

AN OVERVIEW OF THE MEDICOLEGAL AND ETHICAL ISSUE IN NURSING PRACTICE: THE NIGERIAN EXPERIENCE*

Abstract

Nursing is a caring profession which is as old as the human existence and has overtime developed its language, rituals, art and science. Nursing in Nigeria has equally developed through the precolonial to post-colonial era and it has developed its code of practice, which has similarities with those of its foreign counterpart. The objectives of this paper is the overview of the medico-legal issue as well as ethical issues in nursing practices. Also, it examined the issues of negligence and malpractice in nursing practices. This paper used doctrinal method of research by analyzing the opinion of writers, case laws and provision of the Nursing and Midwifery Act. In the course of the research, it was observed that there was not much jurisprudence on nursing malpractices presumably because such cases were never reported or tried, and more so, most Nigerians overlook any misconduct of nurses. Based on the finding, it is recommended that the public should be sensitized of patient's rights and should imbibe the confidence of reporting any unethical or unprofessional act/conduct of a nurse for judicial determination. In like manner, the nurses should be taught of the rights of patients, what standard of care is required in the nursing practice and what constitutes malpractice and negligence. This will engender compliance attitude to the rules and standards of nursing practice for an enhanced medical and health delivery.

Keywords: Overview, Medico-legal, Ethical Issue, Nursing Practice and Nigerian Experience.

1. Introduction

Nursing has been called the oldest and youngest of the professions. The word 'nurse' evolved from the Latin word 'nutrix' meaning to nourish or cherish. Nursing as a profession is a calling that requires special knowledge, skill and preparations. It requires advanced knowledge and skills and grows out of society's need for special service.¹Nursing has been defined overtime by many authors and some notable ones are reproduced here. Thus, Florence Nightingale (1969) defined nursing as the act of utilizing the environment of the patient to assist him in his recovery.²Virginia Henderson (1997) opined that the unique function of Nurses in caring for individuals, sick or well, is to assess their response for their health status and to assist them in the performance of those activities contributing to health or recovery or to dignified death that they would perform unaided if they had the necessary strength, will or knowledge and to do this, in such a

* **F.O. Agbo**, LLB, BL, LLM, MIMHL, MMLP, Ph.D Faculty of Law, Veritas University Bwari, Abuja FCT. kingschild4you@gmail.com, kingschild4u@yahoo.com Phone Number: +2347033963763.

¹ B. K. Devu, Introduction to Nursing Profession, "Nursing as Profesion" Published on July 24, 2018, available at <<https://www.slideshare.net>>, accessed 13th June, 2023.

²*ibid.*

way as to keep them gain full or partial independence as rapidly as possible.³ Besides, the World Health Organization holds that ‘Nursing encompasses and gives care to individuals of all ages, families, groups and communities, sick or well and in all settings. It includes the promotion of health, the prevention of illness and the care of ill, disabled of dying people.’⁴ In addition, the Nursing and Midwifery Council of Nigeria defines a professional Nurse as ‘a person who has received authorized education, acquired specialized knowledge, skills and attitudes, and is registered and licensed with the Nursing and Midwifery Council to provide promotive, preventive, supportive and restorative cure to individuals, families and communities, independently and in collaboration with other members of the health team.’⁵

Flowing from the definition of the Nursing and Midwifery Council of Nigeria, the basis for the practice of Nursing is legislation and continuous licensing. Nursing as a profession is as old as human existence and it has overtime developed its language, ritual, arts and science from the physical and psycho-social and spiritual needs of the patients.⁶

Thus, nursing in Nigeria has developed through the pre-colonial, colonial and post-colonial era to what it is today. The formal training was first undertaken by various mission post which later formed the nucleus of the various training schools. Now in Nigeria, there are various nursing training schools both in universities, teaching hospitals and training colleges. This work deals on legal framework on nursing in Nigeria; functions of law in nursing; ethical issues in nursing practice in Nigeria; some instances of negligence in nursing practice; medical responsibilities of nurses in healthcare services; legal responsibilities of nurse in Nigeria; and medical responsibilities of nurses in healthcare services.

2. Legal Framework of Nursing Practice in Nigeria

Nursing is a caring profession, which has its relevance and direct impact on the life, health and well being of individuals, families and communities. It is therefore important to regulate the practice of nursing to ensure those standards are maintained to achieve safe practice.⁷ Law, on the other hand is defined as those rules made by humans that regulates social conduct in a formally prescribed and legally binding manner⁸. Also law is described as he body of official rules and regulations, generally found in constitutions,

³*Ibid.*

⁴ World Health Organization, Definition of Nursing, available at <www.who.int/topics/nursing/en/>, accessed on 13/5/2021.

⁵ NMCN, Code of Professional Conduct (2017), available at<<http://www.nmen.gov.ng/codee>>, accessed on 13/5/2021.

⁶ M. I. Olatubi, *History of Nursing in Nigeria* (Osun State: Bowen University, Iwo, 2021).

⁷ M.P. Ayara, *The Nurse and The Law*, 2018, available at <<http://www.mindofanurse.com>>, accessed on 28/06/2021.

⁸*Ibid.*

legislation and judicial opinions, which is used to govern a society and to control the behavior of its members.⁹

The first Nursing Law created was that of North Carolina in the United States (permissive Licensure for Nurses) in 1903.¹⁰ In Nigeria, Nursing and Midwifery profession of solely populated by the Nursing and Midwifery Council of Nigeria, a body most established by the Nursing and Midwifery Decree 89 of 1979, which was subsequently amended in 1988 and 1992 respectively. The Nursing and Midwifery Council of Nigeria is saddled with the responsibility of:

- (i) Determining the standard of knowledge and skills to be attained by person seeking to become members of the profession and reviewing this standard from time to time as the circumstances required;
- (ii) Establish and maintain a register of person entitles to practice the profession;
- (iii) Regulate and control the practice of the profession in all its ramifications;
- (iv) The responsibility of maintain of discipline within the profession.¹¹

The Act also makes provision for the establishment of the disciplinary tribunal,¹² known as the Nursing and Midwives Disciplinary Tribunal and provided for penalties for the professional conducts by Nurses and Midwives.¹³

In furtherance of its function to regulation and control the profession and to maintain discipline, the council established the Code of Professional Conducts for Nurses and Midwives which regulates the relationship of nurses and patient, nurses *inter se*, the profession in general and the public. The law serves a number of functions in Nursing where are as follows:

- (i) To provide a framework for establishing which Nursing actions in the care of the clients is legal;
- (ii) To differentiate the Nurses responsibilities from those of other health professionals;
- (iii) Helps establish the boundaries of Independent Nursing action;
- (iv) Assists in maintaining standard of Nursing Practice by making Nurses accountable under the law.¹⁴

3. Medical Responsibilities of Nurses in Healthcare Services

In the practice of nursing, nurses are not to assume the name, the discipline of medical practitioners, and therefore, should not adopt patient with the view of performing the basic duties of a medical practitioner. Nurses are the support system in every medical

⁹*Ibid.*

¹⁰*Op. Cit.* (Fn. 7).

¹¹ Nursing and Midwifery Act, 1979, section 1(2)(a-e).

¹²*Ibid.*, section 17(1).

¹³*Ibid.*, section 18.

¹⁴ H.Lkabeer, 'The Nurse and the Law', 2018, available at <<http://www.nursingworldnigeria.com>>, accessed on 28/06/2021.

institution and their roles cannot be overemphasized. Their duties transcend mere monitoring of patient's vitals, admitting patients and administration of drugs. Other roles which Nurses perform during every shift includes not limited to:

(i) **Noticing irregularities and problems:** Nurses catches any changes, knowing which symptoms might be expected and which indicator of deeper problem. They analyze lab and other results, make decisions and communicate their concerns to the rest of the team.

(ii) **Teaching:** Nurses regularly educate others about illnesses, procedures and symptoms they experience as well as how to care for themselves or their family member when discharged. For instance, educating new mother on breastfeeding, medication administration, bathing and developmental expectations.¹⁵

(iii) **Advocating for patients beyond the healthcare environment:** Nurses are often responders who step in to assist patients long after their time in the hospital. It is part of a holistic approach to Nursing.¹⁶

(iv) **Caring for the patients loved ones:** Nurses provides a lot of emotional support to the patient's the family members, friends and loved ones who may be experiencing devastating emotions.

(v) **Building Trust with patients:** Nurses do a lot of emotional work with their patients to make their hospital experience as painless as possible. When Nurses earn their patient's trust, those patients will have fewer barrier to their own healing.

(vi) **Consistently and carefully adhering to protocols:** Nursing is also a very technical work. Nursing work is very intricate and done according to very specific protocols with procedure, safety and cleanliness. It therefore, requires focused attention in order not to harm the patient in the process.¹⁷

(vii) **Analyzing variables to deduce the impact on patients:** Nurses use astute assessment skills to uncover what underlying issues are and how they affect the patient; treatments and interventions, anticipating what could go wrong and responding decisively. They have all the information on Anatomy, physiology, pharmacology, microbiology etc. Their biggest challenge is bring all the information together and thinking critically, how it all affects the patient mentally, physically and otherwise.¹⁸

4. Legal Responsibilities of Nurse in Healthcare

In the practice of nursing, nurses are expected to observe and abide by the laws and regulations guiding the practice of nursing. Not abiding by these laws and code of ethics could cost the nurse his/her license and may result in malpractice suit.¹⁹ These legal roles includes but not limited to the following areas:

¹⁵ B. Flavin , '9 Nurse Duties You May not Know,' 2018,<<http://www.rasmussen.com>>, 28/06/2021.

¹⁶*Ibid.* (Fn. 16).

¹⁷*Ibid.* (Fn. 16).

¹⁸*Ibid.* (Fn. 16).

¹⁹*Ibid.* (Fn. 16).

(i) **Administration of Medication:** Nurses who are certified to administer medication to patients must do so accurately and timely. The nurse has the legal responsibility to interpret the files of a patient and to understand what allergic reaction a patient may or may not have to certain medications.²⁰ In drug administration, the nurse has the legal duty to administer the drugs to the right persons, with the right medication, at the right dosage and route and the right time. There must be right documentation of the drug administration and medications must be administered for the right reasons and must lead to the right response.²¹ Where a nurse administers the wrong medication, the patient could suffer major health risks or even death and this is a ground for a malpractice suit.²²

(ii) **Patient Advocacy:** A nurse has the legal responsibility to advocate for a patient in all the health care instances, including emergencies. The nurse will be the liaison between the physician and the patient. The nurse has the legal duty to monitor the patient and watch for any abnormalities or complications that may occur. If any occurs, the Nurse must access a physician to provide immediate care for the patient.²³

(iii) **Patient care:** The nurse will provide care for the patient he or she is monitoring at all times. If the patient needs assistance with any issues, such as hygiene, the Nurse has the legal responsibility to assist the patient. If a nurse does not monitor and provide care to the patient, this can be considered as patient neglect, which is both unethical and illegal. Some patient may harm themselves while under, the influence of medication, which should not happen if the Nurse is paying proper attention to his or her patient.²⁴

(iv) **Consent Forms:** Nurses have the legal responsibility to explain all treatment, medications and lab results to patients or authorized family members of patients. Before a Patient may undergo surgery, he or she will need to sign a consent form. If the nurse is administering her treatment, such as anesthesia, it is the nurse's legal obligation to explain the negatives and positives of the anesthesia. The patient or family member must then sign a consent form acknowledging that the patient understands the procedure. If this form is not signed and complication occurs, the Nurse may face legal consequences.²⁵

5. Medico-Legal Issues in Nursing Practice

According to Black's Law Dictionary, medico-legal is the application of medical science to law.²⁶ It can also be defined as a case of injury or ailment in which investigation by law enforcement agencies are essential to fix the responsibility regarding causation of the said injury or ailment.²⁷ In simple explanation, it is a medical issue with an

²⁰*Ibid.*

²¹ L. Bonsall, 8 Rights of Medication Administration, 2011.

²²*Ibid.* (Fn. 16).

²³*Ibid.* (Fn. 16).

²⁴*Ibid.* (Fn. 16).

²⁵*Ibid.* (Fn. 16).

²⁶ Black's Law Dictionary

²⁷C. Samara, Medico-legal Issues in Casualty and Hospital, (Published in Health & Medicine (2015).

underlying legal implication which requires further investigation by a law enforcement agency to determine it's cause.

Aside the regulation of nursing practice and standard, each hospital/institution has its rules and code of practice laid down to ensure safety and well-being of the patients. Nurses who do not oblige to these rules and codes and causes harm to any patient may be liable. Hence, a nurse need to ensure that the right patient gets the right treatment, use her professional judgement while caring for patients, do not attempt anything beyond her competence and should not exceed the limits of nursing procedures laid down.²⁸ Some of the medico-legal issues are discussed hereunder:

5.1 Malpractice: It is the failure of a professional person to exercise a degree of professional skill or services which results in injury, loss or damage. Some common examples of malpractice claims arising against a nurse includes:

- (a) Failure to properly monitor: it is the nurse's duty to monitor the patient, keep track of his/her condition and inform the attending physician of all changes. If a nurse fails to properly assess a patient's condition which directly results in further harm or injury to the patient, the nurse will be held liable for malpractice;²⁹
- (b) Error in medication: nurses are tasked with administering various medications to the patients. If a patient receives a wrong medication or wrong dosage, the administering nurse could be held responsible for the consequences;³⁰
- (c) Error in routine procedure: nurses perform a variety of routine procedures such as; starting an IV, drawing blood, taking patient's blood pressure, putting in catheters etc. in performing these routines, the nurse is expected to act in utmost care. If error occurs and a patient is harmed in the process, the nurse could be held responsible;³¹
- (d) Failure to make appropriate documentation: one of the responsibility of nurses is accurate and precise documentation of the patient's condition (i.e. vital, medication, dosage, reactions etc.) when done improperly, the patient may suffer severe consequences with the most extreme being death. The nurse will be held liable;³²
- (e) Failure to follow standard of care;
- (f) Failure to use equipment responsibility;
- (g) Failure to communicate to appropriate personnel;

²⁸*bid.* (Fn.28).

²⁹ Oshman, *Nursing Negligence: Patient Safety and Care in the Hands of Nurses*, (2019), available at <www.oshmanlaw.com/medical-malpractice/nursing-negligence>, accessed on 4/7/2021.

³⁰*bid.* (Fn.30).

³¹*bid.* (Fn.30).

³²*bid.* (Fn.30).

- (h) Failure to get informed consent from patients before carrying out procedures on them;
- (i) Incorrectly performing a procedure or trying to perform a procedure beyond the Nurses scope or job description;³³

5.1.1 Ways of Maximizing the Risk of Malpractice

Nurses should be cognizant of legal risks in providing care. Reising (2012) suggests that the following action can help to maximize a nurse's risk of being sued for malpractice. Thus, nurses should:

- (a) Know and follow his/her state's Nurse's Practice Act and the hospital's policies and stay up-to-date in the field of practice;
- (b) Promptly report abnormal assessments, including laboratory data and document what was reported and any follow-up;
- (c) Assess the patients in accordance with policy and their physician's order and more frequently, if indicated by the Nursing judgement;
- (d) Follow-up on assessments or care delegated to others;
- (e) Communicate openly and factually with patients and their families and other health providers;
- (f) Document all Nursing care factually and thoroughly and ensure that the documentation reflects the Nursing process; never chat ahead of time;
- (g) Promptly report and file appropriate incident reports for deviation in care;³⁴

5.2 Negligence: Black's Law Dictionary defines negligence as 'the omission to do something, which a reasonable man, guided by those ordinary considerations, which ordinarily regulates human affairs, would do or the doing of something, which a reasonable and prudent man would not do. Negligence is the failure to use such care as reasonable prudent and careful person would use under similar circumstances. It is the doing of some act which a person of ordinary prudence would not have done under similar circumstances or failure to do what a person of ordinary prudent would have done under similar circumstances.'³⁵

Failure to exercise the appropriate and or ethical care expected to be exercised amongst specified circumstance, which places the person at risk for harm. It is also defined as 'failure to exercise the degree of care that a person of ordinary prudence would exercise under the same circumstances.'³⁶The liability of the nurse for negligence must be determined upon ordinary principles, *to wit*:

- (i) What was it that she did or did not do?
- (ii) What training did she receive?

³³*Ibid.* (Fn.7)

³⁴*Ibid.* (Fn.14).

³⁵ Blacks Law Dictionary, 9 edition; *Odinaka v. Moghalu*(1992} 4 NWLR pt 233 at p 135.

³⁶*Ibid.*, (Fn.7).

- (iii) What books and manuals did she have?
- (iv) What experience?
- (v) What instructions?
- (vi) What status?
- (vii) What was the normal and acceptable professional Nursing practice in that situation?
- (viii) Did she call for advice or assistance?³⁷

In test of negligence, the Bolam principals also applies to a nurse as well as a medical practitioner. She must exercise the care and skill she professes, such as is reasonably to be expected of her, in accordance with acceptable good nursing practice.³⁸

In proof of malpractice and negligence, a scenario is created where a nurse had ignored a patient's rising blood pressure all day and the patient had a stroke. To prove malpractice and negligence, four elements must be present, *to wit*:

- (a) Duty of care: The nurse had the duty to act (respond to the patient's rising BP)
- (b) Breach of Duty of Care: The Nurse neglected to act
- (c) Proximal cause: The BPs are well known to cause hemorrhagic stroke
- (d) Actual harm: The patient suffered stroke

The presence of these elements proves the presence of malpractices.³⁹ Some instances of negligence in nursing practice include:

- (i) Failure to protect a patient from falling resulting to injury;
- (ii) Administering wrong medication to patient that could result to death;
- (iii) Failure of the nurse to properly an infant's breathing when the child was receiving narcotics following surgery resulting in prolonged respiratory arrest and severe brain injury;
- (iv) Failure of the operation Room Nurse to properly position surgical patient causing permanent severe nerve damage to the patient's leg;
- (v) The Nurse pulling out urinary catheter on patient without first deplating the catheter inside the bladder thereby causing incredible pain and damage to the internal structures; and
- (vi) Failure of the Nurse to timely turn an unconscious or immobile patient thereby resulting in pressure ulcers.⁴⁰

Other instances include:

- (i) Failure to ensure instruments were correct and sterilized;⁴¹
- (ii) Leaving a tube in the patient's body;⁴²

³⁷ A. Samuel, 'The Liability of the Nurse – The Lawyer's View,' 1993, available at <<http://www.journal.sagapub.com>>, accessed on 28/06/2021.

³⁸ *Bolam v. Friern and Barnet Hospital Authority* (1957) IWL 582.

³⁹ *Ibid.*, (Fn. 7).

⁴⁰ *Ibid.*, (Fn. 7).

⁴¹ *Crotch v. Miles* (1930) BMJ 620

- (iii) Hot water bottle allowed to come into contact with the patient causing severe burns;⁴³
- (iv) A Nurse mislead the written instructions, she did not check the bed card and administered a excessive dose;⁴⁴
- (v) A Nurse, who gave extraction unauthorized injections of streptomycin;⁴⁵

6. Ethical Issues in Nursing Practice in Nigeria

In Nigeria, the Nursing and Midwifery Act⁴⁶ provides that the Nursing and Midwifery Council of Nigeria is the only legal, administrative and statutory body charged with the responsibility to regulate the standard of Nursing and Midwifery Practice and Code of Conduct in the Country.

This code of ethics which regulates the Nurse and patient relationship is mostly universal in nature. It is rare to find a wide gap between the ethics governing the Nigeria Nurse and her foreign counter part.⁴⁷ Examples of these codes includes:

- (i) Florence Nightingale pledge of 1893;
- (ii) Nurses Pledge of 1950;
- (iii) American Nurses Association Code for Nurses;
- (iv) Internal Code of Nurses (ICN); and
- (v) National Association of Nigeria Nurses and Midwives Code of Ethics.

Some of the provisions of the Codes of Ethics and instances where the nurse is adjudged unethical includes:

- (a) A Nurse should take instructions from a doctor and act strictly on the instructions given. In *Barnett v. Chelsea and Kensington Hospital Management Committee*⁴⁸ it was stated that a nurse must acknowledge any limitation in her job description, knowledge and expertise and decline duties that falls within the doctor's competence.
- (b) A nurse should not or disclose personal information she receives from the patient to a third party or else that will be infringing on the patients right of privacy. The nurse is to ensure that an unauthorized person does not have access to a patient's medical record and must ensure proper maintenance of a patient's record.⁴⁹

⁴²*Fox v. Glasgow South Western Hospitals*(1955) SLT 337.

⁴³*Hall v. Lees*(1904) 2KB 602 CA

⁴⁴*Strangways-Lesmere v Clayton*(1936) 2KB 11

⁴⁵*Smith v Brighton and Lews Hospital*

⁴⁶ CAP N143 LFN 2004.

⁴⁷ (1969) 1 QB 428.

⁴⁸ (1969) 1 QB 428.

⁴⁹ C. Unini, 'Nurses, Ethics and Law, 2016', available at <<http://www.nursingcenter.com>>, accessed on 28/06/2021.

- (c) A patient should understand what he is getting into and therefore a nurse should not harbor the erroneous impression that a patient cannot understand medical information. In *Montgomery v. Lanarkshire Health Board*⁵⁰ the court stated that it is a questionable generalization to believe patients are incapable of understanding medical matters.
- (d) It is unethical for nurse to label and stigmatize a patient with the disease or ailment affecting him. For example, depicting the patient with names such as ‘that man with prostrate,’ ‘HIV man’ or ‘breast cancer woman’ is an abuse of the nursing profession.⁵¹
- (e) The nurse’s duty is to save lives. Challenges such as shortage of nurses, serious pressure of work and lack of upgraded facilities in the hospital are no excuse for laxity in saving lives.⁵²
- (f) A nurse should not dismiss the patient’s concerns and must realize each patient is unique requiring individual assessment. A patient’s choice must be respected except it has to do with a minor, an unconscious patient or a mental patient while female patient’s preference for a female Nurse rather than a male Nurse should equally be respected. A Nurse must appreciate that consent whether written or oral can also be withdrawn any time. In *Toews v. Weisner*⁵³ a public health Nurse was found liable in battery for vaccinating an 11 years old plaintiff against Hepatitis B based on the verbal consent of the parent even though the plaintiff informed the Nurse that her parents did not want her to be vaccinated. Court held that record of the plaintiff’s parent verbal consent was made in error.
- (g) In course of her duty, professional demeanor is important. A Nurse must not be hostile or impolite to the patient to create or demand respect. There should be no preferential treatment or discrimination.
- (h) A nurse should not embark on a sexual relationship with a patient especially if he is vulnerable. For example, an adult psychiatric nurse in the United Kingdom who married her patient was found guilty of misconduct
- (i) Even though a nurse can consider the views, culture and beliefs will providing care, a nurse should as a duty place medical ethics over her personal faith or ethics. All manner of prejudices are unprofessional. For instance, it is unethical for a Jehovah witness nurse to decline administering blood transfusion on a patient who consents blood transfusion. No Nurse should advice a patient to seek out a native doctor or a pastor for a prayer or preach a religion to patients.⁵⁴

⁵⁰ (2015) UKSC 11.

⁵¹ *Ibid.*, (Fn. 51).

⁵² *Ibid.*, (Fn. 51).

⁵³ (2001) BCJ 30

⁵⁴ *Op. Cit.*, (Fn. 45).

- (j) A Nurse should generally be aware of the definition of standard of care, what constitutes negligence; professional malpractice and misconduct, patient's constitutional rights and autonomy, care in emergencies and breach of professional standard, etc.
- (k) Nurse should not drink alcohol on duty or steal drugs intended for patients, sell items to patients or dress indecently. In Columbia, a Nurse who dance for a few minutes to a pop music and filmed it while in middle of a surgery was sanctioned after she posted the video online.⁵⁵

7. Conclusions

Historically, nurses are generally conceived to be handmaidens or subordinates to medical doctors until late 1970s' and early 1980s' when the court in the case of *Maloney v Wake Hospital System* and *Avet v. Mc Cormick* held that the role of the nurse is critical to providing a high standard of health care in modern medicine. Her expertise is different from but no less exalted than that of the physician. There is no way one can practice nursing effectively without being knowledgeable on the laws that establish, control and promote nursing practice. A nurse with sound knowledge of the legal aspect of nursing will remain an asset to the profession. The code of professional ethic is a nurse's guiding principle and practice and she is bound by her professions code of conduct. This is in order to ensure that the best interest of the patient is protected.

However, there is scarcity of doctors both in government and private hospitals, which results in heavy workload and burnout among nurses, and which also contributes to the negligence. In addition, Nigerian patients do not know their rights, and therefore would not recognize the violation of such rights. Besides, most Nigeria patients see doctors and nurses as gods in uniform and therefore would overlook any misconduct by them. Furthermore, most nurses in Nigeria are not aware of what constitutes a malpractice or what the standard of care in Nursing practice is because emphasis are not laid on these while they are in training. Most times, nurses take up the position of medical doctors and perform medical procedures outside their job description without supervision. Unfortunately, there is no much of decided cases on nursing malpractice in Nigeria presumably because such cases are never reported or tried. Accordingly, it is recommended that the government and private hospitals should ensure the availability of doctors so as to reduce the work load of nurses in the healthcare services. Patients should be enlightened as to what their rights are in any of their dealings with a doctor, Nurse or any medical institution. Nurses should be taught in the cause of their training and the continuing professional education, the rights of patients, what constitute standard of care and malpractice. Also, they should be enlightened as to the legal implication in Nursing practice. The public should not shy away from reporting any unethical or unprofessional

⁵⁵*Op. Cit.*, (Fn. 45).

act/conduct of a nurse whether in private or public hospital to the Nurses and Midwifery Council of Nigeria. The government of Nigeria should, through legislative, administrative and judicial system, make public and private hospitals to take appropriate measures to protect patient's lives, and hold defaulters responsible and accountable.