacrosanct.

(iii) **Lgal Implication of Breach of Duty of confidentiality**

The law establishes that physicians owe a duty of confidentiality to their client. All information generated in the course of a medical relationship must be kept confidential. This duty is recognized at Common Law. The Supreme court of Canada in *McInerney v Mac Donald Nigerian case (1992) 2 SCR 138* characterized the physician-patient relationship as fiduciary (i.e special relationship of trust and confidence). Also, in *Hay v University of Alberta Hospital (1990) 69 DLR (4th) 755*, the status of the right of confidentiality was described by Picard J as the cornerstone of the Doctor-Patient relationship and this is recognized in a number of international ethical codes such as the Hippocratic Oath and Declaration of Geneva domesticated in the Nigerian Code of Medical Ethics among others. The Hippocratic Oath states inter alia:

⁵¹ (2002) 15 NWLR (pt 791). In *R V Flattery (1877) 2 QBD 410*, a quack doctor under the guise of performing operation on the plaintiff had sexual intercourse with her without her consent. The alleged doctor was convicted of rape and sentenced to jail.

^{51(a)} *Rivers V Katz* 495 N.E 2nd ed. 373, 343 n-6 (N.Y 1986). In *Randolph v City of New York* 59 N.Y.S 2nd 837, 841 (App. Div 1986). Smith DH, “Ethics in the Doctor-Patient Relationship” *Crit. Care Clinic*, 1996, 12: 179-97. See also *Abdullahi V Pfizer Inc (Supra)*. This case is very instructive on breach of duty seek and obtain informed consent before administering any drug or substance.

*“ all that may come to my knowledge in the exercise
of my profession or outside my profession or in daily
commerce with me which ought not to be spread abroad,
I will keep secret and will never reveal.*

Also, Declaration of Geneva specifies the following oath:

*I will respect the secrets which are confided in
me even after the patient had died.*

The duty of confidentiality is even constitutionally guaranteed in Section 37 of the Constitution of the Federal Republic of Nigeria 1999. Patients must be encouraged to seek treatment without fear that their ailment, condition or treatment will be disclosed. This is in the public interest ultimately. In Canada, this privacy right is protected by legislation, so also in South Africa, particularly in relation to HIV status of an individual.

A physician may disclose patient information with the informed consent of the patient or where legislation specifically requires that confidentiality can be breached to protect a third party. Partner notification is required or authorized by some Public Health Acts hence giving room to necessity.

The Supreme Court of Canada in *McInerney* held that:

*the patient's right to privacy and confidentiality is absolute unless there is
some paramount reason that overrides it*⁵²

In civil legal system, this duty may arise in the penal code and in legally enforceable code of ethics. Action may lie where plaintiffs suffer nervous shock from improper disclosure and embarrassment.⁵³ Action for defamation may provide some reliefs in damages. Once there is an established breach of duty of privacy by a doctor the patient is entitled to monetary damages⁵⁴

(10) LEGAL POSITION ON ABORTION AND EUTHANASIA IN NIGERIA: A COMPARED WITH OTHERS JURISDICTIONS

(i) Abortion

The law on abortion in Nigeria could be found under Section 228,229,230 and 328 of the Criminal Code Act⁵⁵ as well as sections 232, 235 and 236 of the Penal Code⁵⁶ all of which prohibit and criminalize abortion. Abortion according to *Black's Law Dictionary*⁵⁷ is spontaneous or artificially induced expulsion of an embryo or foetus. It is a negation of right to life. The offence of attempting to procure an abortion is a felony

⁵² *McInerney V Mac Donald* (1992) 2 SCR 138. In *Tarasoff V Regents of the University of California* 17 cal. 3d 425 (1976), the California Supreme Court imposed a duty on psychotherapist to protect third party from the potentially dangerous acts of their patients. See Kottow M.II, “Medical Confidentiality Intransigent and Absolute Obligation”, *Journal of Medical Ethics*, 1986.

⁵³ *Furniss V Fitchett* (1958) NZLR 396, *Stephen v Avery* (1988) 2 All ER 477

⁵⁴ *Halls v Mitchell* (1928) 2 DLR 97 where defendant doctor had defamed the plaintiff by alleging mistakenly that he had once been treated for venereal disease. See also [www.uic.edu/.confidentiality .htm](http://www.uic.edu/.confidentiality.htm)

⁵⁵ Law of Federation of Nigeria 2004

⁵⁶ Law of the Northern Part of Nigeria

⁵⁷ Sixth Edition 1990; p.7

and is punishable with 14 years imprisonment. The offence of killing an unborn child via abortion in Nigeria is punishable with life imprisonment.

However, Section 297 of Criminal Code of Nigeria has been reinforced by the judicial decision expressed in *R v Edgal*⁵⁸ to the effect that an abortion performed to preserve the life of the pregnant woman or the unborn child is lawful

The foregoing represents Nigeria's position on abortion which has become a live topic in contemporary debates. The position is different in France, China, Sweden where abortion is legalise. Abortion law in America differs from State to State. The United State Supreme Courts decisions in *Roe v Wade*⁵⁹ *Doe V Bolton*,⁶⁰ and *Planned Parenthood v Casey*⁶¹ is a triumph for pro-abortion. The US Supreme Court in the foregoing cases struck down the Texas Abortion Law, the Georgian Abortion Law and the Missouri Abortion Law respectively as unconstitutional violation of women's right to privacy; reproductive right of women, and a form of gender discrimination.

(ii) **Euthanasia**

Euthanasia is defined by Black's Law Dictionary⁶² as the act or practice of killing or bringing about the death of a person who suffers from an incurable disease or condition especially a painful one for reasons of mercy.

The Constitution of Nigeria 1999 provides in Section 33 (1) that;

“ every person has a right to life and no one shall be deprived intentionally of his life, save in execution of the sentence of court in respect of a criminal offence for which he has been found guilty in Nigeria ”.

There is no provision of law in Nigeria that recognize any form of euthanasia (whether Voluntary, Involuntarily, Active or Passive) whatsoever. The itemized categories of euthanasia falls within the ambit of homicide which is a subject of criminal law. Euthanasia is apparently not legalized in Nigeria. For clarity sake, Section 306 of Criminal Code⁶³ complements the constitution and provide that

“it is unlawful to kill any person unless such killing is authorized or justified or excused by law. ”

According to Section 308 of Criminal Code:

“Except as hereinafter set forth, any person who causes the death of another directly or indirectly by any means whatsoever, is deemed to have killed that other person. ”

According to Section 299 of the criminal Code,

“ Consent by a person to the causing of his own death does not affect the criminal responsibility

⁵⁸(1938) 4 WACA 133

⁵⁹ 410 US 113 (1973)

⁶⁰ 410 U.S 179 (1973)

⁶¹ 505 U.S. 833 (1992)

⁶² 7th ed P.575

⁶³ LFN 2004

of any person by whom such death is caused.

Also, Section 326 Criminal Code provides:

“Anybody who procures, counsels, or aids another in killing himself is guilty of a felony and is liable to imprisonment for life⁶⁴, punishment for manslaughter is life imprisonment while that of murder is death sentence.⁶⁵

It is that pertinent to mention that Australia, Netherlands and Japan have legalized euthanasia. In America some States recognize euthanasia and state of Oregon among others have legalized it. The position of the Federal government of America is unclear. In United Kingdom, it is not clear whether euthanasia is lawful or not, but, the issue of suicide and attempted suicide are no longer criminal offences.

The strict position or stand of Nigeria on the issues of abortion and euthanasia appears to be borne out of the importance placed on the sanctity of human life.⁶⁶ Ironically, however, more precious lives are lost daily on the street of Nigeria, to insecurity and other vices than to abortion and euthanasia.

Of relevance also, is the celebrated ‘Doctors Trials’ before the International Tribunal at Nuremberg in 1946 after the 2nd World War.⁶⁷

The Nuremberg Tribunal in question considered the fate of 23 Nazi (German) physicians who participated in the Nazi euthanasia program of systematic killing of persons deemed “unworthy of life”(i.e mentally ill, retarded, and physically disabled) and for conducting medical experimentation on prisoners at Ravensbruck Concentration Camp, Germany without their consent. The affected Nazi doctors were charged with war crimes and crimes against humanity and prosecuted before the Nuremberg Tribunal.

The Doctors Trial lasted 140days, 85 witnesses testified and almost, 1,500 documents were tendered. At the end, 16 of the doctors charged were found guilty, seven were executed.⁶⁸

The Opening Statement in the Doctors Trial by Telford Taylor on December 9, 1946 read thus:

“ the defendants in this case were charged with murders, torture and other atrocities committed in the name of medical science. The victims of these crimes were numbered in the hundreds of thousand....”

During testimony at the Doctors Trial, an American medical expert- Dr. Leo Alexander pointed to scars on Jadwiga Ozido's leg (one of the victim) and said the scars were the result of medical experiments at the Ravensbruck Concentration Camp, Germany⁶⁹ The atrocities committed by Nazi physicians and researchers during 2nd World War prompted

⁶⁴ Section 325 Criminal Code LFN 2004.

⁶⁵ Section 319 Criminal Code LFN 2004.

⁶⁶ Article 3 of Universal Declaration of Human Right Recognises right to life. See also Article 6 of International Convention on Civil and Political Rights. As well as African Charter on Human and People Right e.t.c

⁶⁷ en.wikipedia.org/wiki/ Doctors Trial

⁶⁸ Ibid

⁶⁹ Ibid LAW.Umkc.edu/faculty/projects/ftrial

the development of the Nuremberg Code to define the ethics of modern medical experimentation utilizing human subject to seek and obtain informed consent⁷⁰

(11) CONCLUDING REMARK

In the case of *Medical & Dental Practitioners Disciplinary Tribunal (MDPDT) V Okonkwo*⁷¹ the Supreme Court of Nigeria held: “

“there is no closed categories of ethical breaches, infamous conduct or unprofessional conduct”.

In *Allison’s case (supra)* ‘infamous conduct’ was described as “conduct regarded as disgraceful or dishonorable by his professional brethren of good repute and competence.” Also, in *Re-Idowu (supra)* the court held that expression “infamous conduct” in any professional respect refers to conduct which, being sufficiently related to the pursuit of the profession is such as would reasonably incur the strong reprobation of professional brethren of good repute and competence....” Per Ayoola JSC.

It is apparent from the foregoing that legal implication of ethical breach thus depends on the peculiar circumstances of each case. Hence, while some ethical breaches are exclusively matter for the professional tribunal, other ethical breaches are matters over which jurisdictional competence resides in the court of law. In effect, where the unprofessional conduct of a practitioner amounts to a crime, it is a matter for court to deal with; and once the court has found a practitioners guilty of an offences, it comes within the type of cases referred to in Section 13 (1) (b) of Medical Dental Practitioners Act, over which Professional Tribunal may proceed to take disciplinary actions against the erring practitioner under the Act⁷².

⁷⁰ Books.google.com/books

⁷¹ *MDPDT V Okonkwo (2001) 5NSCQR*

⁷² Ibid; Section 13 (1)(b) of Medical and Dental Practitioners Act 2004. In 2012 a National Youths Corps doctor in Ondo-State of Nigeria was reported to the Medical and Dental Council of Nigeria for stealing and using a practice certificate belonging to another doctor in Jos, Plateau-State. Also, in Cross-River State of Nigeria, a doctor working in a government establishment was said to have stolen the Certificate of a friend who he claimed was died. These are criminal activities capable of bringing the profession into dispute. “Doctor Steals Medical Certificate” 24 June, 2012. See News.naij.com/1677.html.

⁷³ *Per Mac Nair J. in Bolam v Fruem Hospital Committees (1957) 1 W.L.R 582 at 587-588.*

⁷⁴ Ibid, But, inevitably, some one has to be the first to try the innovation. The law however has to strike a balance between these competing considerations.

⁷⁵ It has been argued that the medical practitioners should be allowed to set their own standards rather than having those standards set by the courts. The House of Lord clarified the situation in *Bolitho v City and Hockney Health Authorities (1998) AC, p. 232* in this case, the plaintiff suffered brain damage as a result of a doctor’s failure to attend and clear the child’s blocked airways by intubations. There were conflicting opinion as to whether intubations were necessary in the particular circumstances. The House of Lord decided that a doctor could still be liable in negligence despite the presence of a body of medical opinion in favour of his or her actions. The court decided that the body of opinion is not reasonable or responsible if it can be demonstrated that a professional opinion is not capable of standing logical analysis.

The Disciplinary Tribunal has no jurisdiction to try offences under the Criminal Code. Rather, the Disciplinary Tribunal is set up to try specified offences under the Medical and Dental Practitioners Act. Tribunal's function is to consider and determine any case referred to it by the Investigation Panel established under Section 15 (3) under the Medical and Dental Practitioners Act. The function of the Medical and Dental Practitioner Investigating Panel, is to conduct preliminary investigation into any case where it is alleged that a registered person has misbehaved in his capacity as medical practitioner.

Ethical breach once established may lead to conviction, aggregated damages, suspension, admonition, striking off name from register e.t.c Depending on the circumstances ethical breach may amount to war crime and or crime against humanity as was held of the Doctor trial before international tribunal . In this age of individual criminal responsibility under International Law one should not be surprised that, a doctor in breach of professional ethics or infamous conduct may finding himself being arraigned and appearing before the International Criminal Court or before any ad-hoc International Tribunal as the case may be.

Essentially, medical practitioners can never be too careful, more so their job involve life which apparently has no duplicate. A doctor should at all times be an epitome of confidence, competence and integrity in the discharge of his professional responsibility. It is a known fact in medicine that thing may still go wrong even with the best available care. Hence, doctor treats while God heals. A doctor is not liable in negligence if he has acted in accordance within ethical practice accepted by a responsible body of medical men skilled in that particular art.⁷³ There is therefore an obligation on medical practitioners to keep up-to-date with new methods and innovations, as a medical practitioners cannot obstinately carry on with old technique which has been proved to be contrary to informed medical opinion.⁷⁴ Also, patients should not be recklessly subjected to untried and potentially dangerous experimentation

Knowledge of medical ethics is essential for health care practitioner world wide and Nigeria in particular. It is therefore humbly suggested that periodic seminar, talk, workshop, symposium e.t.c be organize to sensitize members of the medical profession on the ethical code and the mandatory duty to comply therewith.

It is humbly suggested that medical institutions or hospitals should have an in-house legal unit or Solicitor from where they can constantly consult on ethico-legal issues and other contemporary medico-legal topics.

While the professional regulatory bodies and tribunals should remain strict in their decisions on reported cases of ethical breach, the judiciary too should not apply any liberal approach that will encourage any erring, careless or killer doctor to slip-away through legal technicalities. In the medical negligence cases, the court should not be too protective of the medical practitioners who fall short of set standard.⁷⁵

On the whole compliance with professional ethical codes makes the profession a better one and makes the world a better place. Law complements medicine, accordingly Law and Medicine are not foes but partners in progress.

Finally, this paper has explored very fundamental aspects of medicine which should continually be developed. There is therefore a need for continuing medical ethics education for medical practitioners. And this should be made compulsory.

REFERENCES

- (1) Akintola, S.O. (2002) “ Medical Negligence in Nigeria: An Appraisal” *University of Ado-Ekiti Law Journal, Vol.1, pp.35-46, at 38.*
- (2) BYRE: (1975) “Compulsory Live Saving Treatment for the Competent Adult,” 44 *Fordham L.Rev.* 1 at 29
- (3) Emiri O.F. *Medical Jurisprudence*, Jeroilromah Press, PP. 191-192.
- (4) Fadare, J.O Desalu O .O, Jemiloun A. C, Babatunde A.O (2012) “Knowledge of Medical Ethics among Nigerian Medical Doctors” *Niger.Med. J. (Serial online)* , 53: 226-30. Available from: <http://www.Nigeriamedj>.
- (5) Ilkic 1. (2012), “Bioethical Conflict between muslim patients and German Physicians and the principles of Biomedical Ethics” *Med.Law* 21:243-56.
- (6) Kottow, M. (1986)“Medical Confidentiality Intransigent and Absolute Obligation”, *Journal of Medical Ethics*.
- (7) Michael. A. J. (1991) *Medical Negligence*, London, (Sweet & Maxwell),
- (8) Microsoft (R) Encarta (R) 2009.
- (9) Nasiru, T. (2006-2007)‘Physicians, Patients and Blood: Informed Consent to Medical Treatment & Fundamental Human Rights’ *Ikeja Bar Journal, Vol.1 Parts 1&2, P. 96-108.*
- (10) Oxford Advanced/Learner's Dictionary, Special Price Edition (1998) (6th impression 2000
- (11) Ong, W.Y, Yee C.M, Lee A, (2012) “Ethical Dilemmas in the Care of Cancer Patients near the End of Life” *Singapore Med.J.*, 53:11-6
- (12) Sanetmanli, M. (2010) “Shared Decision Making, Paternalism and Patient Choice” *Health Care Anal: 18:60:84*
- (13) Smith, D.H, 1996 “Ethics in the Doctor-Patient Relationship” *Crit. Care Clinic* , 12: 179-97.