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Medical Confidentiality and Informed Consent: An Analysis Under the Shariah and Nigerian Law

Folorunsho A. H.*

Abstract

Medical confidentiality is an essential aspect of healthcare that protects the privacy of patients' medical information. Both Shariah and Nigerian laws recognize the importance of medical confidentiality in safeguarding patients' rights and promoting trust in the healthcare system. This article provides an overview of medical confidentiality under Shariah and Nigerian laws, including patient rights, exceptions to confidentiality, and the obligations of medical professionals. Additionally, the article emphasizes the importance of informed consent and outlines the legal and professional consequences of violating medical confidentiality. By promoting understanding of medical confidentiality under Shariah and Nigerian laws, this article aims to promote greater awareness of patients' rights and help medical professionals provide more effective and ethical healthcare.

Keywords: Medical, Consent, Shariah, Nigerian Law

Introduction

Medical confidentiality is a fundamental aspect of modern healthcare, which is designed to protect the privacy of patients' medical records and information. This confidentiality is particularly important under Shariah and Nigerian laws, which recognize the right of patients to have their medical information kept private. In order to promote understanding of medical confidentiality under these legal systems, this article will provide an overview of medical

* Lecturer, Department of Islamic law, Faculty of Law, University of Ilorin. +2348055835613
alhamaweys01@gmail.com

confidentiality under Shariah and Nigerian laws. This will include an explanation of patient rights, exceptions to confidentiality, and the obligations of medical professionals. Additionally, the article will emphasize the importance of informed consent and outline the consequences of violating medical confidentiality. By promoting greater awareness of medical confidentiality under Shariah and Nigerian laws, this article aims to help patients and medical professionals better understand their respective rights and obligations, and promote more effective and ethical healthcare practices. Medical confidentiality is an important aspect of the doctor-patient relationship and is generally considered essential for the provision of quality healthcare. The confidentiality of patient information is protected by laws and ethical principles in many countries, including Nigeria. Shariah law, which is based on Islamic religious principles and ethics, also has provisions for the protection of medical confidentiality.

Furthermore, it is particularly important in the context of medical care, as patients are required to provide sensitive and personal information to healthcare providers for diagnosis and treatment. Laws and regulations related to medical confidentiality aim to protect patients' privacy and ensure that their sensitive health information is not disclosed to unintended individuals or entities without their consent or need. In this regard, both Shariah and Nigerian laws recognize the importance of medical confidentiality and provide guidelines for healthcare providers to follow. These guidelines are designed to balance the need to protect patient privacy with the need to share information when necessary to provide optimal care and treatment.

1. Explanation of Medical Confidentiality

Medical confidentiality, also known as doctor-patient confidentiality, refers to the legal and ethical obligation of healthcare providers to protect the privacy of their patients and keep their medical information confidential. It is an essential part of the doctor-patient relationship, as it allows patients to trust their healthcare providers and provide them with accurate and honest information about their health and medical history⁹⁷⁹. Medical confidentiality prohibits healthcare providers from disclosing any information related to a patient's health or medical history to third parties, including family members, employers, insurance companies, or law enforcement authorities, without the patient's explicit consent. Exceptions to this rule may exist

⁹⁷⁹ Health Insurance Portability and Accountability Act of 1996 (HIPAA) available at <https://www.cdc.gov/php/publications/topic/hipaa.html>

in situations where disclosure is required by law, such as reporting certain communicable diseases, or when a patient's health is in danger⁹⁸⁰.

Furthermore, the duty of medical confidentiality is not limited to medical professionals but extends to any staff members or organizations that may come into contact with patient information, including clerks, receptionists, and billing departments. Healthcare providers are required to implement reasonable measures to safeguard patient information, such as using passwords, encryption, and secure computer systems, and to inform patients of their privacy rights. It is a fundamental aspect of the doctor-patient relationship and is essential for building trust and ensuring quality healthcare⁹⁸¹. It is protected by laws and ethical principles and requires healthcare providers to keep patient information confidential except in specific situations where disclosure is necessary or permitted by law. It is also a legal and ethical obligation that healthcare providers have to protect and keep their patients' medical information confidential. This information includes all personal details related to the patient's health, treatment, and diagnosis, including their medical history, current health status, test results, and medication prescriptions.

Similarly, the primary purpose of medical confidentiality is to uphold the right to privacy of patients and to build trust between patients and healthcare providers. When patients feel that their personal information is being protected, they are more likely to share accurate and honest information with their healthcare professionals. This information is crucial in making informed decisions for the patient's care and treatment. In addition to protecting patient privacy, medical confidentiality also has a legal basis. In many countries, including Nigeria, healthcare providers are required by law to keep patient information confidential, and they may face sanctions for violating this confidentiality. The Nigerian Medical and Dental Council regulate medical practice in Nigeria, and one of its codes of medical ethics requires all medical practitioners to maintain patient confidentiality.

Additionally, there are situations where medical confidentiality may be breached, but only with the patient's consent or in certain circumstances as outlined by the law. For instance, healthcare providers may disclose a patient's medical information with the patient's consent or in

⁹⁸⁰ Medical Malpractice And Personal Injury Law Blog available at <https://www.gilmanbedigian.com/what-counts-as-a-breach-of-doctor-patient-confidentiality/>

⁹⁸¹ What You Need to Know About Breaches in Doctor-Patient Confidentiality available at <https://www.wkw.com/indianapolis-medical-malpractice-lawyers/blog/doctor-patient-confidentiality/>

emergency situations where disclosing the information is necessary to save the patient's life. Other circumstances that may require disclosure of patient information include legal proceedings, public health risks, or mandatory reporting of communicable diseases. Medical confidentiality is an essential aspect of healthcare that protects patient privacy and builds trust between healthcare providers and patients. Healthcare providers have a legal and ethical obligation to keep patient information confidential, and they should only disclose patient information in specific situations with the patient's consent or as required by law⁹⁸².

Importance of Medical Confidentiality In Healthcare

Medical confidentiality is crucial in healthcare for many reasons. Here are some of the most important reasons why medical confidentiality is essential in healthcare, protecting patient privacy: Medical confidentiality is essential to protect patient privacy. Patients want to share their medical information with healthcare providers without fear of judgment, discrimination, or stigmatization. Maintaining confidentiality helps patients feel more comfortable sharing sensitive information about their health and medical history; Building trust: When patients feel that their information is being kept confidential, they are more likely to trust their healthcare providers. This trust is critical to building a strong and effective doctor-patient relationship, which is necessary for providing quality healthcare; Facilitating accurate diagnosis and treatment: Patients may be hesitant to disclose relevant medical information if they feel their privacy is not being respected⁹⁸³.

This can lead to inaccurate diagnoses and treatment, which can have serious consequences for the patient's health; Compliance with legal and ethical standards: Healthcare providers have a legal and ethical obligation to maintain patient confidentiality. Medical confidentiality is a key component of medical ethics and is necessary to comply with the regulatory standards of medical practice. Preventing discrimination:⁹⁸⁴ Medical confidentiality also helps prevent discrimination against patients based on their medical conditions. If patient

⁹⁸² Federal Privacy Protections: Ethical Foundations, Sources of Confusion in Clinical Medicine, and Controversies in Biomedical Research available at <https://journalofethics.ama-assn.org/article/federal-privacy-protections-ethical-foundations-sources-confusion-clinical-medicine-and/2016-03>

⁹⁸³ Protecting patient confidentiality available at <https://www.medicalprotection.org/uk/articles/protecting-patient-confidentiality>

⁹⁸⁴ B. Gahlia, M Amanullah and L. Zakariyah. 2018 ' Medical Ethic in the light of Maqasid Al-Shariah : A case study of Medical Confidentiality.'

information is disclosed to unauthorized parties, patients may be discriminated against at work, school, or in other areas of their life; effective health policy: Health policies rely on accurate and up-to-date data, which can only be obtained if there is trust between healthcare providers and patients. Patients may withhold information if they do not trust that their information will be kept confidential, leading to flawed data and ineffective health policies. Medical confidentiality is essential in healthcare to protect patient privacy, build trust, facilitate accurate diagnoses and treatment, comply with legal and ethical standards, prevent discrimination, and support effective health policies.

Medical Confidentiality Under Shariah

In Shariah, medical confidentiality is considered an ethical responsibility of healthcare providers. Shariah law, which is based on Islamic religious principles and ethics, emphasizes the importance of privacy and respect for individuals' rights. Therefore, healthcare providers are required to keep their patients' medical information confidential and disclose it only to authorized parties who have a legitimate need to know. Shariah law, healthcare providers must obtain their patients' consent before disclosing any medical information. If a patient is unable to provide consent, healthcare providers may disclose the information if it is in the patient's best interest or if it is required by law. In cases where medical information must be disclosed to third parties, healthcare providers must limit the amount of information disclosed to only what is necessary for the authorized party to fulfil their role.⁹⁸⁵ It emphasizes the importance of preventing harm. Therefore, healthcare providers may disclose medical information without consent if the disclosure is necessary to prevent harm to the patient or others. For instance, if a patient has a communicable disease that could pose a risk to public health, healthcare providers may disclose the information to public health authorities without the patient's consent. It recognizes the importance of medical confidentiality and requires healthcare providers to keep patient information confidential, except in specific situations where disclosure is necessary, authorized, or required by law.⁹⁸⁶ Healthcare providers must obtain patients' consent before

⁹⁸⁵ Gahlia, M Amanullah and L. Zakariyah. 2018 ' Medical Ethic in the light of Maqasid Al-Shariah : A case study of Medical Confidentiality

⁹⁸⁶ Tavaokkoli, Saeid, Nejad sarvari, Nasrin and Ebrahimi, Ali, Analysis of Medical Confidentiality from the Islamic Ethics Perspective (Journal of religion and health) 2013/11/24

disclosing any medical information and must limit the amount of information disclosed to only what is necessary for the authorized party to fulfil their role.

Definition of Medical Confidentiality Under Shariah

The concept of medical confidentiality under Shariah law emphasizes the importance of preserving the privacy and dignity of individuals. Medical confidentiality refers to the obligation of healthcare providers to protect the confidentiality of patients' medical information and to keep it confidential from third parties. It is considered an ethical responsibility that healthcare providers must uphold. The basic principle is that patient information should only be shared with authorized parties who have a legitimate need to know, such as other healthcare professionals involved in the patient's care. In cases where patient information must be disclosed to third parties, the provider must obtain the patient's consent, unless the disclosure is required by law or necessary to prevent harm to the patient or others. It refers to the responsibility of healthcare providers to maintain patient confidentiality and protect their medical information from unauthorized disclosure. It is considered an ethical responsibility and requires healthcare providers to obtain patients' consent before disclosing their medical information to authorized parties.

Patient Rights Under Shariah

Under Shariah law, patients have a number of rights that are recognized and protected. These rights include: the right to access healthcare services: Patients have the right to access healthcare services without discrimination or prejudice. Healthcare providers must provide healthcare services to all patients regardless of their ethnicity, religion, or social status.⁹⁸⁷ The right to receive high-quality care: Patients have the right to receive high-quality and competent medical care. Healthcare providers must use their knowledge and skills to provide safe, effective, and timely medical care. The right to give informed consent: Patients have the right to give informed consent before any medical treatment or procedure. Healthcare providers must provide patients with information about the treatment or procedure, including the risks and benefits, so

⁹⁸⁷ Dargahi H. The Implementation of the Sharia Law in Medical Practice: A Balance between Medical Ethics and Patients Rights. *J Med Ethics Hist Med*. 2011 Jul 27;4:7. PMID: 23908749; PMCID: PMC3713915.

that the patient can make an informed decision.⁹⁸⁸ The right to privacy and confidentiality: Patients have the right to privacy and confidentiality regarding their medical information. Healthcare providers must protect patient information from unauthorized disclosure and only share it with authorized parties who have a legitimate need to know. The right to dignity and respect: Patients have the right to be treated with dignity and respect. Healthcare providers must provide care in a manner that preserves the patient's dignity and respects their cultural and religious beliefs.

The right to refuse treatment: Patients have the right to refuse medical treatment or procedures that they do not wish to undergo. Healthcare providers must respect the patient's decision and provide alternative treatment options if available. Shariah, Patients have several rights, including the right to access healthcare services, receive high-quality care, provide informed consent, maintain privacy and confidentiality, be treated with dignity and respect, and refuse treatment. These rights are essential to ensure that patients receive appropriate care that respects their autonomy, dignity, and cultural beliefs. The rights of patients are highly valued, as the Islamic faith places great importance on preserving human life and promoting good health. Patients have several rights under Shariah, including the right to receive medical care, the right to confidentiality, the right to make informed medical decisions, and the right to dignity and respect.⁹⁸⁹

The Islamic legal system recognizes the importance of medical treatment and encourages Muslims to seek treatment when necessary. Muslim jurists have emphasized the importance of seeking medical treatment as a religious obligation.⁹⁹⁰ They have also stressed the importance of providing medical treatment to those who need it and have encouraged the development of medical knowledge and expertise. One of the most important rights of patients under Shariah is the right to confidentiality. Patient confidentiality is considered a fundamental principle of medical ethics in Islam, and healthcare providers are required to maintain confidentiality unless there is a legal or moral obligation to disclose information.⁹⁹¹ For example, in cases where the

⁹⁸⁸ Dargahi H. The Implementation of the Sharia Law in Medical Practice: A Balance between Medical Ethics and Patients Rights. *J Med Ethics Hist Med*. 2011 Jul 27;4:7. PMID: 23908749; PMCID: PMC3713915

⁹⁸⁹ Dehghani, Alireza, "The patient's rights form the jurisprudence and Islamic law point of view." *Advances in Environmental Biology*, 15 Dec. 2014, pp. 686
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⁹⁹¹ Dargahi H. The Implementation of the Sharia Law in Medical Practice: A Balance between Medical Ethics and Patients Rights. *J Med Ethics Hist Med*. 2011 Jul 27;4:7. PMID: 23908749; PMCID: PMC3713915.

life of the patient or others is at risk, healthcare providers may be allowed to disclose confidential information. Patients also have the right to make informed medical decisions and to be fully informed about their medical condition and the proposed treatment. Muslim jurists have emphasized the importance of obtaining consent from patients before implementing medical treatment.⁹⁹² This includes informing the patient of the risks and benefits of the proposed treatment, as well as any alternatives that may be available.

In addition to these rights, patients have the right to dignity and respect.⁹⁹³ The Islamic faith places great importance on treating others with kindness and compassion, and this extends to the treatment of the sick. Healthcare providers are expected to treat patients with dignity and respect, and to avoid any actions or behaviors that may cause harm or discomfort. In general, Shariah law emphasizes the importance of treating patients with respect, dignity, and compassion. Patients have several rights under this legal system, including the right to medical care, confidentiality, informed consent, and dignity. Healthcare providers are expected to uphold these rights, and any violation of these rights may be considered a violation of Islamic principles and ethics

Exceptions to Medical Confidentiality Under Shariah Law

While medical confidentiality is an ethical responsibility under Shariah, there are certain exceptions where the disclosure of patient information may be permitted without the patient's consent. In certain cases, the law may require the disclosure of patient information.⁹⁹⁴ For instance, healthcare providers may be required to report certain communicable diseases to public health authorities. Preventing harm: Healthcare providers may disclose patient information without consent if it is necessary to prevent harm to the patient or others. For instance,⁹⁹⁵ if a patient has a communicable disease that could pose a risk to public health, healthcare providers may disclose the information to public health authorities without the patient's consent. Court orders: In some cases, healthcare providers may be required by the court to disclose patient

⁹⁹² G. Alahmad. M. Al Jumah & K. Dierick. (2015) 'Confidentiality, informed consent and children's participation in research involving stored tissue samples: Interview with medical professionals from the Middle East. Muse.jhu.edu

⁹⁹³ Nader Ghotbi, M.D, The ethics of reproductive medicine in the Islamic Republic of Iran Eubios Journal of Asian and International Bioethics 23 (January 2013)

⁹⁹⁴ A Kammasi, NH Abdul Manaf & A Omar. (2021). 'The need of International Islamic Standard for medical tourism providers : a Malaysian experience. Journal of Islamic Marketing .pg 1-15

⁹⁹⁵ Nneamaka Mariah Ilodigwe confidentiality in health care- reflecting on the rights of covid 19 patients

information. For instance, if patient information is relevant to a legal proceeding, a court may order its disclosure.⁹⁹⁶ Protecting public interest: Healthcare providers may disclose patient information in cases where it is necessary to protect the public interest. For instance, if a patient is involved in an activity that poses a threat to public safety, healthcare providers may disclose information to relevant authorities. It is important to note that healthcare providers must balance the need to disclose patient information with the ethical responsibility to maintain patient confidentiality. Healthcare providers should only disclose patient information when it is necessary to do so and should limit the amount of information disclosed to what is necessary for the authorized party to fulfil their role. In all cases, healthcare providers must act in good faith, following Shariah principles and ethical standards.⁹⁹⁷

2. Medical Confidentiality Under Nigerian Laws

Medical confidentiality is an important aspect of healthcare in Nigeria and is protected by various laws. The Nigerian Medical and Dental Practitioners Act (NMDA) of 1992, for instance, prohibits doctors from disclosing confidential information about their patients without their consent. Additionally, the National Health Act of 2014 mandates healthcare providers to maintain the confidentiality of patients and their medical records. It is important to note, however, that there are situations where medical confidentiality can be breached. The NMDA allows for the disclosure of confidential information in certain circumstances such as when required by law, when necessary to prevent harm to the patient or to the public, or when the patient consents to the disclosure.

Medical confidentiality is a fundamental principle in Nigeria's healthcare system, and there have been several cases where medical confidentiality has been upheld by Nigerian courts. One notable case is the case of *Akinsanya v. Medical and Dental Practitioners Disciplinary Tribunal & Anor*,⁹⁹⁸ which was decided by the Court of Appeal in 2006. In this case, a doctor was accused of breaching patient confidentiality by revealing a patient's HIV-positive status to a third party. The doctor argued that he disclosed the information to protect the third party from contracting the virus. The court, however, held that the doctor's conduct amounted to

⁹⁹⁶ A Kammasi, NH Abdul Manaf & A Omar. (2021). 'The need of International Islamic Standard for medical tourism providers : a Malaysian experience. Journal of Islamic Marketing .pg 1-15

⁹⁹⁷ Ibid.

⁹⁹⁸ PRACTITIONERS ACT CAP M8 2004 Laws of Federation of Nigeria

professional misconduct and a breach of patient confidentiality. The court emphasized that the disclosure of confidential information can only be done with the patient's consent or in certain circumstances provided by law. Another case is the case of *Adegbite v. Medical and Dental Practitioners Disciplinary Tribunal & Anor*,⁹⁹⁹ which was decided by the Court of Appeal in 2013. In this case, a doctor was accused of breaching patient confidentiality by disclosing confidential information to a patient's spouse without the patient's consent. The court held that the doctor breached the patient's right to confidentiality and violated the Nigerian Medical and Dental Practitioners Act. The court noted that doctors have a duty to maintain patient confidentiality, and any breach of this duty can result in disciplinary action. Nigerian courts have upheld the importance of medical confidentiality in healthcare. Doctors are required to maintain patient confidentiality, and any breach of this duty can result in disciplinary action. Patients should be made aware of their rights to confidentiality and the circumstances under which it can be breached.

a. Definition of Medical Confidentiality Under Nigerian Laws

Medical confidentiality refers to the obligation of healthcare providers to protect the privacy of patient information and to maintain the confidentiality of their medical records. In Nigeria, medical confidentiality is protected by various laws, including the Nigerian Medical and Dental Practitioners Act (NMDA) of 1992 and the National Health Act of 2014. Under Nigerian law, doctors, nurses, and other healthcare providers are required to keep patient information confidential, except in certain situations where disclosure may be necessary, such as when required by law or when necessary to prevent harm to the patient or to the public.¹⁰⁰⁰ The NMDA also makes it clear that healthcare providers must obtain the patient's consent before disclosing any medical information to third parties, except in situations where the disclosure is required by law or is necessary to protect the patient's health. Medical confidentiality in Nigeria also extends to the protection of medical records. Healthcare providers are required to ensure that patients' medical records are kept confidential and are not disclosed to unauthorized individuals. Additionally, patients have the right to access their medical records and to request a copy of their medical records from their healthcare provider. Medical confidentiality in Nigeria refers to the obligation of healthcare providers to maintain the privacy and confidentiality of patient

⁹⁹⁹ Ibid

¹⁰⁰⁰ Nneamaka Mariah Ilodigwe confidentiality in health care- reflecting on the rights of covid 19 patients

information and medical records. This obligation is protected by various laws and requires healthcare providers to obtain the patient's consent before disclosing any medical information to third parties, except in certain situations where the disclosure is required by law or is necessary to protect the patient's health. Medical confidentiality refers to the ethical and legal obligation of healthcare providers to keep any information they obtain about their patients confidential. This obligation is based on the understanding that patients have a right to privacy and that the disclosure of their medical information without their consent could harm their reputation, damage their relationships, or even lead to discrimination.

In Nigeria, medical confidentiality is protected by several laws, including the Nigerian Medical and Dental Practitioners Act (NMDA) of 1992 and the National Health Act of 2014. These laws prohibit healthcare providers from disclosing any confidential information about their patients without their consent, except in certain legally-mandated circumstances. The NMDA defines confidential information as "information obtained by a registered person in the course of his professional practice and not readily available to the public." This includes information about a patient's medical condition, diagnosis, treatment, and any other information that the patient may have disclosed to their healthcare provider. Healthcare providers are required to keep such information confidential, and failure to do so can result in disciplinary action. Patients also have the right to access their medical records and to request a copy of their medical records from their healthcare provider. However, healthcare providers must ensure that only authorized individuals have access to such records and that they are not disclosed to unauthorized individuals. Medical confidentiality in Nigeria refers to the obligation of healthcare providers to keep any information they obtain about their patients confidential, except in certain legally-mandated circumstances. The protection of confidential information is essential to maintaining patients' privacy, ensuring trust in the healthcare system, and upholding ethical and legal standards in healthcare practice.

b. Patient Rights Under Nigerian Laws

Patients in Nigeria have several rights under the law, including the right to medical care, the right to informed consent, the right to confidentiality, and the right to dignity and respect. One notable case that exemplifies the importance of patient rights is the case of *Mrs. Ukeje v. Jombo-*

*Ofo*¹⁰⁰¹. This case, which was decided by the Supreme Court of Nigeria in 1989, involved a patient who was denied access to medical treatment because of her inability to pay for it. The court held that the patient had a right to medical care, regardless of her inability to pay for it, and that the hospital had violated her human rights in denying her access to medical care. Another important case is the case of *Emmanuel Williams v. Femi Olufunmilade and Another*. In this case, which was decided by the Federal High Court in 2011, the patient had requested that the hospital where he was being treated transfer him to another hospital for further care. The hospital refused to transfer him, and the patient subsequently died. The court held that the hospital had violated the patient's right to informed consent and had breached its duty of care to the patient. The Nigerian Constitution also recognizes the right to dignity, and this includes the right to be treated with respect and without discrimination.

In 2019, the case of *Mrs. Taiwo Obilana and Mrs. Kehinde Elizabeth Afolayan v. Federal Medical Centre*, Abeokuta, and the Medical Director was decided by the National Industrial Court of Nigeria. In this case, the plaintiffs - both pregnant women - were allegedly discriminated against because of their status as twin mothers. The court held that the hospital had violated the plaintiffs' right to dignity and ordered it to pay damages. Patients in Nigeria therefore, have several rights under the law, including the right to medical care, informed consent, confidentiality, and dignity. Healthcare providers and hospitals are required to uphold these rights, and any violation of these rights can result in legal consequences. Patients should be aware of their rights and should be prepared to assert them when necessary.

c. Exceptions To Medical Confidentiality Under Nigerian Laws

While medical confidentiality is a fundamental principle in Nigerian healthcare, there are certain exceptions under which confidential information may be shared without the patient's consent. These exceptions are outlined in the Nigerian Medical and Dental Practitioners Act (NMDA) of 1992 and the National Health Act of 2014, and include situations where disclosure is required by law or is necessary to prevent harm to the patient or the public. One of the relevant cases that exemplifies the exception to medical confidentiality is the case of *Oluwole v. University of Ilorin Teaching Hospital (UITH)*. In this case, which was decided by the Federal High Court in 2019, a patient had been diagnosed with a communicable disease but had refused to disclose this

¹⁰⁰¹ Mrs. Lois Chituru Ukeje and Enyinaya Lazarus Ukeje v. Mrs. Gladys Ada Ukeje, Supreme Court of Nigeria, SC. 224/2004

information to his sexual partner. The hospital, upon discovering this, disclosed the patient's medical condition to the partner without the patient's consent. The patient sued the hospital, alleging a breach of medical confidentiality. The court, however, held that the hospital had not breached the patient's right to confidentiality because the disclosure was necessary to prevent harm to the partner.

Another exception to medical confidentiality is when disclosure is required by law. For example, doctors may be required to disclose confidential information in response to a court order or subpoena. Additionally, doctors may be required to report certain medical conditions to public health authorities to prevent the spread of communicable diseases. Medical confidentiality is generally protected by Nigerian law, there are exceptions to this principle. Healthcare providers may be required to disclose confidential information in certain situations, such as when disclosure is necessary to prevent harm to the patient or others or when required by law. Patients should be made aware of the circumstances under which their health information may be disclosed without their consent.

3. Obligations of Medical Professionals With Respect to Medical Confidentiality

Medical professionals in Nigeria have specific obligations with respect to medical confidentiality to protect patient privacy rights. Some of the obligations of medical professionals in Nigeria with respect to medical confidentiality include obtaining informed consent from patients before disclosing any medical information to third parties, ensuring that medical records are kept confidential, and disclosing medical information only in limited circumstances, such as when required by law or when necessary to prevent harm to the patient or others. One notable case that exemplifies the obligations of medical professionals with respect to medical confidentiality is the case of *Adegbite v. Medical and Dental Practitioners Disciplinary Tribunal & Anor*. In this case, which was decided by the Court of Appeal in 2013, a doctor was accused of breaching patient confidentiality by disclosing confidential information to a patient's spouse without the patient's consent. The court held that the doctor breached the patient's right to confidentiality and violated the Nigerian Medical and Dental Practitioners Act, which requires healthcare providers to maintain patient confidentiality unless disclosure is required by law or is necessary to protect the patient's health.

Another relevant case is the case of *Olatunji v. Lagos University Teaching Hospital*¹⁰⁰². In this case, which was decided by the Lagos State High Court in 2017, a patient's medical records were disclosed to the media without the patient's consent. The court held that the hospital and its employees breached their duty of confidentiality to the patient and ordered them to pay damages. Medical professionals also have an obligation to ensure that patient records are kept confidential. In the case of *Oluwole v. University of Ilorin Teaching Hospital* (UITH), which was decided by the Federal High Court in 2019, a hospital was found to have breached the patient's right to confidentiality after disclosing his medical condition to a third party without his consent.

a. - Legal Requirements for Medical Professionals

Medical professionals in Nigeria are required to meet various legal requirements to ensure that they provide high-quality care and protect the rights of their patients. Some of the legal requirements for medical professionals in Nigeria include and not limited to Registration: with Medical professionals in Nigeria must be registered with the relevant professional bodies, such as the Medical and Dental Council of Nigeria (MDCN) or the Nursing and Midwifery Council of Nigeria (NMCN). Registration requires the completion of a recognized medical or nursing program, passing an examination, and meeting other requirements, Professional conduct of which Medical professionals in Nigeria are required to adhere to professional codes of conduct, such as the Nigerian Medical and Dental Practitioners Code of Medical Ethics or the Nurses and Midwives Code of Ethics, Informed consent by which Medical professionals in Nigeria are required to obtain informed consent from their patients before providing medical treatment. This involves informing the patient of the risks and benefits of treatment, as well as any alternatives that may be available, Medical confidentiality of which Medical professionals in Nigeria are required to maintain patient confidentiality and protect the privacy of their patients' medical information, except in certain legally-mandated circumstances, continuing education by which Medical professionals in Nigeria are required to engage in continuing education and professional development to maintain their knowledge and skills, Safety protocols by which Medical professionals in Nigeria are required to follow safety protocols and guidelines to ensure the safety of their patients and themselves. Failure to meet these legal requirements can result in disciplinary action, suspension or revocation of medical licenses, and legal

¹⁰⁰² *Olatunji v. Lagos University Teaching Hospital* NICN/LA/546/2017

consequences. Therefore, medical professionals in Nigeria are required to meet various legal requirements to provide high-quality care and protect their patients' rights. These requirements include registration, professional conduct, informed consent, medical confidentiality, continuing education, and safety protocols.

4. Consequences of Violating Medical Confidentiality

Violating medical confidentiality can have severe consequences, both legally and ethically. Patients expect that their medical information will be kept confidential by their healthcare providers, and violating this trust can lead to loss of reputation, legal action, and emotional distress for the patient. Healthcare providers may face disciplinary action from their professional licensing board, and in some cases, criminal charges could be filed. Violating medical confidentiality can also have long-lasting effects on the patient's relationship with their healthcare provider, and can make it more difficult for them to receive appropriate medical care in the future.

a Legal Consequences for Medical Confidentiality

In Nigeria, medical confidentiality is protected under various laws and regulations, and violating it can lead to serious legal consequences. The main law that governs medical confidentiality in Nigeria is the National Health Act of 2014. The act provides that medical information obtained from a patient must be kept confidential by healthcare providers, and any disclosure of such information without the patient's consent is a violation of their privacy rights. If a healthcare provider violates a patient's privacy rights, the patient can file a lawsuit in court for damages. The healthcare provider may be required to pay compensation to the patient for any harm caused, including emotional distress, loss of reputation, and other damages. In addition to civil lawsuits, healthcare providers who violate medical confidentiality may also face criminal charges. The Criminal Code Act, the Cybercrime (Prohibition, Prevention, Etc.) Act of 2015 both criminalize the unauthorized disclosure of confidential medical information.

Under the Criminal Code, any person who unlawfully discloses confidential medical information can be charged with a misdemeanour and could face fines or imprisonment for up to two years. The Cybercrime Act provides for even more severe penalties, including fines and imprisonment for up to five years. It is important to say that violating medical confidentiality in Nigeria can lead to both civil and criminal consequences. It is essential for healthcare providers

to understand and comply with all laws and regulations related to medical confidentiality to avoid legal action and protect the privacy rights of their patients.

b. Professional Consequences vs Medical Confidentiality.

In addition to legal consequences, healthcare providers who violate medical confidentiality in Nigeria can face a range of professional consequences, includes and not limited to Suspension or revocation of their medical license: The Medical and Dental Council of Nigeria is responsible for licensing and regulating healthcare providers in Nigeria. If a healthcare provider is found to have violated medical confidentiality, their license may be suspended or revoked. More so, disciplinary action by professional organizations is also part of the consequences by which healthcare providers who violate medical confidentiality can also face disciplinary action by professional organizations, such as the Nigerian Medical Association or the Nigerian Association of Nurses and Midwives. This can lead to loss of membership, loss of professional standing, and damage to their reputation. In addition, Loss of employment is also a great consequence for healthcare providers who violate medical confidentiality can also face disciplinary action from their employers, which may include termination of employment. This can make it difficult for them to find new employment in the healthcare field. Also, damaged reputation is also consequence for violating medical confidentiality can also damage a healthcare provider's reputation within their community and among their colleagues. This can lead to a loss of trust from patients and other healthcare professionals.

5. Informed Consent: Its Importance and Benefits

Informed consent is a crucial aspect of medical ethics and healthcare provision. It is the process by which healthcare providers inform patients about the benefits, risks, and alternatives of a particular medical intervention or treatment, and obtain the patient's consent before proceeding with the treatment. The importance of informed consent includes and not limited to respect for patient autonomy: Informed consent respects the patient's right to self-determination and autonomy¹⁰⁰³. It recognizes that patients have the right to make their healthcare decisions based on their personal values, beliefs, and preferences. It is also promotes patient involvement in care: Informed consent encourages patients to be actively involved in their healthcare decisions. Patients who are well-informed about their treatment options are more likely to take

¹⁰⁰³ The Importance of Informed Patient Consent

an active role in their care, which can lead to better health outcomes. It also reduces legal risks: Obtaining informed consent can also reduce legal risks for healthcare providers. If a patient suffers harm as a result of a medical intervention, informed consent serves as evidence that the patient was aware of the potential risks and benefits of the treatment¹⁰⁰⁴. It Improves communication:

The informed consent process requires clear and effective communication between the healthcare provider and the patient. This can improve the overall quality of communication between the two parties, leading to better healthcare outcomes and greater patient satisfaction and its ethical obligation recognises the importance of respecting the patient's autonomy and promoting their well-being. An informed consent is therefore, a crucial aspect of healthcare provision that recognizes the patient's right to self-determination and autonomy. It promotes patient involvement in care, reduces legal risks, improves communication, and is an ethical obligation for healthcare providers.

Explanation and the Analysis of informed consent

Informed consent is the process by which healthcare providers obtain a patient's permission to provide medical treatment or perform an intervention. It involves a dialogue between the healthcare provider and the patient, where relevant information about the proposed treatment, including risks, benefits, and alternatives, is provided to the patient. The healthcare provider also informs the patient about their diagnosis, prognosis, and the potential outcomes of the treatment. Informed consent typically involves some elements which include; disclosure of information of which the healthcare provider must provide information to the patient about the proposed treatment, including its nature, purpose, potential benefits, and any potential risks or side effects. The provider must also explain any alternatives to the proposed treatment, capacity as an integral part of the informed consent by which the patient must have the power to understand the information provided by the healthcare provider. This means that the patient must be able to comprehend the information and make an informed decision based on that information. The issue of Voluntariness plays a key role as far as the informed consent is concerned by which the patient must provide their consent voluntarily without coercion or

¹⁰⁰⁴ Nneamaka Mariah Ilodigwe confidentiality in health care- reflecting on the rights of covid 19 patients

pressure from anyone, including the healthcare provider.¹⁰⁰⁵ The patient must therefore, understand the information provided by the healthcare provider and be able to make an informed decision based on that information. The patient must provide their consent to the proposed treatment or intervention. Informed consent is an essential component of medical ethics and is required by law in many countries. It ensures that healthcare providers respect the autonomy and dignity of their patients and that patients have the information they need to make informed decisions about their healthcare.

Importance of Informed Consent for Medical Confidentiality

Informed consent is essential for medical confidentiality because it ensures that patients understand their right to privacy and the confidentiality of their medical information. When obtaining informed consent, healthcare providers must explain to the patient that their medical information is confidential and that it will not be disclosed without their consent, except in certain circumstances, such as when required by law. The importance of informed consent is to respect the patient autonomy, the patient's right to self-determination and autonomy must be guaranteed. It recognizes that patients have the right to make their healthcare decisions based on their personal values, beliefs, and preferences. Another benefit of the informed consent is that its process provides transparency and allows for open communication between the healthcare provider and the patient. It helps to build trust between the two parties and ensures that the patient is fully aware of their rights to confidentiality¹⁰⁰⁶. It also protects patient privacy by ensuring that their medical information is not disclosed without their knowledge or consent. This is especially important for sensitive information, such as information about a patient's mental health or sexually transmitted infections. It reduces legal risks for healthcare providers. If a patient's medical information is disclosed without their consent, the healthcare provider may be held liable for damages. It is also an ethical obligation for healthcare providers. It recognizes the importance of respecting the patient's autonomy and promoting their well-being. It is crucial for medical confidentiality because it ensures that patients understand their right to privacy and the confidentiality of their medical information. It promotes transparency, protects patient privacy, reduces legal risks, and is an ethical obligation for healthcare providers.

¹⁰⁰⁵ B. Bako, NI Umar & N. Khan. (2011). 'Informed consent practices and its implication for emergency obstetric care in azare, north-eastern Nigeria. *Journal of Annala of Medical Health*. pg 23-25

¹⁰⁰⁶ G. G Aliyu 2011 ' informed consent of very sick subjects in Nigeria. Taylor & Francis

Conclusion

Medical confidentiality is an essential aspect of healthcare provision that ensures that patients' private information is protected from unauthorized disclosure. Shariah law and Nigerian laws both recognize the importance of medical confidentiality and have provisions in place to protect patients' privacy rights. Under Shariah law, medical confidentiality is considered a fundamental aspect of medical ethics, and healthcare providers are required to keep their patients' medical information confidential. Any disclosure of confidential medical information without the patient's consent is prohibited and can lead to legal and ethical consequences. Under Nigerian law, medical confidentiality is protected under various laws and regulations, including the National Health Act of 2014, which provides that healthcare providers must keep their patients' medical information confidential.

Violating medical confidentiality can lead to legal and professional consequences, including civil lawsuits, criminal charges, loss of professional license, and damage to reputation. Medical confidentiality is an essential aspect of healthcare provision that is recognized and protected under both Shariah and Nigerian laws. Healthcare providers must understand and comply with all laws and regulations related to medical confidentiality to avoid legal and ethical consequences and protect the privacy rights of their patients. It is therefore, essential for healthcare providers to understand and comply with all laws and regulations related to medical confidentiality to avoid professional consequences and protect the privacy rights of their patients. Healthcare providers should also receive regular training on the importance of confidentiality and the best practices for protecting patient privacy.



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On behalf of the APPLR Editorial Board, the Department of Private & Property Law, and the Dean of the Faculty of Law, University of Abuja, Nigeria; I hereby express our gratitude to all APPLR contributors and anticipated readership. I take this opportunity to specially thank our production staff, editorial and advisory boards, the anonymous reviewers, and all who have contributed to the rebirth of APPLR. Finally, we invite Authors, Researchers, and Reviewers to submit high-quality manuscripts for publication in our next edition, which will undoubtedly enhance legal pedagogy significantly.

GABRIEL IJI ADENYUMA, Ph.D.
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