

A Study of The Experience of Litigation By Healthcare Providers At The Enugu State University Teaching Hospital, South East Nigeria

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Abstract

Aim; To study the experience of litigation by Health Care Providers (HCP) at the Enugu State University Teaching Hospital, Enugu, South East, Nigeria **Method;** A total of 300 health care providers comprising 274 medical doctors and 26 Nurses working at the Enugu State University Teaching Hospital (ESUTH) were studied during the period February to June 2021. Their demographic characteristics like age, marital status and number of years of practice were taken. They were questioned on their experience of litigation in the course of carrying out their duties in medical practice. **Results;** Most of the respondents fell within the age group 30-39years while the least number fell between the age group 50-59years. Concerning the number of years of practice, the greatest number of respondents said they had been in practice for 6-10years. 35 respondents claimed they have faced litigation in the past 5years while 4 of those 35 respondents claimed the experience was stressful. In table 4, 19 respondents said they had faced a panel of enquiry in the hospital while 16 out of the 19 said the reason for their arraignment was because of negligence. In Table 5, 153 respondents who claimed that they knew of their colleagues involved in malpractice but were not taken to court said they did not know the reason for their non prosecution while others declared various reasons for their not being prosecuted.

Conclusion; Litigation in medical practice as experienced by the HCP in ESUTH Enugu has not been as common as expected since only 35 (11.67%) of the 300 respondents had experienced litigation. This may largely be attributed to the high level of ignorance and illiteracy among the members of the community. Most relations of patients who die out of negligence or malpractice by HCPs decide to leave the judgment to God rather than go through the rigorous process of the legal tussle to seek redress in court. This is even made worse by the fact that the court in Nigeria is not a place where one is very sure of obtaining justice.

Key words: Experience of litigation, Health Care Providers, Enugu State University Teaching Hospital. Enugu State. South East Nigeria.

Introduction

Litigation is referred to as the conduct of lawsuit, a civil action brought to court of law in which a plaintiff demands a legal or equitable remedy¹. A plaintiff on the other hand, is a party who claims to have incurred loss as a result of a defendant's action². In this study, a plaintiff could be a patient or a patient's relation, whereas the defendants refer to the healthcare providers which are mainly nurses and doctors. Litigation is usually as a result of medical malpractice which could be in form of medical error or medical negligence. There is often a thin dividing line between the three levels of negligence; *lata culpa* gross neglect; *levis culpa* or ordinary neglect; and *levissima culpa* slight neglect³. The difference between medical negligence and medical error is well settled, and the principles are well founded being laid down in numerous cases by the supreme court.⁴ In either case, there must be damage before a claim could be said to have a basis. The duties which the doctor owes to his patients are a duty of care in deciding whether to undertake the case, a duty of care in deciding which treatment to give, and a duty of care in the administration of that treatment⁵. Research studies have shown that patients and families that considered litigation for medical errors are likely those that were more dissatisfied with the explanation they received from the medical practitioner^{6,7}. Admittedly, failure to disclose medical errors constitute unethical behavior than the medical error itself^{8, 9}. Professional and ethical guidelines, and patient safety organizations^{10,11} recommend disclosure of medical errors and recent quality of care in health-care settings and disclosure of unexpected outcomes to hospital accreditation¹². Most doctors in Pennsylvania are practicing "defensive medicine" or ordering more tests and procedures that might not be medically necessary but could shield them from lawsuits¹³. Almost 80 percent of Americans are concerned that frivolous lawsuits have made it harder for them and their families to get affordable healthcare. Quality and access to health care is being threatened in many states. The American Medical Association has identified 20 states as presently facing a medical liability crisis¹⁴. Reports indicate that the occurrence of medical negligence is significantly high in Nigeria.^{15,16} While there is no incontrovertible data on the actual number of medical negligence cases in Nigerian Hospitals, patients and medical practitioners acknowledge that the number may be very high¹⁶. While the incidents of medical negligence have been high, a comparatively low number are litigated in the courts for redress due to some factors. "Many people die in Nigerian hospitals as a result of medical negligence, yet few cases of medical negligence are ever reported and even fewer prosecuted. Long trial periods, corruption and a general mistrust of the judicial system are a few of the reasons many Nigerians think twice before filing a case of medical negligence in the courts"¹⁵

Material and Methods; A total of 300 health workers comprising of 274 Doctors and 26 Nurses working in the various clinical departments of the Enugu State University Teaching Hospital GRA Enugu were used in this cross-sectional observational study. These Nurses and Doctors were selected to ensure a good coverage of all the clinical departments in the teaching hospital comprising Accident and Emergency, Obstetrics and Gynaecology, Internal Medicine, Surgery, Pediatrics, Laboratory Medicine and Community Medicine. Those who were too busy to participate in the study were duly exempted. After obtaining permission from the ethical committee of the hospital, a self-administered questionnaire was issued to the participants. The questionnaire contained questions on their ages (in years), number of years in practice, their exposure to litigation in the cause of performing their normal duties and their knowledge of the exposure of their colleagues. The years of practice were restricted to between 1 and 20 years

mainly because those with above 20 years of practice were mainly consultants and medical elders who were too busy to respond to our questions. The age category ranged from 20 to 59years because 60years is the age of mandatory retirement from service. The questionnaires were retrieved and analysed after completion.

Statistical Analysis; Data from the questionnaire was analyzed using the statistical package for social sciences (SPSS) software version 11.0. Information was presented in the form of tables..

Results; during the period of this study, a total of 300 participants comprising 274 doctors and 26 nurses took part in the study. The results are displayed in the following tables.

Table 1. Age in years

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	20-29 years	53	17.7	18.2	18.2
	30-39 years	194	64.7	66.4	84.6
	40-49 years	41	13.7	14.0	98.6
	50-59 years	4	1.3	1.4	100.0
	Total	292	97.3	100.0	
Missing	System	8	2.7		
Total		300	100.0		

The most predominant age group is 30-39years (66.4%) while the least is 50-59years (1.4%)

Table 2. No of Years of Practice

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1-5 years of practice	80	26.7	26.9	26.9
	6-10 years of practice	130	43.3	43.8	70.7
	11-15 years of practice	80	26.7	26.9	97.6
	16-20 years of practice	7	2.3	2.4	100.0
	Total	297	99.0	100.0	
Missing	System	3	1.0		
Total		300	100.0		

The most predominant no of years is 6-10years while the least is 16-20years. The younger doctors who are mainly house officers, senior house officers and junior residents make up about 26.7%. They are those who are within the age range of 1-5 years in medical practice. Some young nurses also fall into the same practice year group.

Table 3. The experience of litigation by HCPs

Variables		Response if yes How was the experience?			
		Not Stressful	Stressful	Neutral	Very stressful
Have you faced any litigation(s) in the last five years?	YES 35	1	2	2	30
	NO 265				
Was there a claim (i.e. was the patient/client awarded some compensation by the court)?	YES 4	Not Applicable			
	NO 31				

- From table 4.2 above, 35(11.6%) respondents have faced litigations in last the five years while 265(88.4%) have not faced any litigation within the same period. 30(85.7%) out of the 35 that have faced litigation claimed that the experience was very stressful. Only 4(11.42 %) of the respondents who faced litigation claim their patients/clients were awarded some compensation by the court.

Table 4 Experience of facing a panel of enquiry

Have you faced any panel within the hospital on account of alleged negligence/malpractice?		YES = 19		
		Reason for facing panel		
		Negligence	Malpractice	misdiagnosis or delayed diagnosis
	NO 281	16	2	1
		How did it affect your practice?		
		Nothing Changed		Improved competence
		3		16

- **Table 4.** shows that 19(6.33%) of respondents have faced panel within the hospital.
- 16 were on account of negligence, 2 for malpractice and 1 for misdiagnosis or delayed diagnosis.
- 16 of the 19 claimed that it improved their competence while 3 said that nothing changed.

Table 5. Even though I am aware of a colleague/colleagues who were involved in bad medical practice, a court redress was not sought because.

Variables	Frequency(%)
The patient/client has no money to hire the service of a lawyer.	31(10.33)
There was no confidence that the court would give the patient/client a fair hearing.	1(0.33)
The healthcare worker pleaded with the patient/client to forgive the health worker involved.	14(4.67)
The patient/client decided to leave it to God.	12(4)
I don't know the reason	153(51)
No response	89(29.67)
Total	300

- Table 5 shows that greater percentage of respondents 153(51%) do not know why patients did not seek for a court redress even though their colleague(s) in the department were involved in bad medical practice.

Discussion. Our results show that 35 out of the 300 respondents or (11.5%) actually accepted that they have experienced exposure to legal action during their medical practice in the hospital. This agrees with the reports by Ofinola^{15,16} which state that the occurrence of medical negligence is significantly high in Nigeria.^{15,16} While there is no incontrovertible data on the actual number of medical negligence cases in Nigerian Hospitals, patients and medical practitioners acknowledge that the number may be very high¹⁶ While the incidents of medical negligence have been high, a comparatively low number are litigated in the courts for redress due to some factors. “Many people die in Nigerian hospitals as a result of medical negligence, yet few cases of medical negligence are ever reported and even fewer prosecuted”. Long trial periods, corruption and a general mistrust of the judicial system are a few of the reasons many Nigerians think twice before filing a case of medical negligence in the courts”¹⁵ Our result inversely correlate with findings in America which state that almost 80 percent of Americans are concerned that frivolous lawsuits have made it harder for them and their families to get affordable healthcare. Quality and access to health care is being threatened in many states. The American Medical Association has identified 20 states as presently facing a medical liability crisis¹⁴ While the scenario in America shows that there is “over litigation” which has led to a decline in medical services as a result of the medical personnel limiting their services and patients being reluctant to attend hospitals, that of Nigeria is seen as “under litigation” because although a lot of negligence and malpractice is going on in our hospitals, the patients or their relatives cannot report to the law enforcement authorities due to illiteracy, ignorance, poverty and lack of confidence in the country’s legal system. Many Nigerian families who lose their loved ones in the hospitals as result of negligence or malpractice refuse to go to court but would rather take everything as ‘an act of God’ **Conclusion;** Since the problem with the Nigerian medico-legal system is as poor as have been stated above and the factors responsible have been identified, the solution will be for the government and relevant non-governmental organisations to embark on public enlightenment of the populace on the need to demand for legal redress in the courts when they become victims of negligence and malpractice of the health system. There is also the need to sanitize the country’s legal system so that the public can start having confidence in it. Hospital

authorities should take matters of medical negligence and malpractice very serious and do meticulous investigations so as to punish the culprits.

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