

LEGAL AND ETHICAL DIMENSIONS TO SONOGRAPHY PRACTICE IN NIGERIA

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ABSTRACT

- 1. Background:** The growing numbers of medical malpractice claims worldwide has caused alarm in all areas of health care including sonography and led to an increasing awareness of legal implication of practice. Thus, the likelihood that litigation cases against sonographers will be common in the future in Nigeria is highly anticipated.
- 2. Methods:** Literature review on the subject.
- 3. Results:** Guidelines were formulated as best practice for sonographers to avoid litigation. Examples include education and training, adequate communication and request forms.
- 4. Summary:** Most sonographers will avoid becoming involved in litigation during their careers. However, errors will always occur in all aspects of life and there is need to take the necessary precautions to minimize those errors as much as possible. When errors do occur, it is good to show that normal and accepted procedures were followed and that high standards of professionalism exist within the department and amongst all members of staff. Sonographers should avoid being found negligent.

Keywords: Sonography, litigation, patient care.

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INTRODUCTION

Ultrasound has assumed an ever increasing role in radiologic laboratory with increased dependence of clinicians upon their results for more exact and rapid diagnosis.^{1,2} Sonographers occupy an essential place in the diagnostic imaging and

patient care team and hence need a variety of skills to succeed.

In the United States of America (USA) and United Kingdom (UK), litigation has featured prominently in all areas for many years. This 'blame' culture has become established due to a variety of reasons. The tendency for the legal profession to offer a 'no win, no fee' basis has encouraged individuals to litigate.³ The field of medicine has not escaped this trend and in fact, is one of the biggest growth areas.⁴ It has been suggested⁵ that this increase is not due to falling standards within departments, but rather increased public awareness. Notably, the public has access to vast amounts of data on the internet as well as media coverage highlighting areas where problems occur; these have helped to fuel the trend for patients to sue when they encounter an adverse outcome.³

A study in UK⁶ showed an upward trend in the number of litigation cases related to sonographers for over 15 years. This increase was attributed to several different reasons, chief among them being that sonographers are heavily involved in obstetric scanning, and the field of obstetrics has a higher percentage of medical negligence claims than any other specialty.^{6,7} It is generally acknowledged that the full extent of the number of cases of litigation involving sonographers is not known, and suggestions have been made that a database record of all cases should be set up in order to establish actual figures.⁶

Litigation not only causes anxiety for those individuals unfortunate enough to become involved, but also costs large amounts of money. In the USA various bodies are trying to stem the growth in medical litigation by raising public awareness of the detrimental effects this is having on healthcare. Not only are doctors retiring early and closing down practices, but also the costs of healthcare are spiraling, resulting in everyone having to pay more, whether the healthcare is funded by insurance companies or from government taxes.⁸

As sonography practice is fast growing in Nigeria, the likelihood that litigation cases against sonographers will be common in the future is highly anticipated. Hence the need for a review of best practise for sonographers. The following guidelines have been formulated after reviewing the literature on the subject.⁹

GUIDELINES FOR SONOGRAPHERS

1. Education and Training

Many cases of alleged malpractice involve individuals practising outside the scope of their training. As sonographers, one of the main areas to address is to ensure that we do not undertake work which is outside our level of competency.¹⁰ It has been suggested that incorporating ultrasound courses in medical imaging scientist's undergraduate training programme will provide a strong background for those students who many wish to pursue ultrasound as a specialty.¹¹

All sonographers employed within the department should have undergone appropriate training and certification for the work they are employed to perform.¹² In Nigeria, the training should preferably be a master's degree programme in medical imaging with ultrasound specialty, or approved diploma certification course organized by the Registration Board in order to ensure its quality.

It is incumbent on all professional healthcare workers to make every effort to keep professional knowledge up to date, in order to remain competent to practice.¹³ Failure to participate in Continuing Professional Development (CPD) may place patients at risk, with the healthcare professional in the unfortunate position of being unable to provide vital evidence if litigation occurs.¹⁴ Sonographers need to be given opportunities to attend CPD activities, and record of all these events should be kept to demonstrate ongoing attention to staff training needs.

2. Adequate communication

The UK's Human Rights Act (1998) raised public awareness of individual rights and one of the consequences has been a more stringent requirement on healthcare professionals to explain in some detail exactly what any diagnostic/therapeutic test involves. This has become known as 'informed consent' and it involves the explanation by a specialist, in an understandable manner, of information that a patient needs to make a knowledgeable decision.¹⁴ The UK's Department of Health Guidelines on patient consents,¹⁵ states that a health professional may be liable to legal

action by both the patient and their professional body if they fail to respect the right of patients to determine what happens to their own bodies. In the absence of any national guidelines, this may take the form of signed consent forms. However, a wider perspective on this should include ensuring effective bilateral communication with the patient before, during and after the examination.¹⁶ This is not only good practice, but it also helps to develop a good rapport with the patient, and problems are less likely to escalate once this has been established. A study in USA has shown that clinicians who spend time developing a good relationship with individual patients, are involved in fewer malpractice claims.⁵

3. Empathy

By viewing each patient as an individual, and by identifying with them, the sonographer is better able to view things from the patient perspective and, as a consequence remain sensitive to their needs and wishes. Patient in turn will tend to be more trusting and understanding when things go wrong.³

There may be need to review and standardize the maximum number of patients scanned by a sonographer in a day, as the staggering number seemingly permissible currently may compromise patient care.

4. Obtain a second opinion

A second opinion may not only improve the diagnosis, but in addition it will often help to provide a stronger defence for the sonographer in any case of alleged malpractice.⁷ Documented evidence showing that a competent colleague was asked for an opinion on an ultrasound examination will help to refute any suggestion that the sonographer was negligent.

This becomes necessary especially in cases of doubtful or inconclusive findings.

5. Request forms

A specific request form with both a signature and clinical details must be obtained before each examination is performed. These forms should be stored with each patient report or scanned into a computer archiving system.

6. Prompt production and dispatch of patient reports

The sonographer needs to ensure that the report of the scan is produced and sent to the referring clinician in a timely manner. Any urgent reports must be faxed or telephoned through to the appropriate person.

GUIDELINES FOR DEPARTMENTS

1. Policies and Procedures

In the absence of any national guidelines for practice within the field of ultrasound, it is important that every department agrees what normal practice is, and produces written policies and procedures to provide a framework for the staff to follow.^{17,18} These must be based on current knowledge and principles and should be reviewed and updated annually. The policies and procedures should detail all aspects of work carried out within the department. All members of staff should be involved in the drafting of these policies, should be familiar with the contents and have full access to the manual at all times. New members of staff should be made fully aware of the departmental policies and procedures as part of their formal induction programme.

2. Recording Images

Guidelines need to be given on what images, if any, are to be recorded and stored by the sonographer. Not every department considers the recording of images to be useful or necessary. However, there have been many instances, where a recorded image has saved an individual from accusations of negligence. In the field of obstetrics for example, anomalies such as diaphragmatic hernia²⁰ and achondroplasia²¹ may only become evident in the late second or early third trimester. Thus recorded images of normal structures taken at the 20 week anomaly scan will provide proof of normal appearances at this stage of pregnancy.

3. Audit and Evaluation

There should be documented evidence of evaluation of activities carried out within the department. Quality standards for the performance of scans should be agreed by staff and should be audited regularly.²² In addition, activities such as waiting times and complaints need to be audited, and records

kept in order to provide proof that this is happening.

4. Equipment

Any equipment used has to be appropriate for the task. The Royal College of Obstetrics and Gynecology (RCOG) guidelines,²² suggest that equipment over 5 years old should not be used for obstetric scanning. However, current systems can usually be upgraded with latest software/hardware improvements, and will often be equal in terms of resolution to newer equipment. In Nigeria, general importation of fairly used units with confirmed good resolution may be allowed for economic reasons. Records need to be kept of all equipment servicing and quality assurance tests that are performed, in order to provide evidence of fitness for purpose.

5. Provision of Chaperones

The Royal College of Obstetrics and Gynecology (RCOG) Guidelines²³ suggest that any patient undergoing a transvaginal examination should be offered a chaperone. In addition however some staff may feel the need for a chaperone with certain patients or types of examinations. These need to be available at all times.

CONTROL OF PRACTICE

Adequate training and certification of operators and controls on who purchases and uses ultrasound equipment are very important. It is strongly recommended that hospitals and clinics should consider the credentials of personnel using diagnostic ultrasound and to hire and use only those persons registered or registry eligible.

Through participation in accreditation and operator training programmes, the Radiographers Registration Board of Nigeria should, following international standards, ensure that every patient undergoing an ultrasound examination will be dealt with in a humane, dignified manner and that the examination itself is done as accurately and expeditiously as possible. The board should promote, advance and educate its members and the medical community in the science of diagnostic ultrasound.

CONCLUSION

Sonography is a rapidly evolving profession in Nigeria and with increased awareness of patients to their rights, practitioners need to be self critical,

and also self conscious. The challenge for sonographers at all levels is to make certain that the criteria by which they are judged are valid. As professionals, sonographers have acquired both authority and responsibility. Authority comes with academic qualifications and experience while responsibility entails ensuring that this authority is exercised in a manner that conforms to the highest professional standards.

The practitioners and the professional body as a whole should be acutely aware of their patients' rights so as to ensure good professional practice and avoid litigation.

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