



NATIONAL OPEN UNIVERSITY OF NIGERIA

SCHOOL OF SCIENCE AND TECHNOLOGY

COURSE CODE: CHS 320

COURSE TITLE: PROFESSIONAL ETHICS FOR COMMUNITY HEALTH

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COURSE DEVELOPMENT

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COURSE GUIDE

Introduction

Professional ethics is a second semester course. It is a two unit credit load degree course to be offered by all students studying Bachelors of Community Health (B.Com) Degree.

Professional ethics is a special branch of ethics meant for persons in a particular profession. The professional ethics for Community Health Practitioners is therefore meant for Community Health Practitioners, to primarily train them to maintain high ethical standards of the profession and to also deliver qualitative, efficient and effective health services to Nigerians especially those in rural and semi-urban-areas.

Community Health Practice in Nigeria is associated with the adoption of the Basic Health Service Scheme later christened Primary Health Care (PHC). And over the years the Primary Health Care system has been adjudged to be performing dismally. The attitude of the personnel and the quality of the services they deliver has been largely said to be responsible for the inefficiency and ineffectiveness of the system.

The Community Health Practitioner being the major cadre responsible for the implementation of the PHC need to possess good attitude, exhibit high moral and ethical standards and technical competency in order to deliver quality services to improve the performance of the PHC system. The basis of this course therefore, is to ensure that all Community Health Practitioners as foot soldier responsible for the implementation of PHC are trained to maintain high professional ethics, integrity and show decorum at work, and in accordance with laid down extant guidelines.

What You Will Learn in this Course

This course consists of a course material and course guide. The course guide gives you a brief of what materials you will be using and how you can work on own with the materials. In addition, it states general guidelines with regards to the amount of

time you are to spend while studying each unit of the course in order to enable you successfully complete its study on schedule.

The course guide helps guide you with respect to your Tutor Marked Assignment which are to be made available in the assignment file. Also, there would be regular tutorial classes in this course to be conducted by a facilitator. It is important that you attend these tutorial classes. You are equally encouraged to form study group with your classmates in order to have thorough discussions before the tutorial classes. The course is intended to prepare you for the ethical challenges you are likely to meet in the field of community health practice and primary health care service delivery.

Course Aims

The aim of this course is to provide you with an understanding of ethics and in particular community health professional ethics. It is also aimed at providing you with the knowledge of how to avoid unprofessional conduct which could lead to breach of duty that has severe consequence.

Course Objectives

In order to achieve the aims of this course, there are some set of objectives that have been stated. Each unit of this course has its own objective which is indicated immediately after the introduction at the beginning of the unit. You should read these objectives before you study the unit. It is also advisable to refer to them as you study the unit and at the end of your study of the unit to enable you determine the progress you are making.

However, below are the general objectives of the course. It is important you meet the objectives as they would enable you achieve the aims of this course. Therefore, at the end of studying the course you should be able to:

- Describe the Nigerian health system and community health practice in Nigeria.
- Define ethics, professional ethics and list some community health ethics, etiquettes and code of conduct.
- Explain the concept of morality, law and other legal concepts relating to ethics as well as the differences and similarities between law and morality.
- Define misconduct and acts that amount to unprofessional conduct.
- Define duty and state the various duties of a community health practitioner.
- Describe the community health practitioners registration board Nigeria, its function and the role of its disciplinary committee.
- Define discipline and indiscipline and acts considered as unprofessional conduct in community health as well as consequences for any breach.
- State the various regulatory bodies in health and list their roles.

- Describe the Nigeria legal system and its role in professional discipline.

Working through this Course

To complete this course you are required to read each unit, read the textbooks and other materials which may be provided by the National Open University of Nigeria.

Each unit contains a Tutor Marked Assignment which you must attempt to answer on your own and which you will be required at certain point in this course to submit for purposes of assessment. At the end of the course there will be a final examination. The course should take you about a total of 16 weeks to complete. Also, stated below is the list of the all things you need to do in this course and how to allocate your time as you study each unit.

The nature of study of the Open University requires that you spend a lot of time studying alone. You are therefore advised to spend between 2 – 3 hours studying each unit, in addition to availing yourself of the tutorial classes to be facilitated in order to be able to get explanations from your facilitator and compare notes with your classmates.

The Course Material

The main components of this course material include:

1. The Course Guide
2. Study Unit
3. Tutor Marked Assignment
4. Reference/Further Readings
5. Presentation Schedule

Study Unit

The study units in this course are as follows:

MODULE 1 INTRODUCTION

Unit 1: The Nigerian Health System

Unit 2: Community Health Practice

Unit 3: Introduction to Ethics

Unit 4: Community Health Ethics

Unit 5: Procedure for Registration

MODULE 2: LAW, MORALITY AND OTHER LEGAL CONCEPTS.

Unit 1: Law

Unit 2: Morality

Unit 3: Duty

Unit 4: Negligence

Unit 5: Liability

MODULE 3: REGULATORY BODIES AND THEIR ROLES

Unit 1: Regulatory bodies

Unit 2: The Community Health Practitioners Registration Board of Nigeria

Unit 3: Professional Misconduct

Unit 4: Professional Discipline

Unit 5: The Nigerian Legal System and its Role in Professional Discipline

The first unit of this course focuses on the Nigerian health system; it begins with the meaning of health, systems, health systems and the various levels of health care service delivery and the role of the various tiers of government in health service delivery. The second unit deals with the definition of community health, history of community health practice in Nigeria and the legal framework for community health practice. Unit three deal with the definition of ethics, medical ethics, informed consent and the basic elements of informed consent. While unit four focuses on community health ethics, etiquettes and code of conduct. Unit five covers procedure for registration, effect of registration and non-registration as well as process deregistration.

Unit six, seven, eight, nine and ten focuses on some legal concepts related to ethics and unprofessional conduct and their consequences these include concepts such as law, morality, negligence, duty and liability. While unit eleven, twelve and fifteen deal with regulatory bodies and their role in professional discipline. Unit thirteen and fourteen focuses on professional misconduct and professional discipline.

Each unit is made up of about one to two weeks work and it includes an Introduction, Objective, the main Content, Conclusion, Summary, Tutor Marked Assignment (TMA) and Reference/Further Reading. The unit helps you to work on your Tutor Marked Assignments which will enable you determine the progress you are making

and also help you achieve the learning objectives stated in each unit, and the course as a whole.

Presentation Schedule

Your course materials have some important date to ensure early and timely completion and submission of your TMAs and attendance of tutorial classes. You should endeavour to submit all your TMAs by the stipulated time and date. You should not lack behind in any of your work.

Assessment

There are two aspects to the assessment in this course. The first consist of the Tutor Marked Assignment and the second is the written examination at the end of the course. The Tutor Marked Assignment which you will submit to your tutor for marking will count for 30% of your total course scores, while the final examination you shall write at the end of the course which shall last for three hours counts for 70% of your total course scores.

Tutor Marked Assignment

The TMA is a continuous assessment component of your course. It accounts for 30% of the total score. You will be given four (4) TMAs to answer. Three of these must be answered before you are allowed to sit for the end of course examination. The TMAs would be given to you by your facilitator and returned after you have done the assignment. You should be able to answer your assignment from the information and material contained in your further reading, reference and study units. However, it is desirable in all degree level of education to demonstrate that you have read and researched more into your reference, which will give you a wider view point and may provide you with a deeper understanding of the subject.

Also make sure that each TMA reaches your facilitator on or before the last date stipulated in the presentation schedule and assignment file. If for any reason you are unable to complete your work on time, contact your facilitator before the assignment is due to discuss the possibility of an extension. Extension may not be granted after the due date except for exceptional circumstances.

Final Examination and Grading

The end of course examination for professional ethics will be for about 3 hours and it has a value of 70% of the total course work. The examination will consist of questions, which will reflect the type of self-testing, practice exercise and tutor

marked assignment problems you have previously encountered. All areas of the course will be examined,

Endeavour to use the period between finishing the last unit and sitting for examination to revise the whole course. You might find it useful to review your TMAs and comments on them before the examination. This is because the end of course examination covers all aspects of the course.

Course Marking Scheme

Assignment	Marks
Assignment 1 - 4	Four TMAs, best three marks of the four count at 10% each – 30% of course marks.
End of course examination	70% of overall course marks.
Total	100%

Facilitators/Tutors and Tutorials

There shall be 16 hours of tutorial provided in support of this course. You will be informed of the times, dates and location for these tutorials. You will also be given the name and phone number(s) of your facilitators, as soon as you are allocated a tutorial group.

The facilitator will mark and comment on your assignment, keep a close watch on your progress and in case of any difficulty you might encounter during the course he will provide you with assistance. You are expected to mail your Tutor Marked Assignment to your facilitator before the stipulated date (at least two working days are required). These would be marked and returned to you as soon as possible.

Please do not hesitate to contact your facilitator by telephone or e-mail whenever you need assistance.

The following might be circumstances in which you would find assistance necessary, hence you would have to contact your facilitator if:

- You do not understand any part of the study material or the assigned readings.
- You have difficulty with the Tutor Marked Assignment
- You have a question or problem with an assignment or with the grading of an assignment,

You should endeavour to attend the tutorial classes. This is the only chance to have face to face contact with your course facilitator and to ask questions which are answered instantly. You can raise any problem encountered in the course of your study.

To gain much benefit from the tutorial classes prepare a list of questions before attending them. You will learn a lot from participating actively in discussions.

Summary

Professional ethics is a course that intends to introduce concept of high moral, ethical conduct, discipline among community health practitioners and also concerned with improvement of their competences, efficient and effective health service delivery as well as encourage good interpersonal and group relationship in the sector. Upon completing this course, you will be equipped with the basic knowledge of the nature of the Nigerian health system, community health, ethics and community health ethics, law and morality, their difference and similarities, other legal concept especially duty of a community health practitioner, the various regulatory bodies and their role, unprofessional conducts in community health, disciplinary procedures and the disciplinary committee of community health practitioners. In the end you will be able to answer the following questions:

- What is health and health system?
- What are the levels of health care service delivery in Nigeria
- The Concept of community health and the history of community health in Nigeria
- The meaning of medical ethics and community health ethics
- Enumerate some community health ethics, etiquettes and code of conduct
- Define duty and list some duties of a community health practitioner
- What is law and morality, and their difference and similarities
- State the legal framework for community health in Nigeria and the function of the community health practitioners registration board
- Enumerate some unprofessional conducts in community health and the penalty for unprofessional conducts
- The Nigerian legal system and its role in professional discipline

It is important to state that the questions you should be able to answer are not limited to the one listed above. And in order to have maximum gain from this course you should endeavour to apply the principles you have learnt to your understanding of professional ethics.

While wishing you success in this course, I hope will you find it both interesting and useful in your study and work

UNIT 1 THE NIGERIAN HEALTH SYSTEM

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Definition of System
 - 3.2 Definition of Health System
 - 3.2.1 Subsystem of a Health System
 - 3.3 History of Health Services in Nigeria
 - 3.4 Levels of Health Service Delivery
 - 3.5 Role of the various Levels of Government in Health Service Delivery
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Reading

1.0 Introduction

Although, this course is concern with ethics, community health professional ethics, morality and other related concepts as well as regulatory bodies. It would be difficult to discuss all of the above without first discussing the Nigerian health system and community health practice.

Thus, this in unit we shall focus on the Nigerian health system, because this will give us the required background knowledge to be able to discuss ethical and non-ethical issues as well as regulating matters connected therewith. And in considering the Nigerian health system we shall take a snap shot at the concept of system, health system, history of health services in Nigeria, the levels of health service delivery and finally the responsibilities of the various levels of government in health service delivery.

2.0 Objectives

At end of studying this unit the learner should be able to:

- Define systems
- Define health system
- Narrate the history of health services in Nigeria
- State the various levels of health service delivery
- State the responsibilities of the various tiers of government

3.0 Main Content

3.1 Definition of System

According to Martin and Powell (1992) “a system is a collection of entities which are interrelated to each other and to their environment so they form a whole”.

While the Oxford Advanced Learner’s Dictionary defined system as a group of things or systems working together as a whole.

From the two above definition you can see clearly that when we talking about system, we are referring to several things working together in unity under the control of one entity for efficiency or optimization.

It also means different things doing different work but under one entity or whole for the successful functioning of that entity or whole. Thus in any system there are always subsystems that are constantly interacting.

3.2 Health System

According to Adundu (2007) “The health system is simply an amalgam of various elements, part or subsystems that are interrelated interdependent, and rely on each others contribution for attainment of set health objective success or failure in one part affects the entire system”.

She went a step further to argue that a health system comprises of functionally interrelated components that provide diverse health services to the people through work performed by professional, and non-professional health workers in the Community, and health facilities.

However, a health system can be defined as the various functional units and elements within the Health sector that interact and interrelated to ensure the efficiency of the health sector. We used the word health sector because for the health system holistically speaking would involve other sectors.

3.2.1 Subsystem of a Health System

Having dealt a little with health system, the next issue we want to consider in this unit is what are the subsystems of a health system?

According to Adundu (2007) “a Health System is made up of four broad subsystems which are, the people and their health need as a subsystem, resource subsystem, management subsystem, and services subsystem.”

It is imperative to distinguish between a health service delivery system and health system. In our opinion there is some confusion about a health care service delivery system and a health system.

A health care service delivery system consists of the ministry of health and its parastatal hospitals, clinics and health posts. This means these are the functional subsystems that interact to ensure the efficiency of the health service delivery system.

However, for the purposes of this unit a health system shall be said to consist of the following subsystem which are; the households, the communities and government. This is because for any health system to function effectively and efficiently, the households where the family units exist; the communities and the government must all put hands on deck by interacting and interrelating.

- (i) Household subsystem: The household as a health subsystem consist of all those activities and function undertaken by the household that contribute to effective and efficient health services. These include; personal hygiene, home management, environmental sanitation and preventive services.

The household is an important subsystem, because an average child spends about seven hours at school, at least 2-3 hours in a health facility in case of any need for health services, while the rest 14-15 hours is spent in the household.

- (ii) Community subsystem: Another subsystem within the health system is the community subsystem and its contribution include; mobilization, supervision, monitoring, provision of facilities and policy formulation as well as implementation.

As Ibet-Iragunima (2006) rightly stated “the down-up approach is an approach that see primary health care as a health care that requires planning from the community level or grass root to the local government, state and federal level its planning, implementation and evaluation should come from the foundation or downward and flow upwards. Therefore, the approach should start from the communities”.

- (iii) Government subsystem: This consist of all those services and functions undertaken by government at all levels with all its agencies and department to ensure proper policy framework, promotion and

evaluation, supervision and technical support to the other two subsystem (household and Communities) to ensure proper interact and interrelation within the health system entity.

3.3 History of Health Services in Nigeria

The next issue we shall discuss in this unit is the history of health services in Nigeria. However, it is important to mention that what is referred to here is the history of modern health services as Nigerian has its own traditional health services before the advent of either trade across the Sahara desert and the Atlantic Ocean; and the entry of missionary activities which stepped up modern medical services in Nigeria.

According to Kale (2006) “in the first phase of the pre-colonial era, all Community had some form of organized social structure, an important component of which was a health care system. Attention for the provision of personal health care usually centered on individuals with expertise in preventive, creative and rehabilitative medicine.”

Although, there is no consensus as to the exact date health of services commence in Nigeria. But most scholars hold the common denominator that it was during the period of the trans-Atlantic Slave trade and Sahara Trade, and the missionary exploit that modern health service was introduced into Nigeria especially, the catholic mission in Abeokuta and subsequently the Army medical corps.

From the above it is hoped you now know the brief history of health services in Nigeria.

3.4 Levels of Health Service Delivery in Nigeria

The Nigeria health care system is divided into three levels. These are the Primary level or system, Secondary level and Tertiary level. This classification is synonymous with the three levels of government recognized in the 1999 constitution of the Federal Republic of Nigeria though nothing to is the extent is expressly stated in the constitution.

Primary level of care:

This is the first level of health care service delivery in Nigeria the services provided at this level of care which also regarded as the first level of contact with the Nigeria health system include, preventive, promotive, curative and rehabilitative health services. It managed by the local government councils.

Secondary level of care:

The secondary level of care in Nigeria render secondary health services using cottage Hospitals, Maternities, General Hospitals and state specialist hospitals. It deals with complicated health conditions that are referred from the primary level and is managed by the state government.

Tertiary level of care:

This is a level health care where specialized health services are rendered. It handles very complicated cases or health conditions that require higher level of specialization compared to those managed at the secondary health care level. These services are rendered in the University Teaching Hospitals attached to colleges of medical or health sciences of various Universities. They also include; Orthopedic Hospitals, Eye and Psychiatric Hospitals among others. Although, in the recent past Federal Medical Centre are being run as tertiary health institution, we strongly feel that the difference between services rendered in these centres and the General Hospitals of the states have a very thin line dividing them. Nevertheless, they are still regarded as tertiary health institutions. It is managed by the federal government.

3.5 Roles of the various tiers of Government in Health Service Delivery.

The responsibilities of the various levels of government are not expressly mentioned in any legislation especially the 1999 constitution. In fact, the constitution is not only silent, but also deaf on the issue. And this has indeed caused a lot of confusion as to who does what, how, when and where. Rightly so of course some critical minded commentators have argued that, this is one of the reasons for the inefficiency of the health system. As Erinso (2006) rightly stated “the roles and responsibilities of the various tiers are not clearly stated in any enabling law or statute”. However, some of the roles and responsibility of the various levels of government in health include:

Federal government:

The roles/responsibilities of the federal government in health service delivery include the following but limited to the following:

- * Formulation of broad based health policies and strategies
- * Management and supervision of all tertiary health institution
- * Coordination of development partners
- * Representation of the country at international health fora and forum
- * Provision of technical and logistic assistance to states and local government, and management of port health services
- * Response to epidemic and endemic diseases.

State government:

The role and responsibilities of the state government in terms of health care services delivery include:

- Formulation of state health policy based on peculiar health needs, but with reference to existence federal policies
- Implementation of federal government health policies
- Management of secondary health institutions
- Preparation of primary health care polices
- Provision of technical, financial and logistics assistance to local governments.
- Response to state epidemics and endemic diseases.

Local government:

The role and responsibilities of the local government in terms health services delivery include:

- Formulation of primary health care implementation strategies
- Provision of essential drugs and local logistic for the delivery of health service
- Management of primary health care facilities
- Notification of epidemics
- Training and recruitment of primary health care staff.
- Implementation of immunization campaign and other child survival strategies among others.

However, since there is not water tight compartmentalized of their roles in any statute the federal government acting through the federal ministry of health perform some state and local government roles vice versa the states and local governments.

4.0 Conclusion

In this unit you have learned about system and health system. You have also learned about the subsystem makes up a health system and the difference between a health care delivery system and a health system. Equally, you have learned about the history of health services in Nigeria, the various levels of care and the role/responsibilities of the various tiers of government.

It is believed you should now be able to define a health system and describe its subsystem. You should also now be able to give a brief history of health services in Nigeria and the nature of health care services delivered at the various levels of health care service as well as the roles and responsibilities of the various tiers of government.

5.0 Summary

This unit focused on the definition of system and health system as well as its subsystem. It also considered the history of health services in Nigeria, the various levels of health care and the role and responsibilities of the various tiers of government in health service delivery.

6.0 Tutor Marked Assignment

- (1) Define a health system in your own words and list its subsystem.
- (2) (a) What are the various levels of health care services in Nigeria
(b) State some of the role and responsibilities of the federal government in health service delivery.

7.0 Reference/Further Reading

Abosade, O.(2003) Primary Health Care in Medical Education in Nigeria University of Lagos Press 2003.

Abubakar B.D. (2007).The Administration of Community Health Services in Nigeria Taninwla Press, Ilorin

Erinsho O. (2006) The Stewardship role of government: Nigerian Health Review: Publication of the Health Reform Foundation of Nigeria.

Ibet-Iragunima M.W (2006). Fundamental of Primary Health Care: Paulimatex Printers Port Harcourt

Kale O. (2006). History of the Nigerian Health Sector: Nigeria Health Review: Publication of the Health Reform Foundation of Nigeria.

Schram, R.A. (1971) Brief History of Public Health in Nigeria: University of Ibadan, Press

UNIT 2: COMMUNITY HEALTH PRACTICE

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Definition of health
 - 3.2 Definition of community health
 - 3.2.1 Community Diagnosis
 - 3.2.2 Community Mobilization
 - 3.2.3 Preventive Health Services
 - 3.2.4 Curative Health Services
 - 3.2.5 Promotive Health Services
 - 3.2.6 Rehabilitative Health Services
 - 3.3 History of Community Health Practice in Nigeria
 - 3.4 Legal framework for Community Health Practice in Nigeria
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Reading

1.0 Introduction

In this unit we shall be considering the concept of health and community health, the history of community health practice in Nigeria and the legal framework for community health practice in Nigeria.

2.0 OBJECTIVE:

At the end of studying this unit the learner should be able to:

- * Define health
- * Define community health
- * Narrate the history of community health practice in Nigeria
- * State the legal framework for community health practice in Nigeria.

3.0 Main content

3.1 Definition of Health

Before we go on to define the concept of Community Health, it is important to first define what is Health?

There are however, different definitions of health. According to the Oxford English Dictionary ‘health is a state of soundness body, that condition which its functions are duly discharged’.

From this definition health may be seen as the existence of a body that is functioning effectively and capable of discharging all its function.

However, the World Health Organization (WHO) (1978) defined Health “as a State of complete physical, mental and social well-being not merely the absence of disease or infirmity”.

Therefore, a person cannot be said to be healthy just merely because he is not physical ill or because his body is functioning effectively. Thus, when talking about health by virtue of the WHO definition three dimensions must be considered and these are:

- The physical dimension.
- The mental dimension.
- The social dimension; as well as spiritual dimension according to some scholars.

3.2 Community Health Practice

Before we define community health, it s necessary to define what is a community. A community can be defined “as a group of human beings living together sharing intent (intentions), beliefs, customs, resources and even prevalent health problems (diseases).”

What we mean is that a community consists of people, who must be living together and they must be sharing certain things in common including health problems. Now that you have understood what we mean by a community the next thing we shall be discussing is community health.

According to Ibet-Iragunima (2006) Community Health can be defined “as that part of medicine which is concerned with the health of the whole population and the prevention of the diseases it suffer. It does this by making a diagnosis of which disease is important and which can be prevented and then suitable control programmes are organized”.

The free Encyclopedia defined ‘Community Health as a field of public health which is a discipline that is concerns itself with the study and betterment of the health characteristics of biological communities’.

According to Paul and Park (1985) “Community Health postulates the occupied and balanced integration of curative, preventive, and promotional health services including rehabilitative services. It has brought a shift from

diagnosis and treatment of individual's illness to one of community diagnosis and treatment.”

There are some important points to be noted from the above definitions of community health. They are:

- It is a branch of medicine or health.
- It deals with how the health of persons living together without a geographical area can be study.
- It deals with how their health can be improved

From the above explanation there are some unique features that are peculiar to community health practice. These include;

3.2.1 Community Diagnosis:

One of the key features of community health is community diagnosis which entails assessing the problems. According to Abosade (2003) “to provide necessary health services for a community, health personnel must be able to identify health problems and determine their priority.”

Ibet-Iragunima (2006) defined community diagnosis “as an organized process involving identified needs, resources, wants, constraints, problem, diseases pattern, physical, social, cultural and demographic.”

From the above you can see that as a community health practitioner you must not only be able to undertake community diagnosis, but must also regularly undertake it in order to know the health needs, available resources and how to prevent prevailing disease.

The methods used in carrying out community diagnosis include the following:

- Observation (Ethnographic Survey)
- Conducting interview
- Review of existing data
- Questionnaire

3.2.2 Community Mobilization

Another distinct feature of community health practice is community mobilization. According to Ibet-Iragunimiam (2006) community mobilization is a means of encouraging, inspiring and arousing the interest of people to make them become activity involved in finding solution to their own problems.

Also, community mobilization can be said to be the process by which resources in a given community are identified, pulled together and energized toward solving the challenges within the community (problems).

Who can help in community mobilization?

The following persons can help in community mobilization activities

Individuals; voluntary groups; local government; business groups; school groups; religious groups; political groups; community leaders among others.

3.2.3 Preventive Health Services

The other key feature of community Health is that it emphasis preventive health care services which can be referred to those activities involved in ensuring that all health or diseases do not occur within the community.

Some of these include;

Proper disposal of refuses (solid, liquid and gaseous waste); personal hygiene; immunization; health education; use of long lasting insecticide nets (LLINs); clearing of bushes and cleaning of cutters among others.

From the above you can see that other branches of medicine such internal medicine, surgery, gynecology e.t.c do not concern themselves with preventive care as stated above.

3.2.4 Curative health Care:

Although, community health deals more with prevention, promotive and rehabilitative services; community diagnosis and mobilization, it also deals with curative a health care service which is referred to the process of proper diagnosis and management of health eruditions where they have occurred.

And what is involved here is that the community health practitioner based on the signs and symptoms of the illness obtain from history taking and examination treat the patient with prescribed regimes of drugs for example, the use of arternusate combination theory (ACT) for the management of malaria.

3.2.5 Promotive Health Service

Equally, community health is concerned with promotive heath a service which refers to all those activities undertaken to enhance the quality of life and living standard to bring about longevity and resistance diseases.

Some of these activities include:

Family planning services, health promotion, nutritional campaign, provision of safe water programmes.

3.2.6 Rehabilitation Health Service

Again, rehabilitation health service is another aspect of community health. This involves all those measures that are taken to ensure that person who have had very severe illness or health condition are reintegrated into society or are continually provided some form of health services that would prevent them from relapsing into a severe state again. For example, the management of a person who had been treated for mental illness or tuberculosis, hypertension, diabetes, accident victims among others.

3.3 History of Community Health Practice in Nigeria:

There are several accounts of the exact period community health practice started in Nigeria. According to Abubakar (2007) the root of community health profession can be traced back to the 1920s when emphasis was shifted to the control of communicable diseases i.e. endemic and epidemics. The need to intensify campaign on how to combat and control endemic and epidemic disease was revealed through the relentless efforts of some British ex-servicemen who are mostly doctors. In order to ensure effective control of diseases outbreak during that period two accessory health care units were established to combat the diseases affliction i.e. Mobile Task Unit (MT) and Medical Field Unit (MFU).

If we are to accept the argument of Abubakar, it means community health practice started in Nigeria around the 1920s and the purpose was the inability of the existing forms of health care models to combat the prevalence of diseases.

Specifically speaking, the practice of community health started in Nigeria about 1978 with Alma-Ata declaration of primary health care and the need to have a cadre of health professionals willing to man. According to Ransome-Kuti, Sorungbe, Oyegbite and Bamisaiye (1990) “in 1978 a new breed of primary health care workers was introduced to man the primary health care services and these are community health officers, supervisors, assistants and aides.

Thus, the actual training of community health started effectively in 1978 and to ensure the availability of adequate number especially at the higher level existing health workers such as rural health workers, community midwives and nurses as well as public health superintendent were allowed to train either as community health officer or supervisor or assistants as the case may be.

It is also important to state that the community health aides were trained for one year, the community health assistants trained for two years after the

initially training as a community health aides certificate or direct admission of persons having WASCE, the community health supervisors where trained for two years after training as a community health assistant and the community health officers trained for one year after training as a community health supervisor or community midwife or public health nurse or public health superintendent.

However, today the Junior Community Health Extension Workers (JCHEWs) are now trained for 2 years, while the Community Health Extension Workers (CHEWs) are trained for 3 years and the Community Health Officers (CHOs) are trained for 2 years.

From the above it is believed you now know the history of community health practice in Nigeria

3.5 Legal Framework for Community Health Practice:

Although, community Health Practice started in 1978 by our own account because we do not agree that the Rural Health workers were community health practitioners. There was no legislation creating the profession. The law officially authorizing community health practice in Nigeria is the Community Health Practitioners Registration Board of Nigeria formerly Decree 61 of 1992 dated 24th day of November, 1992 now Act of the National Assembly known as CAP C19 Law of the Federation of Nigeria (LFN) 2004.

Based on the above the legal framework for Community Health Practice in Nigeria is the Community Board of Nigeria Act CAP C19 LFN 2004.

4.0 Conclusion:

In this unit you have learned about the concept of health and community health. You have also learned about the key features of community health practice among them were community diagnosis, community mobilization, preventive health service, curative health services, promotive health services and rehabilitative health services.

Equally, you have learned about the history of community health practice in Nigeria and the legal framework for community health practice in Nigeria.

It is hoped that you should now be able to define health and community health, narrate the history of community health in Nigeria and discuss the legal framework for community health practice..

5.0 Summary

This unit focused on the definition of health and community health. It also considered some key features of community health, the history of community health and the Legal framework for community health practice in Nigeria.

6.0 Tutor Marked Assignment

1. (a) Define the concept of community Health in your own words.
(b) List four common key features of community Health Practice that you have learnt in this Unit.
2. State the legal framework for community health practice in Nigeria

7.0 Reference/Further Reading

Abosade O.A. (2003) Primary Health Care in Medical Education in Nigeria. University of Lagos Press, Akoko-Lagos.

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UNIT 3 : INTRODUCTION TO ETHICS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Definition of ethic
 - 3.2 Brief History of Medical Ethics
 - 3.2.1 Definition of medical ethics
 - 3.3 Informed Consent
 - 3..3.1 Basic elements of informed consent
 - 3.4 Religion and ethics
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Reading

1.0 Introduction

Having discussed the Nigerian health system and community health practice in the two previous units which was intended to give the learner some background about the Nigerian health system and community health practice to enable them have a better a understanding of issues related to ethics, medical ethics and community health ethics. This unit will now focus on the definition of ethics, brief history of medical ethics, definition of medical ethics, meaning of informed consent and it basic elements as well as the relationship between religion and ethics.

Objectives

At the end of studying this unit the learner should be able to:

- define ethics
- state the brief history of medical ethics
- define medical ethics
- define informed consent
- state the basic elements of informed consent
- state the relationship between religion and ethics

3.0 Main content

3.1 Definition of Ethics

Just like most social and legal concepts there is no generally accepted definition of ethics as various scholars have defined it from their own world perception. According the Oxford Advanced Learner's Dictionary 5th edtn "Ethics are moral principles that govern or influence a person's behaviour"

While, the Code of Professional Conduct, Ethics and Etiquette for Community Health Practitioners 2009 defined ethics as "a system (a written document or rules) observed with a very high standard of respect (by a profession) which guides and control the moral behaviour and manifest in the character and mind"

From the above two definitions there some very important points that the learner needs to know about the concept of ethics. And these include:

- first that it is a set of rules or principle;
- secondly it governs the moral behaviour of persons;
- thirdly they must be obeyed by members of any profession for which they have been laid down; and
- finally ethics must be in writing.

3.2 Brief History of Medical Ethics

Having learned about what we mean by ethics and the essential elements of ethics, the next thing we shall be discussing is the history of medical ethics which is intended to provide you with knowledge of the basis ethical of practices and development of various professional ethics.

According to Abosade (2003) "Ethics has always been a fundamental aspect of the practice of medicine. Its inclusion as a specific subject of interest to medicine and dentistry however started in the Post World War II era. Before then medical ethics dealt with the obligations and responsibilities of physician (Hippocratic Oath 5 BC)".

Tracing the history further she argued that "the principle of the autonomy of the patient has been subject of discussion since the early period of the last century. In 1914 Justice Cardozo, an American jurist said "every human being of adult years and sound mind has a right to determine what shall be done with his body".

In more recent times the issue of ethical conduct among medical and health practitioners have become a front burner agenda and each profession has being setting standards or laying down rules that would govern and influence the

moral behaviour of its members. And this Abosade rightly acknowledged by saying that “some of the earlier issues on ethics include the Declaration of Geneva, issued by the General Assembly of the World Medical Association in 1948 and the International Code derived from it in 1949. The Helsinki Declaration issued by the 18th World Medical Assembly in 1964 and revised by the 29th Assembly in Tokyo in 1975 established the standard for experiments in volunteers and clinical trials of patient undergoing treatment.

However, since 1976 the World Health Organization has taken the responsibility to ensure the adoption of ethical standards in health services delivery. Based on above you can now see how medical ethics began especially with the Hammurabi Laws of 2,500 B C which was the basis upon the Hippocratic Oath of 5 B C which is administered on new doctors during their induction and subsequently basis upon which each profession within the health sector started developing their own system of moral principles that would govern and influence the behaviour of their members.

3.2.1 Definition of Medical Ethics

“Medical ethics can be defined as “the code of moral and social behaviour in relationship to medical profession and the patient entrusted to his care.” It can also be defined as “the code of moral principles that governs or influence a health care provider behaviour in relationship to his patient/client and colleagues”.

The important points that need to be noted in the above definition of medical ethics include:

- ethics is a set of code of moral principles;
- they govern or influence the behaviour of health care provider;
- they deal with how the provider should relate with his client/patient;
- it also relate to how he deals with his fellow professional colleagues and other members of the health team

3.3 Informed Consent

According to Abosade (2003) “Informed consent means that a client or patient is given adequate information and explanation before agreeing to cooperate with the doctor/dentist”

Informed consent can also be defined as “the agreement by a client/patient to voluntarily surrender himself/herself to health provider for the purposes of receiving treatment or medical advice based on information and explanation made available to him/her”. The key issues that you must note as a learner about the definition of informed consent are as follows:

- there must be agreement by the client
- there must be information and explanation given by the health provider
- it must be for the purposes of seeking medical attention

3.3.1 Basic Elements of Informed Consent

Now that you have learned about informed consent, the next thing we shall be discussing in this unit is the basic elements of informed consent. And according to Abosade (2003) “there are six basic elements of informed consent and these include:

- (1) A fair explanation of the procedure to be followed and their purposes including identification of any procedure which are experimental
- (2) A description of any attendant discomfort and risks reasonably to be expected
- (3) A description of any benefits reasonably to be expected
- (4) A disclosure of any appropriate alternative procedure that might be advantageous for the subject
- (5) An offer to answer any inquiries concerning the procedure
- (6) An instruction that the person is free to withdraw his consent and to discontinue participation in the project of activity at any time without prejudice to the subject.

From the above list you can now see what you need to prove in case of breach of duty of failure to obtain consent to establish that you actually obtained consent of the client/patient before carrying out any procedure on him/her.

However, it is also important for you to know that in some cases or procedures or treatments or operations can be done or performed without the consent of the client/patient him/herself. These include:

- cases of emergency where the patient is unconscious and relatives cannot be immediately reached
- in case of minors whose parents or guardian consent is needed and not that of the minor him/herself
- case of totally insane or mentally ill patient whose consent cannot be obtained but those of his parents or other relations as a result to their disease of the mind.

It is believed that you have now fully understood how to obtain consent and when not to insist on obtaining consent, because you could be legal liable if you do not make the correct judgement as to when to obtain or not obtain consent.

3.4 Religion and Ethics

Although, religion and ethics are very complementary, they are however also very contradictory of each other. This is because certain things considered ethical (moral) within the medical profession are sometimes considered unethical or immoral or improper within religious circle.

As Abosade (2003) rightly observed “medical practice and religion have always complemented each other except for a few instances where they clash. For example, refusal of blood transfusion by the Jehovah's Witnesses sect or the stand of the Catholic and some other sects on family planning and abortion”.

While, it is difficult to separate one from his/her religion, but in medical ethics there is a burden to save life especially, in cases of emergency. Just in the two example given above, it is true that Jehovah witness members do not accept blood transfusion, but then if a Jehovah witness is a victim of accident and is unconscious due loss of blood and the only way of saving his life is by transfusion. It would be unethical for a doctor not transfuse him because he claims to be a Jehovah witness especially where his relations are not around to withhold or grant the consent required.

Therefore, it is important to know when to draw the line between a patient's right to life and his freedom of worship and belief. As a health provider you have a duty to save life and in some case you could be sued by the same persons for professional negligence. And I do not think would be sued for breach of any duty if you take the right step to save life against the religious beliefs of any person who is not in a position to make informed choice(s).

And as Abosade equally stated “it important to note that no court has ever upheld the view that a patient should be allowed to die because of his religious beliefs” From the last statement you now know that it is your duty first to ensure that life is saved before consideration is given to religious beliefs. And your understanding of professional duty would assist you in determining when to draw the line between religion and ethics.

4.0 Conclusion

In this unit you have learned about ethics, the history of medical ethics and the definition of medical ethics. You have also learned about what we mean by informed consent and the basic elements of informed consent as well as the relationship between religion and ethics.

It is hoped that you should now be able to define ethics and medical ethics in your own words, briefly state the history of medical ethics. You should also be able to

define what we mean by informed consent and the basic elements of informed consent as well as the state the relationship between religion and ethics.

5.0 Summary

This unit focused on the definition of ethics and medical ethics, history of medical ethics and what is informed consent. It also focused on the basic elements of informed consent and the relationship between religion and ethics.

6.0 Tutor Marked Assignment

1. (a). Define the term ethics in your own words

(b) What do we mean by medical ethics?
2. (a) What is informed consent?

(b) List the basic elements of informed consent

7.0 Reference/Further Reading

Abosade, O.A, (2003) Primary Health Care in Medical Education in Nigeria: University of Lagos, Press.

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Code of Professional Conduct, Ethics and Etiquettes for Community Health Practitioners 2009

UNIT 4: COMMUNITY HEALTH ETHICS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Definition of community health
 - 3.1.1 Definition of a community health practitioner
 - 3.2 Definition of Community health ethics
 - 3.2.1 Community health ethics
 - 3.2.2 Code of Conduct for community health practitioners
 - 3.2.3 Etiquettes of a community health practitioner
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Reading

1.0 Introduction

In this unit we shall be considering the definition of community health, a community health practitioner and community health ethics. We shall also be discussing the code of conduct for community health practitioners and their etiquettes.

2.0 Objectives

At the end of studying this unit the learner should be able to:

- Define community health and a community health practitioner
- Define community health ethics
- Define and list some community health etiquette
- List some code of conduct for community health practitioners
- List some etiquettes of a community health practitioner

3.0 Main content

3.1 Definition of Community Health

Community health is that branch of medicine concerned with the total health of the individual, the families, the group, the community, the nation and the world at large.

According to Ibet-Iragunima (2006) Community health can be defined as “that part of medicine which is concerned with the health of the whole population and the prevention of diseases it suffers. It does this by making a diagnosis of which diseases are important and which can be prevented and suitable control programmes are organized”.

There are some important points that have been highlighted in the two definitions above. They include:

- community health is a branch of medicine and so the principles and practice of medicine applies to it;
- it is concerned with the health of the entire population especially those living within a specific geographical area;
- that it deals with the total well being of the individuals and also require good interpersonal skills;
- it deals with how prevalent diseases can be identified and prevented
- finally, it deals with improvement of health status through promotive measures.;

3.1.1 Definition of a Community Health Practitioner

Having defined community health the next concept we shall be considering is who is a community health practitioner. “A community health practitioner can be defined as a person who practices that branch of medicine referred to as community health and is specially trained renders promotive, preventive, curative, and rehabilitative health services to people where they live and work. The main focus of the community health practitioner is to promote good health, prevent diseases and treat ailments”

Attempting to also define a community health practitioner Abubakar (2007) said that “due to the above identified shortcoming on the part of the doctors and nurses, the federal government in a bid to effectively actualize the goal of primary health care established a new breed of primary health care providers that have been polyvalently trained to render the services to the people in the rural communities. These cadres of health professionals or workers are collectively referred to as the community health practitioners”

There are some key terms mentioned in the definitions that should be of interest to the learner. These are:

- a community health practitioner is a health providers and therefore a members of the health team;
- he render polyvalent health services (promotive, preventive, curative and rehabilitative) unlike other health providers who may possess either one or two but not all components of health services;

- a community health practitioner works within the community;
- a community health practitioner renders services not only to the individual, but also to the entire family.

However, for an individual to be regarded as a community health practitioner in Nigeria, he must fulfill the following requirements:

- Must have undergone a course of training approved by the Community Health Practitioners Registration Board of Nigeria;
- The institution that offered the course must be accredited by the board;
- Must pass the prescribed national examination conducted by the board;
- Must be registered and licensed by the board;
- Must have a valid license;
- Must be an active member of the National Association of Community Health Practitioners of Nigeria.

3.2 Definition of Community Health Ethics

Community health ethics is a set of written rules of moral and social behaviour, technical standards which guides and control a member of the community health profession. It can also be defined as a system (a written document or rules observed with a very high standard of respect by community health practitioners which guides and control their moral behaviour and manifest in the character and mind.

3.2.1 Community Health Practitioners Ethics

According to Rules 8 of the code of Professional Conduct, Ethics and Etiquette for community health practitioners in Nigeria, the general work ethics of a community health practitioner include:

- to act with sense of maturity;
- to develop the sense of self motivation;
- to be accurate in all activities;
- to practice thoroughness;
- to practice dependability;
- to be flexible;
- to have good judgment;
- to be honest;
- to have initiatives;
- to possess the ability to problem solving;
- to be punctual at work;

- to possess the attitude of efficiency;
- to be a member of the team (a team play);
- to be tactful;
- to be assertive

From the above you can see that there is a high level of professional ethical conduct expected of a community health practitioner in relation to his client and colleague.

3.2.2 Code of Conduct of Community Health Practitioners

Having known the ethics of a community health practitioner, the next thing we shall be considering is the code of conduct of a community health practitioner. According to Rule 1 of the Code of Professional Conduct, ethics and etiquette for community health practitioners 2009 “code of professional conduct is the collection of rules, laws, and standard that guide and control the behaviour of the profession”.

From the above assertion we can simply say that code of conduct of community health practitioners is the collection of rules, laws, and standards that guide and control the behaviour of members of the community health profession. It is important to know as learners that although a professional is supposed to be punished for breach of professional code of conduct. He can also however, be punished for breaches which are not written rules or laws of the profession, if the conduct is considered as infamous, disgraceful and dishonourable by members of the profession as was the case in *Allison Vs General Council of Medical Education and Registration (1894) 10B 750*.

Some of the code of conduct for a community health practitioner includes:

- Set a high standard;
- Maintain intra-professional obligation;
- Use of Standing Orders;
- Maintenance of two-referral system;
- Must obtain consent of patient before administering treatment;
- Give prompt attention to patients/clients;
- Give true evidence during testimony;
- Use of uniform;
- Avoid all anti-professional behaviours
- Must not be absent without permission.

3.2.3 Etiquettes of a Community Health Practitioner

Having discussed the code of conduct for community health practitioners, the next thing we shall be considering is the etiquettes of a community health practitioner. Although, the code of professional conduct, ethics and etiquettes for community health practitioners 2009 did not expressly define community health etiquettes, we can however, define community health etiquettes as the standard of minimally acceptable conduct within the community health profession which involves his duties, behaviour and actions which must be observed by all members of the profession.

Some the etiquettes of a community health practitioner according to Rules 9 of the code of conduct 2009 include:

- to have a generally positive attitude towards work with a cheerful personality;
- to offer explanation to patients on charges for services in an honest manner;
- to have a genuine desire to help people;
- to be warm and attentive;
- to avoid engaging in marketing, advertisement or sell of items while on duty;
- to consider junior colleagues as brothers and sisters;
- to show appropriate courtesy to clients/patients at all times and under any circumstances.

4.0 Conclusion

In this unit you have learned about the definition of community health, a community health practitioner and what mean by community health ethics as well as etiquettes. You have also learned about community health ethics, etiquettes and code of conduct for community health practitioners.

Having gone through this unit it is believed that you should be able to now define community health and describe who is a community health practitioner especially the legal requirements. You should also be able to lists some of the ethics, etiquettes and code of conduct for community health practitioners.

5.0 Summary

This unit was focused on the definition of community health, stated the requirements of a community health practitioner, definition of community health ethics and etiquettes. It also focused on the ethics, etiquettes and code of conduct for community health practitioners.

6.0 Tutor Marked Assignment

- 1 (a) Define the term community health ethics
- (b) List five ethics of the community health profession
- 2 (a) List at least four code of conduct for community health practitioners
- (b) List at least five etiquettes of a community health practitioner

7.0 Reference/Further Reading

Abosade, O.A. (2003) Primary Health Care in Medical Education in Nigeria: University of Lagos Press.

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Community Health Practitioners Registration Board of Nigeria Act CAP C19 LFN

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Ibet-Iragunima, M. W (2006) Fundamentals of Primary Health Care: Paulimatex Printers, Port Harcourt.

UNIT 5 PROCEDURES FOR LICENSING/REGISTRATION

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Definition of license and licensing
 - 3.2 Definition of Registration
 - 3.3 Rationale for Registration and Licensing
 - 3.3.1 Procedure for Registration
 - 3.4 Requirement for Registration
 - 3.5 Effect of Registration
 - 3.6 Effect of non-registration
 - 3.7 Process of deregistration
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Readings

1.0 Introduction:

In this unit we shall be focusing on what is a license, the meaning of registration, the rationale for license and registration. We shall also consider the qualification for registration and licensing of community health practitioners, the effect of registration and non-registration as well as procedure for deregistration.

2.0 Objectives

At the end of studying of this unit the learner should be able to;

- Define a license
- Define registration
- State the reasons for licensing and registration
- State the requirements for registration as a community health practitioners.
- State the effect of registration
- State the effect of non-registration

- State the procedure for deregistration

3.0 Main content

3.1 Definition of License and Licensing

A license according to Abubakar (2007) “simply means the permission to carry out a given task or practice a profession. It is an approval given to an individual by the professional body to provide the service identifiable with such profession.”

The above definition seems to tilt towards professional license. It must be borne in mind that licenses are sometimes given for rendering services and not issued by professional bodies alone. For example, a driver’s license is not issued by the driver’s profession. Also, license to sell wine is not issued by a professional body. But our concern in this unit is that given by a professional body.

According to the Online Dictionary “a license is a legal document giving official permission to do something.”

There are some very important issues mentioned in the above definition which has made it more appealing to do in this discussion than the one offered by Abubakaar these include the following:

- A license is a legal document; that means it must recognized by law and issued by appropriate authority.
- Secondly it gives official permission to do something.

This means when you are expected to do a particular thing and you do not have a license to do it then your act is unofficial. Thus as a community Health Practitioner, if you are not licensed at the end of your course you cannot practice community health officially.

Based in the above a license can be defined as “a legal document issued by authorized person granting permission to an individual to perform is official duties or carry out his responsibilities.”

On the other hand, “licensing is process of issuing a legal document by an authorized person granting another the permission to do something.”

3.2 Registration

Registration is the process of entering the name of an individual who has being licensed into a register where names of registered members are recorded.

In the case of community health practitioner by virtue of section .8 and 10 of CHPRBN Act CAP C 19 LFN 2004 any person practicing the profession is suppose to be registered. Thus any person whose name is not in the register of community health practitioners is to that extent not a community health practitioner.

From the above can you see that it is compulsory to get registered upon completion of any course in community health approved by the board.

3.3 Reasons for registration and Licensing:

Having discussed the meaning of licensing the next issue we want to consider in this unit is the rationale or reasons for registration. There are several reasons why members of given profession especially community health practitioners are licensed and registered.

One of the reasons for licensing and registration of members of a profession is to protect them. What this means is that any person who is licensed and registered to practice a profession is protected against any embarrassment and harassment from law enforcement agents when arresting or undertaking professional sanitization.

Secondly, licensing and registration helps in the protection of members of the public That is to say that licensing exercise is directed at curbing the nefarious activities of those who are out there to exploit the innocent and unsuspecting consumers of health services.

Another reason for licensing and registration is to ascertain the number of members of that profession. What it means is that is through licensing and registration you are able to know the number of persons who are in the profession.

Equally, licensing and registration is also undertaken to resolve inter professional conflict and define areas of specialization of each professional. What this means is that when health professionals are licensed and registered it state their limit of practice, thus each professional has a clearly define function within the health industry.

Also, licensing and registration is done to fulfill legal requirement. What this means is that most professions are set up by law and the law prescribe that there should be licensing and registration. In the case of Community Health Profession S.8, 10, 11, 15 and 16 has made licensing and registration compulsory for every Community Health Practitioners.

From the above you can see that there are several reasons why licensing and registration of professionals especially Community Health Practitioner is undertaken.

3.3.1 Procedure for Registration

The procedure for registration as a community health practitioner which is similar to some other professions includes:

First completion of approved course specified to be undertaking by members of the profession (a course in community health) and approved by the board.

Secondly, obtaining and completion of registration/licensing form upon payment of the prescribed fees.

Thirdly, the applicant must be mentally fit and be of good character and must be a member of the professional association, and must be willing to renew his license periodically.

3.4 Requirement for Registration

Although, the Community Health Practitioners Registration Board of Nigeria Act Cap C19 LFN 2004 did not clearly state what is the minimum educational requirement needed for registration.

It however in S. 10 and S. 11 of the Act provided some conditions that must be fulfilled before any person can be licensed and registered as a Community Health Practitioner.

According to S. 8 (1) subject to section 27 of this Act and to rules made under section 8 (2) thereof a person shall be certified to be registered under this Act and being s registrations certificate if:

- a) He has attended a course of training approved by the Board under section 12 of this Act;
- b) The course was conducted at an institution do approved, in partly at one of such institution and partly at another;
- c) He holds one or more qualification prescribed in the second schedule to the Act for the purpose of registration on the register and has complied with other requirements prescribed under section 8 (2) of this Act (Second Schedule)
- d) He is of good character and he thereafter pays any prescribed fee;

(2) Subject to subsection (i) of this section, a registered person shall be required to pay an annual fee to retain his registration with the Board and any failure to pay the retention fee shall result in temporary withdrawal of the certificate to practice.

(3) The Board shall from time to time, publish in the Gazette particulars of the qualifications for the time being accepted as aforesaid.

(4) The qualifications specified in the second schedule to this Act are those accepted for the time being by the Board as the minimum qualification for the purpose of registration on the register established.

(Second Schedule)

(e) Subject to as aforesaid, a person shall be entitled to be temporarily registered under this Act in the cases specified in section 11 of this Act.

S.11. Temporary registration

(1) Where a person satisfies the Board;-

- a) That he has been selected for employment for a specified period in a capacity in which a registered person under Act would normally be employed and that he is or intends to be in Nigeria temporarily for the purpose of serving for that period in the employment in question.
- b) That he holds or has passed examination necessarily for obtaining some qualification granted outside Nigeria which is for the time being accepted by the Board for the purpose of this section as respects the capacity which, if emphasized, he is to serve, and
- c) He pays any fee prescribed for registration,

The Board may, if it thinks fit, give a direction that he shall be temporarily registered.

(2) The temporarily registration of a person shall continue only while he is in such employment as is mentioned in subsection (1) (a) of this section and shall cease:-

- a) On the termination of the period of employment specified to the Board under that subsection or
- b) On the termination of the said employment before the end of the period.

Whichever first occurs, but nothing in this subsection shall preclude the Board from giving a further direction under subsection (1) of this section in respect of a specified period whose commencement concedes with the termination of another such period.

- (3) A person who is temporarily registered shall in relation to the employment mentioned under subsection (1) (a) of this section, and to things done or method to be done in the course of that employment be deemed to be fully registered, but in respect of other matter he shall be treated as not registered.
- (4) Where there is doubt as to whether a person's employment has been terminated the decision of the Board shall be conclusive for purposes of subsection (2) of this section.
- (5) The Registrar, as directed from time to time by the Board shall remove from the register the name of any person ceasing to be entitled to the benefit of the section.

Based on the provision of the second schedule it can be assumed that the qualification accepted for registration as a community health practitioner is either a certificate or a diploma or any other qualification approved and recognized by the board.

SECOND SCHEDULE

[S and (4)]

Accepted minimum qualification for the purpose of registration on the register established under this Act. Certificate of the National institute or any diploma or qualification

From the above it is hoped you now know the requirement for registration as a community health practitioner especially with regards to permanent and temporary registration as well as the minimum qualification required.

3.5 Effect of Registration:

The effect of registration under the Act makes the individual a Community Health Practitioner and enables him to practice Community Health anywhere within the Federal Republic of Nigeria.

Another effect of registration is to have the name of the practitioner entered on the register of community health practitioner.

Equally, upon registration a person so registered would be entitled to be issued a Registration Certificate.

3.6 Effect of Non-Registration

Any person who has undertaken a course of study approved by the Board or who wishes to practice community health in Nigeria based on qualification obtained outside Nigeria must register either permanently or temporarily.

However, where a person is not so registered and holds himself out as registered he shall be guilty of an offence. Thus, one of the effect of non registration is that you cannot practice as a Community Health Practitioner.

Another effect is that the person would not be issued a registration certificate.

Equally, he would be prosecuted for criminal misconduct. Also, he cannot hold any appointment in Nigeria if the holding of such appointment would entail the performance of any act pertaining to the profession see S. 16 of CHPRBN Act CAP LFN 2004.

From the above you can see that non-registration has some consequence including imprisonment if prosecuted. Therefore, it is important that all persons who have trained as a community health practitioner or wishing to be employed as a community health practitioner to be registered.

3.7 De-registration

A person who has being registered as a Community Health Practitioner may have his name removed from the register of members under any of the following circumstances. Some of the grounds deregistration include:

- (a) Refusal pay annual retention as provided under S. 10 (2) of the Act which state that subject to subsection (1) of this section, a registered person shall be required to pay an annual prescribed retention fee to retain his registration with the Board and any failure to pay the retention fee shall result in temporary withdrawal of the certificate to practice.
- (b) Another reason for de-registered or removal of name from the register is where a person under temporary registration on basis of a particular employment has his employment terminated. See S. 11 (2) (a) and (b).
- (c) Again person would be de-registered if he is found guilty of an infamous conduct or found to have obtained registration fraudulently. See S 23 (2) (a).

From the above you can see that the fact that somebody has been registered does not make his name to be permanently retained in the register. He has a duty to renew his registration and also under obligation to be of good conduct and not engage in any infamous conduct.

4.0 Conclusion

In this unit you have learned about the definition of license, registration and licensing. You have also learned about the rationale for licensing and registration especially of health profession, the requirement for registration.

Equally, you have learned about the effect of registration and non-registration as well as the reasons or grounds for deregistration. It is believed you should now be able to define a license and registration, state some reasons for licensing and register of Community Health Practitioner. Also you should be able to state the requirement for registration, effect of registration and non-registration as well as grounds for deregistration.

5.0 Summary

This unit was focused on the definition license and registration, the reasons for the licensing and registration of health professionals. It also discussed the requirement for registration as a community health practitioner, the effects of registration and non-registration as well as grounds for deregistration.

6.0 Tutor Marked Assignment

1. Define the concept of license and registration in your own words.
2. (a) State at least three reasons why licensing and registration is done by Health Professionals.

(b) State at least two grounds for deregistration of a Community Health Practitioner.

7.0 Reference/Further Reading

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UNIT 6 : LAW

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Definition of Law
 - 3.2 Classification of Law
 - 3.2.1 Criminal law
 - 3.2.2 Civil Law
 - 3.2.3 Public and Private Law
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 - 3.2.5 Statute and Case Law
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 - 3.3 Sources of Law
 - 3.3.1 English Law
 - 3.3.2 Nigerian Legislation
 - 3.3.3 Nigerian Case Law
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 - 3.3.5 International Law
 - 3.4 Function of Law
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Readings

1.0 Introduction

In this unit we shall be considering the concept of law, the various branches of law, its sources and its function. This is because there is no way we can discuss the issue of morality without considering what is law. And the reason for this is that there is a raging argument that both law and morality is the same thing.

2.0 Objectives

At the end of studying this unit the learner should be able to:

- Define law

- State the various classes of law in Nigeria
- State the sources of law in Nigeria
- State the functions of law

3.0 Main Content

3.1 Definition of Law

Law like most social concept has no generally accepted definition and this has led to the existence of various schools of law, which include; the natural school of thought, the positive school of thought, the sociological school of thought, the historical school, the realist school or movement, the marxist economic theory of law and the transcendental idealists school.

According to Hart (1961) “we see law in different light but the light is usually so bright that it blind us to remainder and so leaves us without a clear view of the whole. The divergent views on the meaning of law have crystallized into what has become generally known as the schools of jurisprudence or schools of thought as to the meaning of law.”

Law according to Black’s Law Dictionary Seventh Edition “Law is the regime that orders human activities and relationship through systematic application of the force of politically organized society, or through social pressure, backed by force, in such a society.”

Law can also be defined as “the set of rules and regulation guiding the behaviour of persons of a giving society the breach of which attracts sanction.”

From the above definitions you would agree that there are some key words mentioned. These are:

- orders or rules or regulation;
- human activities;
- a giving society, and
- sanction or force.

3.2 Classes of Law

Having attempted to define law, the next thing we shall be discussing briefly is the various classes of law in Nigeria. According to Ogbu (2002) “there are several schemes of classification of law.” These include:

3.2.1 Criminal Law

Before we discuss criminal law it is important for us to first consider what is crime. According to Okonkwo and Nash (2003) “crimes are created by the legislative authority on a Community, be it despotic, oligarchic or democratic in nature, in response to certain needs for protection felt by governors or governed or both”.

While the Black’s Law Dictionary Seventh Edition defines “crime as a social harm that the law makes punishable; the breach of a legal duty treated as the subject matter of a Criminal proceeding”.

You can see from the two above definitions especially the last one, that a crime is what a giving society views as wrong and the violation of which lead to some form of punishment.

In trying to define Criminal Law Glanville (1982) said that. “If the wrongful act or omission is capable of being followed by criminal proceeding that means that it is regarded as a crime (otherwise called an offence). If it is capable of being followed by civil proceedings that means that it is regarded as Civil wrong. If it is capable of being followed by both it is both a criminal or civil wrong.”

However, criminal law can be said to be set of rule governing how a person accused of committing a breach of duty that is considered as a crime is tried at the instance of the state..

3.2.2 Civil Law

According Afolayan and Okorie (2007) “civil procedure as a subject deals with law, rules, practice and procedure guiding and regulating the conduct of civil actions and proceeding in court in line with the constitutionally vested judicial powers which extend to all matters between persons, or between government or authority”.

While Ogbu (2002) opined that “all legal situation outside the ambits of Criminal Law are within the ambit of civil law.”

We shall for the purposes of this course define civil law as any wrong or breach of duty which attract sanction not at the instance of the state, but at the instance of the person who has being injured as a result of the breach. You will recall we said in criminal law the action to get punishment is commenced at the instance of the state, but in civil law it is the individual who has been harmed or injured that commences the action.

3.2.3 Public and Private Law

Another class of law we shall be considering is public law and private law. According to Ogbu (2002) “public law is that aspect of law that regulates the relationship between various organs of the state interse and the relationship of the state with the individual.” For example, constitutional law, administrative law, criminal Law and human rights law.

While according to him private law deals essentially with relationship of private persons or business association examples of private law are family, commercial law, law of intellectual property, law of banking and insurance, law of contract, law of tort, law of trust, company law, and law of succession also known as Wills Law.

3.2.4 Municipal Law and International Law

Municipal law refers to the domestic laws made by the law makers of a given country that governs their activities and not applicable in another country. For example, the Economic Financial Crime Commission (EFCC) Act is only applicable in Nigeria not in any other Country. Also, the Community Health Practitioners Registration Board of Nigeria Act regulates only community health practitioners in Nigeria not applicable to Ghana, United States, Republic of Benin.

While, International Law refers to law that governs the relationship of nations or between International bodies. For example, the World Health Organization Laws, Laws against terrorism etc. However, for any International Law to be applicable in a given country they must be domesticated that is they must be recognized and approved by the National Legislative arm of the Country’s government.

For example, the African Charter on Human and Peoples Rights. Also, the Green Tree Agreement which recently ceded the Bakassi pennusela to Cameroon.

3.2.5 Statute Law And Case Law

According to Ogbu (2002) “a statute (Legislation) is a law made by a law making body (the legislature), while case law is judge made law.

What the above simply means is that where a law comes into existence after being passed by the legislative arm of government. It is referred to as statute

law. For example, law enacted by the National and State Houses of Assembly, and Local Government Legislative Councils.

Conversely, case law is law made by judge sometimes where the law is not very clear and in a bid of trying to ensure justice is done. The judge makes some legal pronouncement to give force to its decision. Such pronouncement become the law and is referred to as case law. See, the case of **Ameachi Vs INEC (2008) 5 NWLR (pt 1080) 227**, where somebody who never contested election was declared a governor.

3.2.6 Customary Law

These refers to local customs and tradition which govern the relationship of people before the advent of colonial rule which have become judicial recognized and acquire the force of law. Customary Law is somewhat unique because it varies from community to community.

However, it is important to note that although each community may have its own laws, customs or norms which are acceptable among members of that society. They may be declared null and void if they are against the rule of natural justice, incompatible with English Law, repugnant good conscience or against fair play.

3.3 Sources of Nigeria Law

Source of law connote several things. However, in this study we shall limit ourselves to the meaning expounded by Cross (1961) according to him. “the term is also used in a third sense to mean the legal source, the organ from which a rule derives its validity as a rule of law.”

Basically, there are five sources of law in Nigeria. These are English Law, Nigerian Legislation, Nigerian case law, Customary law and International law.

3.3.1 English Law

One of the sources of Nigerian law is the English law and this is by virtue of Nigeria being a former British colony thus most of our laws are similar to what obtains in England.

3.3.2 Nigerian Legislation

Another source of Nigerian law is Nigerian legislation which refers to laws made by a body empowered to make laws in Nigeria. It is one of the largest source of Nigerian law and also very important.

In Nigeria legislation consists of the constitution, ordinances, Acts, Law Decrees, Edicts and subsidiary legislation depending on the level of the legislation. Generally, laws made at the National level are called Acts or Decrees. If they are made during civilian administration, they are called Acts while during Military era they are called Decrees. While laws made at the state level during civil rule are called laws those made under military rule are called Edicts. And the Local Government law called bye laws.

Another category of Nigerian legislation according Ogbu (2002) is subsidiary or delegated legislation. These refer to law enacted in the exercise of powers given by a primary law making body to another to make law. And these include rules, order and regulations made by Minister, Commissioner, Chief Judges of the State High Court, Federal High Court, and Justices of the Court Appeal and the Supreme Court of Nigeria.

3.3.3 Nigerian Case Law

The other source of Nigerian law we shall be considering is what is referred to as case law or judges made law. What this means is that where a judge gives judgment to cure a lacuna or create a law where non-existed he would make law. Although judges does not make laws by virtue of the doctrine of separation of power, but in some case they do.

However, the truth is that judges make law. According to Ogbu (2002) Judges make law in various other senses. For instance, where there is a lacuna in the law by filling the gap. Also, where there is no law previously governing the situation before the Court it may create some principles of law for the situation.

3.3.4 Customary Law

Equally, customary law is a source of Nigerian law. They refer to body of rules customs which have become recognized by members of a given community as a result of long usage and passage of time.

As Ogbu (2002) rightly pointed out “customary law is a body of rules regulating duties, being imposing correlative duties, being a rule or body of rules which obtains and is fortified by established usage and which is appropriate and applicable to any particular cause, matter, dispute, issue or question” Simply put customary law are those laws recognized by people of given locality as governing them.

3.3.5 International Law

The last source of Nigerian Law we shall be considering is International Law. And this refers to various treaties, conventions or protocol that has been signed to which now have binding force on the country for example, the Vienna Convention, the Kyoto protocol on Environment etc. However, before an International Law can have a binding force in Nigeria it must be domesticated by the National Assembly. This is stated in Section 12 of the 1999 Constitution of the Federal Republic of Nigeria.

3.4 Function of Law

Having discussed the sources of Nigerian Law, the next topic we shall consider in this unit is the function. There are several functions of law

- One of the functions of law is that it is the foundation of social order. This is because it serves as a guide for human behaviour.
- The second function of law is that it is a means of social cohesion. This is because law defines relationship among the members of a society to assert what activities are permitted and those not permitted.
- Another function of law is that it facilitates and protects private voluntary arrangement between individuals, groups, and agencies.
- According to Dada (1998) one function of law is that it confers rights and imposes obligation as well as duties on the citizens and the government alike. For example law of privity of contract under the law of contract.
- Equally, law regulates the activities of various principal organs of power or government.
- According to Ogbu law is also an instrument of economic, political and social change. This is because it is used to enable planned changes and improvement in the organization of society to take place in an ordered fashion.

4.0 Conclusion

In this unit you have learned about the definition of law, the various classes of law which include; criminal, civil; public; private; municipal; International, and customary laws. You have also learned about the various sources of Nigerian law and the function of law.

It is hope you should now be able to define law, list the various classes of law, mention the sources of Nigerian laws and enumerate the functions of law.

5.0 Summary

The focus of this unit was on the definition of law; the various classes of law; the sources of Nigerian law and finally the functions of law.

6.0 Tutor Marked Assignment

1. Define the term law in your own words.
2. (a) List at least four sources of Nigerian law.

(b) What are some of the functions of law.

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UNIT 7 : MORALITY

- 1.0 Introduction
- 2.0 Objective
- 3.0 Main content
 - 3.1 Definition of Morality
 - 3.2 Socially Acceptable Standards
 - 3.3 Difference between Law and Morality
 - 3.4 Similarities between Law and Morality
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Readings

1.0 Introduction

In this unit we shall be focusing on the concept of morality, socially accepted moral standard, the difference between law and morality and finally the similarities between law and morality.

2.0 Objectives

At the end of studying this unit the learner should be able to:

- define morality
- state socially acceptable moral standard
- enumerate the difference between law and morality
- enumerate the similarity between law and morality.

3.0 Main Content

3.1 Definition of Morality

Just like law, defining morality is not an easy task and also considering the rate of modernity and craze for individual freedom. As Mandal rightly stated “law and morality are too vague to understand. It must be added here that the notions of law and justice can’t be captured and presented before us within a few sentence”. Also Kawa Shuma (1971) said that “ the word morality or moral is ambiguous” .

However, this does not mean that there are no accepted definitions of morality. We shall now consider some definition of morality. According to the Oxford Advanced Learner's Dictionary 5th Edition "morality is principles concerning right and wrong or good and bad behaviour."

The online Dictionary state that "morality refers to a code of conduct in matter of right and wrong. Morals may be created by and defined by ones society, religion or individual conscience". While Mandal (2004) said that "morals are actually certain yardsticks in our world which work as prescription to human behaviour".

According to Willam (1963) "morality refers to norms of conduct whose legitimacy is justified on the grounds that they are good or right or necessary for social welfare or social life."

From the definitions we have considered so far there some key issues about morality that the learner need to note. Morality is concerned with;

- what is good and bad,
- what is right and wrong
- what is not prescribed by the sovereignty that is the government
- it is based on what the society considers or what their religion or they as individual consider reasonable.

Therefore, we can say that morality deals with what one consider as standard behaviour which makes it vary from one person to another and from one society to another society.

3.2 Socially Acceptable Moral Standard

Just like the term morality, it is difficult to pinpoint what is socially acceptable moral standard. As it is a matter of individual conscience than what the society at large holds. According to Elegido (2006) "many write draw attention to the fact that modern societies there is much difference of ideas in respect of morality and stress that it would be unfair for a group even if it constitute a majority to impose its moral ideas on the rest of the population. The ideal they advocate is that everybody should be left as much as possible to live his or her moral ideas"

Although, there is no hard and fast rule as to what is socially acceptable moral standard, but there are general behavioural expectation of person living in a given society, which if one does not live up to, he would be said to be immoral and subjected to scorn or disparagement.

For example, in some cultures in Nigeria the younger person must genuflect while greeting elders, in some other culture this is not done. But, then it is generally accepted that the younger person must greet the elder with respect and decorum.

Even in the medical profession seniority is recognized and junior practitioners are expected to greet their senior with respect and a failure to so do can be viewed as acts of insubordination.

As Mandal (2004) rightly stated “the starting of preaching of morals start from the very basic unit of our society which the family. As in a Hindu family, young people touch the feet of elders to wish them. There is no logic behind these morals but still these moral do prevail in our society”

Again, let us consider the issue of homosexuality which has being so liberalized in some society that religions leaders openly engage in this practice. But to most African societies except South Africa this is an unacceptable standard behaviour in terms of sexually relationship. Thus, even in a free society there is still what people should hold as morally ideal. This is because there are still standard of behaviour nobody should live below. If you live below that behaviour standard generally accepted by the majority no matter the level of individual moral freedom you may have, you would be said to be immoral or amoral in case of children.

3.3 Difference between Law and Morality

As you may have seen it is difficult to define what is law and morality. It is however not that challenging when it comes to determining the relationship between law and morality. As Mandal (2004) stated law and morality have always been at logger heads with each other”

From the above you would agree that there is difference between law and morality, although they are co-terminus. Some of difference between law and morality are as follows:

One of the differences between law and morality is that law does not punish every omission except there is a legal duty imposed, while morality punishes every omission whether a legal duty existed or not. What the above means is that the law will not be activated except someone is under a legal duty and has failed or omitted to carry out that legal duty. But in morality whether you are under a legal duty or not you must do that the society consider as the right thing to be done.

Another difference between law and morality is that law is a continuously evolving norm, while morality is constant. What this simply means is that law has to change from time to time according to the ever changing demand of society. While morality does not change it remains as it has been observed in that society. For example the Osu cast system has not changed despite laws made against discrimination especially section 42 of the 1999 Constitution of the Federal Republic of Nigeria.

One other difference between law and morality is that law can be legislated, but it is impossible to legislate morality. What this means is that you make law and compel people to obey it through enforcement. But you cannot pass morality into law. As Elegido (2006) illustrated “it is true that if a law clashes with many people believe that the law is impotent in influencing the moral ideas of people. This has been illustrated in Nigeria by the unsuccessful efforts to abolish the Osu system and to control the payment of bride price by means of law”

Also, law is coercive by nature, while morality is not people are at liberty to obey. According to Mandal (2004) the only difference between law and morality is that law is coercive by nature, but morality is not. Law is enforced by coercion and its constant application on a society leads to the internalization of law in human soul.” But there is no compulsion in morality nevertheless there are some unpublished consequence such as scorn, self belittling and self odium.

Equally morality can easily be enforced, but law is more difficult to enforce. What this means is that people of given society can easily see what is the accepted moral ideas held by that society, without any use of force. But you cannot easily enforce a law. For example, in Nigeria and Africa at large the law against corruption has not being easy to enforce, but going to places of worship is easily enforced

3.4 Similarities between Law and Morality

The next issue we shall be considering in this unit is the similarities between law and morality. As we earlier mentioned although law and morality are co-extensive they are no doubt co-terminus.

One of the similarities between law and morality is that they both prescribe and proscribe conducts in a given society. What this means is that both law and morality prescribe which conduct that are acceptable and allowed in a given society. They also state what type of conduct that are not acceptable or allowed in a given society.

Another similarity between law and morality is that they supplement and reinforces each other. And what this means is that law helps morality to be sustained and maintain. While morality also helps law to be obeyed and maintained. For example, the duty of care for your neighbour expressed in the principle of **Stevenson** .Vs **Donoghue** is based both on morality and law.

Again, law operates within the framework of morality. Explaining this Elegido said “law creates real obligation on the citizens only because it operate within the framework of some basic moral norms which prescribes that we must foster for the common good of our community and that in order to do this effectively we must obey the rules established by custom or laid down by those in authority”.

Furthermore, both law and morality have some form of sanction. For example, sanction of law takes the form of coercive. While in morality, the sanction takes the form of reprobation, repulsion and ostracism.

4.0 Conclusion

In this unit you have learned about the definition to morality and what is socially acceptable moral standard.

You have also learned about the differences and similarities between law and morality.

It is hoped that you should be able to now define morality, and enumerate some differences and similarities between law and morality.

5.0 Summary

This unit focused on the definition of morality and socially acceptable moral standards. It is also focused the differences between law and morality as well as their similarities.

6.0 Tutor Marked Assignment

1. Define the term morality in your own words.
2. (a) List at least three difference between law and morality
(b) List at least three similarities between law and morality.

7.0 Reference/Further Readings

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The 1999 Constitution of the Federal Republic of Nigeria

UNIT 8 : DUTY

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Definition of Duty
 - 3.2 Types of Duty
 - 3.2.1 Absolute Duty
 - 3.2.2 Contractual Duty
 - 3.2.3 Delegable Duty
 - 3.2.4 Non-Delegable Duty
 - 3.2.5 Legal Duty
 - 3.2.6 Moral Duty
 - 3.2.7 Negative Duty
 - 3.2.8 Positive Duty
 - 3.3 Definition of Responsibility
 - 3.3.1 Difference between duty and responsibility
 - 3.4 Duty of a Community Health Practitioner
 - 3.4.1 Duty to the State
 - 3.4.2 Duty to the Profession
 - 3.4.3 Duty to Client
 - 3.4.4 Duty to other Professionals
 - 3.5 Breach of Duty
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Readings

1.0 Introduction

In this unit we shall discuss what is duty, the difference between duty and responsibility, and the various of duty of a community health practitioner. We shall also consider breach of duty.

2.0 Objective

At the end of studying this unit the learner should be able to:

- Define what is a duty

- Mention some types of duty.
- Define what is responsibility
- State the difference between duty and responsibility
- State the duty a community health practitioner
- What is breach of duty

3.0 Main content

3.1 Definition of Duty

According to Black's Law Dictionary "a duty is a legal obligation that is owed or due to another and that needs to be satisfied"

A duty can also be defined as "any action, performance, task or observance owed by a person in an official or fiduciary capacity." From the above definitions there are some important points that needs to be noted when you discuss the term duty. They include:

- It is a legal obligation;
- It must be owed by a person;
- It must be owed to another person;
- There must be a need that has to be satisfied.

Therefore, to say somebody is under a duty, he must be under a legal obligation, there must be an act he owes, he must owe it to another person(s), and he must satisfy it.

We can therefore define "a duty as a legal act that the law imposes on a person to perform in his official capacity in the interest of other person, a failure do which attracts punishment or sanction".

3.2 Types of Duty

There are different types of duty but we shall concern ourselves to a few which we consider relevant to your work as a community health practitioners.

3.2.1 Absolute Duty

The first type of duty we shall be discussing in this unit is absolute duty. And this means a duty without any corresponding right attached. What we mean by this is type of duty is that you have to perform without you having a corresponding right from the person to whom you have or are to perform it.

3.2.2 Contractual Duty

Another type of duty is contractual duty. This is a duty which arises because of the nature of the contract you have entered into and the law governing that contract requires you to perform it. For example, if you enter a contract to convey food items from the house to the venue of a neighbour's party. Although, it might not be clearly stated in the contract, but then there is a duty on you to convey the food items in a consumable state. Otherwise, if any thing goes wrong with the food, you will become liable.

3.2.3 Delegable Duty

The third type of duty we shall be discussing is the delegable duty, which is a duty that you owe but you can still transfer to another person to perform. What it means is that you need not be the one that must always perform that duty.

For example, as a community health practitioner you were expected to give injection to a particular patient, but you are attending to another emergency you can ask another colleague to give that injection on your behalf.

3.2.4 Non-Delegable Duty

Non-delegable duty is a duty you cannot transfer to another person to perform on your behalf. And where you transfer such duty that is non-delegable to another person to perform the other party you owe the duty to be performed can refuse to accept the performance of the duty.

Therefore, you must exercise due diligence to determine whether the duty you are to perform is the one that is delegable or non-delegable so that the other party does not refuse to accept its performance.

3.2.5 Legal Duty

The other type of duty we shall consider is legal duty. This is a duty imposed on you by the operation of law, for example, a duty to go to work.

In this type of duty you are under an obligation to perform it and any breach of it leads to consequence or sanction. It does not mean that the breach of other duties does not lead to sanction. Rather what we are saying is that the consequence of the breach of the duty is clearly stated or attached to the duty.

3.2.6 Moral Duty

This is a duty based on conscience or social expectation, it arises as a result of what the society considers morally acceptable and a breach of it is considered as a moral wrong.

For example, to willful cause injury to another or refusing to assist your colleague having challenges managing a particular condition especially where it is an emergency and it is life threatening and the patients die as a result of your failure to assist.

3.2.7 Negative Duty

This is a type of duty that forbid somebody from doing or taking certain actions either based on competence or capacity or status.

For example, as a health worker you are not allowed to commit or counsel the procurement of abortion. If you do this you are in breach of a negative duty, because you are by law forbidden to do so.

3.2.8 Positive Duty

A positive duty is that which requires a person to perform or carry out some definite action or to continuously engage in a particular course of action. The failure to so do is considered as a breach. For example, you cannot say that patient brought on an emergency should not be treated until pays a deposit. You are under a duty to save life first before asking for money.

3.3 Definition of Responsibility

Responsibility is defined as the social force that bends you to the courses of action demanded by that force. We can also say responsibility is the obligation placed on a person to account for his action or failure to take action.

3.3.1 Difference Between Duty And Responsibility

It is difficult to make a water tight compartmentalization between duty and responsibility as they are closely related concepts.

However, one of the major difference between duty and responsibility is that in duty there a consequence for disobedience or failure to perform the duty. While in responsibility there is no sanction or consequence if a person fails to perform.

Again the violation of a duty is a serious offence, while the violation of a responsibility is not a serious offence.

Another difference between duty and responsibility is that a duty is something that one is meant to do or ought to do, whereas responsibility is seeing that

something needs to be done and doing it. For example as a health worker it is not your duty to clean the floor as you are not the cleaner, but If you find the floor of the clinic or health centre untidy it is your responsibility to clean it.

3.4 Duty of a Community Health Practitioner

Although, we have been discussing the various types of duty and the difference between duty and responsibility, there are certain duty that are peculiar to community health practitioners by the very nature of their training, status position and skills. These include:

3.4.1 Duty to the State

These are duty a community health practitioner owe the government. They include but no limited to the following:

- Duty to uphold the law
- Duty to notify appropriate authorities of the existence of epidemics
- Duty not to advise or assist in procurement of abortion
- Duty not to advise or assist in volition of the Law.
- Duty to testify and give testimony before a tribunal or court
- Duty to probity and prudence
- Duty to identify community health needs and promote community awareness and participation in health services.

3.4.2 Duty to the Profession

A community Health practitioner by virtue of the professional code of conduct is required to maintain a high standard of practice and shall not engage in any conduct which is unbecoming of a community health practitioner. The following are some of the duties of a community health practitioner to the community health profession.

- Duty to use Standing Orders
- Duty to register
- Duty not to aid or procure illegal registration
- Duty not to advertise and solicit for patient
- Duty to dress properly
- Duty not to be involved in anti-professional activities.

3.4.3 Duty to Client

In addition to the duty to the state and to the profession a community health practitioner owe some duties to his/her clients who are often referred to as patients. The duties of a Community Health Practitioner to client are no less important than his duty to the state and the profession.

In fact, one would say the duty to client in our considered opinion is more important than the first two earlier discussed. This is because a breach of any duty to a client could lead to legal action. Some of the duty to a client includes:

- Duty of care
- Duty to give candid and honest advice
- Duty to preserve confidentiality
- Duty to obtain informed consent
- Duty not to engage in extra-marital affairs with client and their relatives
- Duty to take full history and make proper diagnosis
- Duty not to covet
- Duty to accept client

3.4.4 Duty to other Professional

A community Health practitioner does not work in isolation. He works with other members of the health team which include doctors, nurses, laboratory scientist and technician, pharmacists among others.

There is need for a harmonious and cordial working relationship among them based on mutual respect and understanding. Thus community health practitioner owes other members of the team health some duty as much as they owe him. Some of the duty includes:

- Duty of courtesy and respect
- Duty to keep promises
- Duty not to covet clients
- Duty to avoid ill-feeling among health professional

3.5 Breach of Duty

According to Blacks Law Dictionary Seventh Edition “breach of duty is the violation of a legal or moral obligation; the failure to act as the law obligates one to act”.

A breach of duty is said to have occurred where a person fails to perform an act or take an action which is expected of him under the circumstances.

Therefore, in order not to breach a duty, a defendant must generally meet standard of a reasonable man. See ***Baron Alderson in Blyth V. Birmingham Water works (1858) 11 Exch 781.***

The next question that would agitate your mind now is who is a reasonable man. The test for a reasonable man is objective. It simply means what would an average man do in the circumstance. It does not require perfection, but takes into account what an average person can foresee as likelihood of risk. This is because the average man is not assumed to be flawless, but he is ordinarily careful and prudent. ***In Roe V. Minister of Health (1954) 2 AER 131*** Lord Denning held that “the defendant will only be liable if a reasonable person would have foreseen the loss or damage in the circumstance prevailing at the time of the alleged breach of duty”.

General, the standard of conduct expected from a skilled professional is almost always higher than that expected of an unskilled person. However, there are some factors that are considered before we can come to the conclusion that a duty has been breached. These include:

- What did the defendant do?
- What was the degree of risk?
- How practical were these precaution?
- What is the social importance's of the defendant's activity?
- What is the common practice?

It is when the above questions are properly answered either in the affirmation or negative that a conclusion can be reached that a breach of duty has occurred.

4.0 Conclusion

In this unit you have learned about duty and the various types of duty. You have also learned about responsibility and the difference between duty and responsibility as well as the various duties of a community health practitioner and what we mean by breach of duty.

You should be able to now define a duty, responsibility and differentiate them. You should also be able to list some duties of a Community Health Practitioner.

5.0 Summary

This unit focused on the definition of duty, the different types of duty and the definition responsibility. It also focused on the difference between duty and

responsibility, the various duties of a community health practitioner and what constitute breach of duty.

6.0 Tutor Market Assignment

1. Use your own word define the term duty.
- 2 (a) Mention the four broad categories of the duties of a community health practitioner

(b.) List at least three duties from each broad category.

7.0 Reference/Further Reading

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UNIT 9 : NEGLIGENCE

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Definition of Negligence
 - 3.2 Types of Negligence
 - 3.3 Elements of Negligence
 - 3.3.1 Duty of Care
 - 3.3.2 Breach of Duty
 - 3.3.3 Damages Caused by the Breach
 - 3.4 Professional Negligence
 - 3.5 Consequences of Negligence
 - 3.6 Defence in Negligence
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Reading

1.0 Introduction

In this unit we shall be considering negligence, the elements of negligence, what is professional negligence and the facts a plaintiff need to prove to succeed in an action for negligence. Since, it is not a full law course we shall just briefly look at the consequence of professional negligence and the defences available to the defendant in an action for negligence.

2.0 Objectives

At the end of studying this unit the learner should be able:

- To define the term negligence and state types of negligence
- To state the elements of negligence
- To define professional negligence and what amount to negligence in the community health profession
- To certain some consequences of negligence and the defences.

3.0 Main Content

3.1 Definition of Negligence:

According to Kodilinye and Aluko (2003) “Negligence as the breach of a legal duty to take care which result in damage or injury or loss to the plaintiff.”

Lord Wright in the case of *Lochgilly Iron & Coal Co. .V. Me Mullan (1934)* At p.23 explained that “in strict legal analysis negligence mean more than heedless or careless conduct, whether in omission or commission. It properly connotes the complex concept of duty breach and damage thereby suffered by the person to whom the duty was owed”.

However, “negligence is the breach of duty of care due to the failure to exercise the standard of care required of a reasonable man who would exercised it in a similar situation that have resulted to injury to another”.

From the above definitions and explanation there are some key issues you must note. These include; the breach of duty of care and which means that ordinarily a person would not be guilty of negligence if he has not breached any duty. Secondly, the breach must have caused injury or loss to the plaintiff. Thirdly, the defendant or the person accused of the negligence must have failed to exercise the standard of care required of a person in such a position.

3.2 Types of Negligence

There are various types of negligence some of them according to Blacks Law Dictionary include:

- Criminal Negligence. This is a type of negligence that is so extreme that is punishable as a crime For example, procurement of abortion that lead to the death of the patient or giving over dose of a drugs which leads to death.
- Gross Negligence. This type of negligence which is also called reckless negligence or willful negligence. Is where the conscious and voluntary act or omission of disregard of a legal duty causes injury to another person.
- Legal Negligence. This is a type of negligence occurring as a result of violating statute or a law.
- Contributory Negligence. This is a type of negligence in which the person complaining of the act of negligence played a part in causing the injuring. And in this case the plaintiff or the person complaining of the negligence may be barred from recovery damages.

- Joint Negligence. This is a type of negligence where the act of two or more persons lead to the injury suffered by another party.
- Inadvertent Negligence. This is a type of negligence where the defendant was not aware that his action could cause an unforeseeable risk, which he should have foreseen and avoid.

3.3 Elements of Negligence

For a plaintiff or a person who is alleging negligence to succeed in his action there are some essential elements he must establish before it can be said that the defendant was negligent and must pay damages. These elements are applicable to a community health practitioner who is alleged to have been negligent. According to Kodilinye and Aluko (2003) the elements of negligence that needs to be established are:

- a duty of care was owed by the defendant to the plaintiff
- whether there is a breach of that duty by the defendant; and
- whether the damage to the plaintiff result from the breach of duty by the defendant

We shall now consider each of these elements of negligence in a little more detail.

3.3.1 Duty of Care

The first element that must be established before the court can hold that the defendant was negligent is whether the defendant owed a duty of care to the plaintiff. And to establish that the defendant owed a duty of a care, it must be shown that in the circumstances it is foreseeable that if the defendant fails to exercise due care the plaintiff will be harmed.

3.3.2 Breach of Duty

After successfully establishing that the defendant owed the plaintiff a duty of care, the next element that the court would want to determine before it would come to the conclusion that there is negligent was, is whether the duty owed has been breached.

In order to adequately determine that a duty has been breached the court looks at what is regarded as the “risk factor” which it self according to Kodilinye and Aluko consist of four element. These are:

- the likelihood of harm. The presumption is that where the action or inaction of the defendant has greater likelihood of causing harm to the plaintiff the greater the amount of caution or due care required of him.
- the second risk factor is the seriousness of the injury that is risked. And what this means is that the gravity of the consequences or injury that could be caused to the plaintiff in the event of failure to exercise due care or caution must be put into account by the defendant.
- The importance or utility of the defendant's activity. Again when considering the risk factor in order to ascertain that the defendant has breached a duty, the court would want to determine the importance of the defendant activity. What this simply means is that if the service rendered by the defendant is so important to the society. Then the court would not be in a hurry to agree that a breach of duty has occurred and by extension negligence.

For example, where there is only one health worker on duty and several patients were brought in on emergency and as usual the health worker was attending to the patient with the worst case and another patient's health deteriorated and eventually dies. The health worker cannot be said to be negligent considering the importance of his service.

- The cost and practicability of the measures to avoid the harm. The last factor the court considers when attempting to deference the risk factor is the cost and possibility of preventing the harm.

Where the cost of avoiding the risk is so high or it is not practicable to avoid the harm. Then the court would not hold that a breach of duty exists.

3.3.2 Damage caused by the Breach

The thirdly element of negligence is the damage caused by the breach. Where the court has been able to ascertain that the defendant owed the plaintiff a duty of care, and that the defendant has also breached the duty he owed. The next issues the court would determine in order to finally agree with the plaintiff that the defendant was negligent is the damage caused by the breach.

And in order to establish that according to Uviegbara (2001) there are two requirements. These are causation in fact and remoteness of the damage.

3.4 Professional Negligence

Having discussed what is negligence some type of negligence and the various element of negligence. The next issue we shall consider in our continuation of discussion of negligence in this unit is professional negligence which is also referred to as malpractice by some scholars.

Professional negligence or malpractice is where a person fails to exercise the level of care and competence required of a person of his calibre or status. All professional have the standard of care and skill required to be exercised by a person of their status. And where, he fails to exercise such care and skill in the performance of his professional duty then he would be said to be professionally negligent.

It is also important to say that in recent times the issue of negligence has been expanded to include misstatement made which has led to damages. Thus, wrong counseling that result any in harm to a patient could amount to professional negligence.

3.5 Consequences of Negligence

Where person is said to have committed negligence and it is established that he owed a duty of care, that he has breached the duty of care, and that the damage suffered by the plaintiff was caused by the breach of duty by the defendant. Then he would be liable to pay compensation to the plaintiff.

However, it depends on the nature of negligence, because in case of professional negligence in addition to paying compensation to the plaintiff, the defendant will also face disciplinary action from both his employers and the professional regulatory body and might equally face criminal prosecution.

According to Imhanobe (2009) while discussing the consequence of a lawyer's act of negligence said that "the general rule is that a lawyer like very other professional is liable to his client for his negligent conducts. And Rule 4 (5) of the Rule of Lawyers Professional Conduct (2007) rather made it clear that negligence in handling of a client's affairs may be of such a nature as to amount to professional misconduct."

Based on the foregoing, the consequences of negligence can be said to include; payment of compensation, discipline by professional regulatory body, action in tort and criminal prosecution.

3.6 Defence in Negligence

There are some defences available to a defendant who has been sued for negligence by a plaintiff who alleges that the action of the defendant has caused him harm or injury.

Although, there are several defences available to a defendant, we shall for the purpose of this discussion in this unit consider two as identified by Kodilinye and Aluko. According to the duo “the two principal defences to negligence actions are (1) contributory negligence and (2) volenti non fit injure.

Contributory Negligence

This is a defence where the defendant accepts that though he was negligent, but the negligence was caused by a combination of the plaintiff, action and his (the defendant) action or that it is the combination of both the negligence of the plaintiff and his own negligence that brought about the injury to the plaintiff.

Contributing negligence does not mean that the plaintiff equally owed a duty to the defendant that has breached and therefore cannot be entitled to compensation. What it simply means is that the damage or injury the plaintiff is complaining of was caused by his contributory acts.

For example, if a patient who needs blood transfused rejects transfusion on religious ground and later dies in the cause of treatment. The health provider cannot be liable for negligence for his death, because his refusal of blood transfusion contributed to his death.

Volenti non-fit injure

The second defence a defendant in action for negligence can raise is that of volenti non fit injure which when translated to English means that no injury is done to one who consents.

What this simply means that where the plaintiff voluntarily consented to acts of the defendant which head to the injury he cannot turn round to say that the defendant was negligent.

4.0 Conclusion

In this unit you learned about the definition of negligence and the various types of negligence. You have also learned about the elements of negligence which include, duty care owed to the plaintiff, the breach of the duty owed, and damages caused by the breach of the duty owed.

Equally, you have learned about professional negligence, the consequences of negligence and the defences an defendant in action for negligence can raise.

It is hoped that you should be able to now define negligence, state some types of negligence, the elements of negligence and the defences available to the defendant in action for negligence.

5.0 Summary

This unit focused on the meaning of negligence, the various types of negligence, and the elements of negligence. It also considered professional negligence, the consequences of negligence and finally the defences available to a defendant in action for negligence.

6.0 Tutor Marked Assignment

- 1) In your words define what we mean by negligence and professional negligence.
- 2) (a) List and discuss briefly the various elements of negligence.

(b) List two defences a defendant in action for negligence can raise.

7.0 Reference/Further Reading

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UNIT 10 LIABILITY

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Definition of Liability
 - 3.2 Types of Liability
 - 3.2.1 Strict Liability
 - 3.2.2 Vicarious Liability
 - 3.2.3 Criminal Liability
 - 3.2.4 Civil Liability
 - 3.2.5 Derivative Liability
 - 3.2.6 Several Liability
 - 3.2.7 Joint Liability
 - 3.2.8 Joint and Several Liability
 - 3.3 Professional Liability
 - 3.4 Consequences of Liability
 - 3.5 Damages and types damages
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Reading

1.0 Introduction

In this unit we shall continue our discussion of some legal concepts that are related to ethical conducts. And we shall this time consider liability, the various types of liability, professional liability and the consequence of liable and defences available in liability.

2.0 Objectives

At the end of studying this unit the learner should be able:

- To define of liability
- To mention the various types of liability

- To determine what professional liability
- To determine of the consequence of liability.

3.0 Main Content

3.1 Definition of liability

According to Black's Law Dictionary Seventh Edition "Liability is the quality or state of being legally obligated or accountable"

However, liability can also be defined as "the state of being made legally accountable for the damages or injuries caused to another person by the defendant in the performance of his duty".

What we are simply trying to say is that a person would be said to be liable if he is under law bound or expected to account for any injury or damages caused to another person as a result of his breach of duty of care while performing his duty. It is also important to add that liability can also be to third parties and not only the party having direct dealing with the defendant.

3.2 Types of Liability

There are several types of liability but we shall for the purpose of this course consider some that would be of benefit to our learning objective as Community Health Practitioners.

3.2.1 Strict Liability

This is a type of liability according to Black's Law Dictionary "that does not depend on actual negligence or intent to harm; but that is based on the breach of an absolute duty to make something safe."

What the above statement means is that although the defendant was not negligent and did not intend to harm the plaintiff, but is failure to provide safety has led to the harm, injury or damage suffered by the plaintiff. Thus, strict liability imposes a duty of ensuring the safety of the plaintiff on the defendant.

3.2.2 Vicarious Liability

Another type of liability we shall be considering is vicarious liability which according to Kodilenye and Aluko (2003) "refers to the situation where X is liable to Y for damages caused to Y by the negligence or the tort of Z."

In this type of liability the defendant need not necessarily have participated in the acts that led to the harm caused the plaintiff. But in so far as there is evidence to show that the defendant was aware of and actually authorized the acts of the third party which caused the harm and did nothing to prevent the harm from occurring he would be vicariously liable.

3.2.3 Criminal Liability

This is a type of liability where there is gross negligence which requires to be punished as a crime. What this means is that where the liability is considered as a crime that requires punishment it is called criminal liability. For example, where a community health practitioners causes death while trying to procure abortion. He would be criminally liable because to procure abortion is a crime on its own.

3.2.4 Civil Liability

This is a type of liability where the tortfeasor is liable for civil damages as against criminal punishment.

What this simply means is that the defendant is under obligation pay a fine either to the person injured or to some other persons based on the harm his action or inaction has caused the plaintiff or another party.

This type of liability is more common than criminal liability because more often the objective of most action for negligence or breach of duty which has resulted in injury to the plaintiff is to get compensation.

3.2.5 Derivative Liability

This is a type of liability that is actionable by a third party and according to Black's Law Dictionary Sixth Edition "Derivative liability is liability for a wrong that a person other than the one wronged has a right to redress". What this means is that in this type of liability another person who was not directly wronged or injured by the defendant can bring a claim against the defendant.

3.2.6 Several Liability

This is a type of liability where the plaintiff can bring a separate action against one defendant without joining the other liable parties.

Although, ordinarily one should think that several liability means the existences of many liability that are actionable.

In this context, what it means is that several parties or persons may have been responsible for the wrong or harm caused to the plaintiff. But the plaintiff instead of suing all of them together decides to sue one out of the whole number of persons that have committed the wrong.

3.2.7 Joint Liability

This is a type of liability which is shared by two or more persons or parties. What this simply means is that in this case instead of suing one person and leaving the others. The action is taken against two or more person who may have been responsible for the wrong. That is two or more people share the blame for the wrong done to the plaintiff.

3.2.8 Joint and Several Liability

According to Black's Law Dictionary Seventh Edition "Joint and Several liability is liability that may be apportioned either among two or more parties or to only one or a few select members of the group, at the discretion of the plaintiff".

What the above statement means is that a plaintiff or a person who has been wronged or harmed or injured by the acts of more than two or more person can decide to hold two or more persons or only one person, or selected members from within the group liable based on his discretion.

3.3 Professional Liability

This is a liability arising from the exercise of professional duty. It is not all liabilities that occur as a result of professional duties.

For example, where a Community Health Practitioner in charge of a health facility fails to ensure the safety of patients and their property and a patient's property is stolen. Although, the officer in-charge is liable for the loss suffered, but the loss did not arise as a result of the performance of his professional duties strictly speaking.

In professional liability the emphasis is on the wrong arising from the performance of the technical duties of the defendant. However, it is important to add that a Community Health Practitioner may not be

professional liable if he was rendering free services or services without any reward. For example, where there is an accident and the Community Health Practitioner was at the scene of the incident and was unable to take measures to prevent the death of any victim of the accident. The relatives or any person concerned therewith can sue him alleging professional liability.

3.4 Consequences of Liability

The next thing we want consider in this unit is the consequences of liability. Once it is established by the court that the defendant was actually liable for the harm or injury suffered by the plaintiff then there must be some outcome.

Although, as community health practitioners we may not need an indepth knowledge of the consequences of liability, but it is important for us to know what could befall us if we are found liable for causing harm, injury or loss to any individual or group of individuals.

According to Kodilinye and Aluko (2003) “the primary remedy for a tort is damage, the purpose of which is normally to compensate the plaintiff for the harm he has suffered as a result of the defendant’s tortious conducts”.

What in plain language Kodilinye and Aluko is trying to say is that once it has been established that a person is liable, whether based on negligence, or breach of duty the only remedy that he (the plaintiff) would get and especially under civil liability is damages which is compensation for to him for the harm suffered.

3.5.1 Types of Damages.

The next thing we shall consider is the different types of damages that a plaintiff may be entitle to or which can be awarded against a defendant who has being found to be liable whether professionally or otherwise.

Briefly speaking, damages are mostly monetary compensation for loss or injury to a person or property. Some of the types of damages that the courts can avail a plaintiff include:

- **Compensatory Damages.** This type of damage according to the Black’s Law Dictionary Seventh Edition is damage sufficient in amount to

indemnify the injured person for the loss suffered. What it means is that the court in awarding this type of damages attempts to put the plaintiff or injured person to the position he would have been if he has not suffered any loss or injury that was caused by the defendant.

- Consequential Damages. This is a type of damage awarded for losses incurred by the plaintiff that do not result directly or immediately from the action of the defendant, but have resulted indirectly from his acts. What this type of damage means is that although the loss or injury suffered did not result immediately or direct from the defendant's action, but it is has being found to be a bye product of the action of the defendant.

- Exemplary or Punitive Damages. According to Kodilinye and Aluko this class of damages is intended not to compensate the plaintiff but rather to punish the defendant and to deter him from similar behaviour in the future. Usually, in this type of damages the plaintiff gets nothing, but the defendant is made pay compensation in form of fines so that he would not be reckless in his future acts or bahaviour.

- Nominal Damages. Nominal damages are awarded in those cases where the plaintiff establishes a violation of his right by the defendant, but he is unable to show that he suffered any actual damage as a result of the defendant's tort (Kodilinye and Aluko 2003). What this mean is that although the person complaining (Plaintiff) cannot show any injury he has suffered due to the acts of the defendant. He is however awarded compensation because his right was violated.

- General Damages. This is a type of damage that needs not to be specifically pleaded or proved. It is always presume to flow from the nature of the wrong the plaintiff is complaining about.

- Special Damages. According to Kodilinye and Aluko (2003) "Special damages" is damage which the law does not presume, and which must therefore be specifically pleaded and proved by the plaintiff. A better appreciation of this type of damage could be gotten from the words of Bowen L.Y. in the case of *Ratcliffe V. Evans (1892) 2 Q.B. 324 at p. 528* where he said that special damages is the particular damage (beyond the general damage) which results from the particular circumstances of the case, and of the plaintiff's claim to be compensated, for which he ought to give warning in his pleading in order that there may be no surprise at the trial.

What we are trying to say from the above arguments is that, there is difference between special damages and general damages. Where a person is claiming that specific damage has being done to him. For example incurring medical bills, he is under obligation to show evidence of the receipts used for payment of the bill otherwise he cannot be awarded the special damage.

4.0 Conclusion

In this unit you have learned about the definition of liability, the various types of liability, what we mean by professional liability as well as the consequences of liability, which we said is damages. You have also learned about the various types of damages.

It is hoped that you should now be able to define liability, list some types of liability, state what is professional liability and list some types of damages.

5.0 Summary

The focus of this unit was on liability, the various types of liability, what is meant by professional liability, the consequences of liability, and the various damages. .

6.0 Tutor Marked Assignment

- 1.(a) Define damages in your own words
- (b) List at least three types of damages you have learnt from studying this unit.
2. List and explain four types of liabilities.

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UNIT 11 REGULATORY BODIES

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Definition of regulation
 - 3.1.1 Definition of regulatory bodies
 - 3.2 Types of regulatory bodies
 - 3.3 National regulatory bodies
 - 3.3.1 Non-professional regulatory bodies
 - 3.3.2 Professional regulatory bodies
 - 3.4 International regulatory bodies
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Reading

1.0 Introduction

In this unit we shall focus on the definition of regulating bodies, the various types of regulatory bodies, national regulatory bodies, and international regulatory bodies in health.

2.0 Objectives

At the end of studying this unit the learner should be able to:

- Define a regulatory body
- State the different types of regulatory bodies.
- State the national regulatory bodies and their roles.
- State some international regulatory bodies.

3.0 Main Content

3.1 Definition of Regulation

Before going on to discuss regulatory agencies or bodies. It is imperative to first define what we mean by regulation. According to the Black's Law Dictionary Seventh Edition regulation is the act or process of controlling by rules or restriction.

Also regulation can be defined as “the process of controlling the activities of persons or group of person based on rules to ensure they confirm to set standards”.

There are some very important points that have been mentioned in the above definitions that the learner needs to note. These are that regulation:

- Is a process which means it follows procedure(s)
- It deals with control in this case the control of health activities and activists (providers).
- Also it is based on rules which must have been laid down.
- Finally, it is intended to maintain standards.

3.1.1 Regulatory Bodies

Having defined regulation, the next thing we are going to discuss in this unit is regulatory bodies.

A regulatory body is any organization that controls the activities of a given group of persons based on rules to ensure that they confirm to set standards. This means that any organization that ensures that the activities of a given group of persons do not fall below the set standards is a regulatory body.

From the foregoing, we can say that health regulatory bodies are those organizations that control health activities and its providers based on rules to ensure that set health standards are maintained.

As Abubakar (2007) rightly observed “the task of executing health policies and programmes for the achievement of optimum level of health standard rest squarely on some bodies such as agencies, boards, ministries, parastatals council etc.”

From the above can you see that there regulatory bodies in the health sector which acts of control through rules and restrictions ensure that health activities are carried out in conformity with set standards and that the health workers themselves are carrying out their activities in the same way.

3.2 Types of Regulatory Bodies

The next thing we shall be discussing in this unit is the types of regulatory bodies in the health sector.

Although, there is no clear cut differentiation of regulatory bodies in most literatures relating to health sector, however for the purposes of this study we shall divided the health regulatory bodies into two board categories. These are professional regulatory bodies and non-professional regulatory bodies.

It is under these two subheads that we shall continue our discussions when we would be considering the national regulatory bodies.

(a) Professional Regulatory Body

This refers to regulatory bodies in the health sector which have the responsibility of controlling members of a given profession, set standards of practice, and training that persons seeking to be members of the profession must attain.

They are also responsible for setting the procedure for registration, enter names registered members into the professional register and discipline erring members by directing appropriate sanction or punishment. They are either called registration council or board.

(b) Non-Professional Regulatory Body

This refers to those organizations within the health sector which do not set standards for training and practice, nor discipline erring professional on professional basis. They also do not set procedure for registration nor direct appropriate sanction or punishment.

They are generally responsible for setting policy framework, strategies and health targets that needs to be achieved. Also, they supervise the Professional regulatory bodies and they include;, ministries of health, commissions, agencies and parastatals.

3.3 National Regulatory Body

Having discussed the two main types of regulatory bodies, the next thing we shall be discussing is the national regulatory bodies. And based on our earlier classification, we shall consider the national regulatory bodies in relation to professional regulatory and non-professional regulatory bodies

3.3.1 Non-Professional Regulatory bodies

As earlier mentioned these are organizations that do not set standards for training, practice, registration and discipline of members of professional group. They rather provide general policy guidelines, strategies and even supervise the professional regulatory bodies. They include:

- The Federal Ministry of Health;
- The Federal Civil Service Commission;
- The National Primary Health Care Development Agency;
- The States Ministry of Health;
- The Local Government Service Commissions;
- The Local Government Councils;
- The States Ministry of Local Government & Chieftaincy Affairs;
- National Agency for Food and Drugs Administration and Control (NAFDAC);
- States Hospital or Health Management Board;
- State Primary Health Development Agencies.

3.3.2 Professional Regulatory Bodies

These are national regulatory bodies which have the powers to set up disciplinary committees or panels to deal with unprofessional conducts or breach of professional duties. Although all the above earlier mentioned national health regulatory bodies have some powers of discipline, they are however restricted to breach of general civil service rules and regulation.

The professional regulatory bodies only discipline persons who are members of their profession or who are claiming to be members of the profession. They do not and cannot discipline any person who is not member of their profession no matter the nature of the offence the person may have committed. In Nigeria, they include the following:

- Pharmacists Council of Nigeria (PCN), which regulates the practice of pharmacy in Nigeria and discipline erring members
- Medical Laboratory Scientists Council of Nigeria (MLSCN), which regulates the practice of medical laboratory Assistants, Technicians, Technologist and Scientists.
- Radiographers Registration Board of Nigeria (RRBN), the body that regulates the training and registration of Radiographers in Nigeria.

- Nursing and Midwifery Council of Nigeria (NMCN), it regulates the nursing and midwifery practice in Nigeria and discipline erring nurses and midwives.
- Medical and Dental Council of Nigeria (MDCN), it regulates medical and dental practice in Nigeria and responsible for licensing and discipline of erring Medical Doctors and Dentists,
- Optometry and Dispensing Opticians Registration Board of Nigeria (ODORBN) regulates the practice of optometrists and opticians
- Dental Therapist Registration Board of Nigeria (DTRBN) regulates the practice of dental therapists.
- Medical Rehabilitation Therapists Registration Board (MRTB) regulates the practice of physiotherapists
- Institute of Public Analysts of Nigeria (IPAN) it regulates the practice of public analysts.
- Dental Tech. Registration Board of Nigeria (DTechRBN) which regulates the practice of dental technicians and technologists.
- Health Records Registration Board of Nigeria (HRORBN) regulates the practice of health recorders or health information officers.
- Community Health Practitioners Registration Board of Nigeria (CHPRBN) regulates the practice of community health in Nigerian and license as well as discipline community health practitioners
- Institute of Chartered Chemists of Nigeria (ICCON) it regulates the practice of chartered chemists in Nigeria.
- Environmental Health Officer Registration Council regulates the practice of environmental health officers.

3.4 International Regulatory Bodies.

Having considered the national health regulatory bodies, we shall now briefly discuss some of the international bodies that regulate health. They include:

- The World Health Organization (WHO) which is an assembly of health organizations of about 191 member countries. It has the ultimate responsibility in terms of formulation of international health policies, control of diseases especially epidemics and endemic diseases among others.
- The United Nations International Children's Emergency Fund which deals with issues relating to child survival especially nutrition and immunizations

- The United Nations Fund for Population Activity which deals with issues relating to Family planning and reproductive health.
- The Global Fund which deals with issues relating to HIV/AIDS, malaria and Tuberculosis control.

4.0 Conclusion

In this unit we have learned about regulation and regulatory bodies. You have also learned about the various types of regulatory bodies. Equally, you have learned about some national and international regulatory bodies.

It is hoped that you should now be able to define what we mean by regulation and regulatory bodies in your own language. You should also be able to mention the two major categories of health regulatory bodies we have discussed and list at least six professional regulatory bodies and non-professional regulatory bodies each.

5.0 Summary

This unit focused on the meaning of regulation and regulatory bodies. it also considered the various categories of regulatory bodies as well as the national and international regulatory bodies.

6.0 Tutor Marked Assignment

1. (a) Define regulatory bodies in your own language
(b) State and explain the two types of regulatory bodies you have learnt.
2. (a) Mention at least four professional health regulatory bodies
(b) Mention at least three non-professional regulatory bodies

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UNIT 12: COMMUNITY HEALTH PRACTITIONERS REGISTRATION BOARD

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 The Community Health Practitioners Registration Board
 - 3.2 Its legal framework
 - 3.3 Membership and composition of the Board
 - 3.4 Functions of the Board
 - 3.4.1 Administrative functions
 - 3.4.2 Managerial functions
 - 3.4.3 Quasi-Judicial functions
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Reading

1.0 Introduction

In this unit we shall be considering the Community Health Practitioners Registration Board which is the regulatory body specifically set up for the regulation of community health practitioners. We shall also in this unit consider the membership of the Board and its functions.

2.0 Objectives

At the end of studying this unit the learner should be able to:

- Describe the Community Health Practitioner Registration Board as a regulatory body
- State the legal framework setting the Board
- List membership of the Board and its composition.
- State the functions of the Board.

3.0 Main Content

3.1 Community Health Practitioners Registration Board

As we have mentioned in the previous unit the Community Health Practitioners Registration Board of Nigeria was established for the purposes of regulating the practice of community health in Nigeria, set standards, monitor and discipline members and ensure the maintenance of training standard in order to ensure the delivery of quality health services especially at the Primary Health Care level.

According to Abubakar (2007) “the Community Health Practitioners Registration Board of Nigeria was established in November, 1992 by Decree 61 and signed into law during Babagida administration. According to him “it was created to provide standardized basis for the overall activities and conduct of those that have trained to engage in the delivery of health care services to the people at the community levels. The Board is a regulatory body that determined the minimum prescription for overall conducts of the community health practitioners. The board serves as an important link or intermediary between the government, the community health practitioners and the community. Here, the board protects the interest of the community and the government through regular monitoring, training and retraining and supervision of all the practitioners for effective provision of health care services at the community level”.

No doubt Abubakar’s description of the Community Health Practitioners Registration Board of Nigeria is quite elaborate. However, the point that needs to be noted is that the Community Health Practitioners Registration Board of Nigeria is the regulating body for Community Health Practitioners in Nigeria. As clearly stated in section 1 of CHPRBN Act CAP C19 LFN 2004 which states that “there is hereby established for Community Health Practitioners a body to be known as the Community Health Practitioners Registration Board of Nigeria in this Act referred to as the Board”.

3.2 Enabling Law

The Community Health Practitioners Registration Board of Nigeria was formerly known as National Community Health Practice Board until 1992 when the law establishing the profession was enacted.

The law before the commencement of democratic government was known as the Community Health Practitioners Registration Board of Nigeria Decree 61 of 1992. It was signed into law on the 24th of November, 1992 by the then Military President, General Ibrahim Badamosi Babanguda.

However, with the advent of democratic government, all existing laws became Acts of the National Assembly and with the review by the Law Reform Commission. The enabling law for the Community Health Practitioners Registration Board of Nigeria is now Act CAP C19 LFN 2004 and it came into effect on the 31st day of December, 2002.

3.3 Membership of the Board

The membership of the Community Health Practitioners Registration Board of Nigeria and its composition is clearly set out in section 2 of the Community Health Practitioners Registration Board of Nigeria Act CAP C19 LFN 2004. According to section 2 (1) the Board shall comprise-

- (a) A Chairman who shall be a Community Health Practitioner and has been so qualified for not less than ten years to be appointed by the President.
- (b) One community health worker
- (c) Four community health workers to represent each zone in rotation for two years at a time.
- (d) One community health physician to represent the Medical and Dental Council of Nigeria.
- (e) One principal of a school of health technology to represent all schools involved in training in a rotation for two years at a time;
- (f) One person to represent public interest;
- (g) One person to represent the Federal Ministry of Health, and
- (h) One person to represent a recognized university involved in the training of members of the profession in rotation for two years at a time.

From the above you can see that the Community Health Practitioners Registration Board of Nigeria consists of eleven (11) members. While (6) six are community health practitioners *stricto sensu*, the other (5) five need not necessarily be community health practitioners but a background in Community Health is relevant hence those to be appointed under S. (2) d, e and h are expected to have some knowledge in community health practice.

It is also important that you know that the current law does not reflect the reality of our time. This is because we now have six zones, but the law is still referring to four zones which was the position before creation of two additional geo-political zones now also health zones in 1996 by the Abacha administration. Thus, this is one of the reasons why the enabling law needs to be amended.

Equally, it is necessary that you know that all other appointments into the board except that of the chairman is supposed to be made by the Honourable

Minister of Health by virtue of S. (2) (2) of the enabling law. Also, the board members except those appointed under S. (2) (c) (e) and (h) all others are to hold office for a period of three years; while those in (c) (e) and (h) are to hold office for a period of two years. And apart from the chairman and non-public officers, no member can be reappointed for another term of office.

3.4 Functions of the Board

The functions of the Community Health Practitioners Registration Board of Nigeria can be classified into three broad categories. These are administrative, managerial, and quasi-judicial.

3.4.1 Administrative Functions

The administrative functions of the board as set out in the Act though not expressly stated includes:

- Preparation and presentation of annual report to the Honourable Minister of Health
- Directive for the publication of the register
- Setting standard for persons seeking to be members of the profession.
- Preparation and presentation of annual budget

3.4.2 Managerial Function

Some of the managerial functions of the board include;

- Appointment of the registrar and other staff of the Board
- Discipline of staff
- Determination of the wages of the registrar and other staff subject to the approval of the Honourable Minister
- Supervision of the activities of the Registrar
- Financial management
- Supervision of the training school
- Monitoring of examination and training institution

3.4.3 Quasi-Judicial Function

Some of the quasi-judicial function of the board includes;

- Investigation of acts of indiscipline and fraud
- Discipline of members through striking out of name from register, suspension, admonition and fines.
- Approval of courses and training institution
- De-registration of members
- Order the withdrawal of registration certificate

- Order the withdrawal of accreditation granted training institution.

From the above it hoped you now know the functions of Community Health Practitioners Registration Board.

4.0 Conclusion

In this unit you have learned about the Community Health Practitioners Registration Board of Nigeria as a regulatory body. You have also learned about the law establishing the board, its membership and composition. You have equally learned about the tenure of office of the members and the functions of the board.

You should now be able to describe the role of the Community Health Practitioners Registration Board of Nigeria, state the law establishing it and list the membership of the board. Equally, you should be able to state some of the functions of the Board.

5.0 Summary

The focus of this unit was the role of the Community Health Practitioners Registration Board of Nigeria; the law establishing the Board. It also considered the membership of the Board and the functions of the Board.

6.0 Tutor Marked Assignment

1. (a) State the composition of the membership of the Community Health Practitioners Registration Board of Nigeria.

(b) What law establishes the Board?
2. List at least two functions each from the three categories of the main functions of the board.

7.0 Reference/Further Reading

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Community Health Practitioner Registration Board of Nigeria Act CAP C19 LFN 2004.

UNIT 13 : PROFESSIONAL MISCONDUCT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Definition of Misconduct
 - 3.2 Types of Misconduct
 - 3.2.1 Willful Misconduct
 - 3.2.2 Official Misconduct
 - 3.2.3 Wanton Misconduct
 - 3.2.4 Gross Misconduct
 - 3.3 Professional Misconduct
 - 3.4 Consequences of Misconduct
 - 3.4.1 Dismissal
 - 3.4.2 Criminal prosecution
 - 3.4.3 De-registration
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Reading

1.0 Introduction

In this unit we shall focus our discussion on the definition of misconduct, the various types of misconduct, what is professional misconduct and conducts considered incompatible (unprofessional conduct) in community health.

2.0 Objectives

At the end of studying of this unit the learner should be able:

- To define misconduct
- To state the various types of misconduct
- To define what is professional misconduct
- To identify unprofessional conducts in the Community Health Profession
- Consequence of misconduct

3.0 Main Content

3.1 Definition of Misconduct

Misconduct is not expressly defined in any law in Nigeria. However, the decision of the court has been used to define misconduct.

As Uvieghara (2001) rightly stated when we argued that “the issue of what degree of misconduct will justify a dismissal is different and separate from the question of a definition of misconduct. This is the statement of the Court of Appeal in *Oyedele V Ife University Teaching Hospital Complex Management Board* that under our law there is no definition of what is misconduct anywhere. A misconduct is what the employer considers to be misconduct. In the instant case the employers of the appellant considered the two allegations made against him to amount to misconduct and so they retired him is misleading and not to the point”.

Misconduct like most legal and social concept has no generally accepted definition as several scholars and jurists have defined it based on their own personal world view or construct.

However, Uvieghara on his part has said “the breach of an employee duty to obey a lawful and proper order of his employer or to exercise reasonable care in the discharge of his duties is misconduct”.

According to Black’s Law Dictionary Seventh Edition, “misconduct is a dereliction of duty unlawful or improper behaviour” Based on the above misconduct can be defined as any unlawful or improper behaviour of an employee which is seen as a breach of duty or act of disobedience by the employer.

3.2 Types of Misconduct

There are several types of misconduct, but for the purpose of our study in this unit, we shall consider only four types of misconduct which shall include the following:

3.2.1 Willful Misconduct

According to Black’s Law Dictionary Seventh Edition “this is a misconduct committed voluntarily and intentionally.” What this means is that the person accused of the misconduct knowingly committed the

breach of duty or knowingly disobeyed lawful and proper orders of his employer or superior as the case may be.

3.2.2 Official Misconduct

According to Black's Law Dictionary Seventh Edition "Official misconduct is a public officer's corrupt violation misfeasance or nonfeasance."

What this means is that the misconduct may not have been committed voluntarily or intentionally. But it is the wrongful performance of lawful duty by a public officer. That is the person accused of this type of misconduct has performed his lawful duties in a wrong manner.

3.2.3 Wanton Misconduct

This is a type of misconduct where one has acted or failed to act when he is under a duty to do so, or may have acted in a reckless disregard of another's rights, coupled with the knowledge that injury will probably result.

In this type of misconduct the major talking point is that the person accused may have acted with some level of recklessness and disregard to the right of another and knowing fully well that he the other party could be harmed or suffer injury.

3.2.4 Gross Misconduct

This is a misconduct which is the breach of any written law that attracts severe consequence or sanction which are defined. Very often in case of employment gross misconduct is viewed as a misconduct that is unpardonable.

For example absence from duty without permission has been considered as gross misconduct In the case of *British – American Insurance Company (Nig) Ltd V. Omolaya (1991) 2 NWLR 721* the Court of Appeal held that "absence from work was gross misconduct which entitled the employer to dismiss summarily".

3.3 Professional Misconduct

Professional misconduct is any conduct that member of a given profession consider infamous and generally unacceptable to the members of that profession.

In the case of *Allison V General Council of Medical Education and Registration (1894) 10b 750* it was held that where a medical man in the pursuit of his profession has done something regard to it which would be reasonably regarded as disgraceful or dishonourable by his professional brethren of good repute and competency he would be said to carried out an unprofessional conduct.

However, it is important to note that any behaviour, breach of duty or conduct the members of the profession consider as capable of setting its members to public odium or scorns is regarded as unprofessional conduct whether written in their rules or not.

As Ogbu (2002) rightly stated “nevertheless the disciplinary committee may find a person guilty of unprofessional conduct on the basis of any conduct that has not been specifically mentioned by the rules of professional conduct if such conduct can reasonably be expected to affect the fitness of a person to practice.

It is important to also note that what constitutes infamous conduct may depend upon the norms of each profession and the fact of each case should be considered. In *Onitire Vs Fadipe charge No. LPDC/IP/82* the Legal Practitioners Disciplinary Committee held that “misappropriation of client’s money was held to be infamous conduct by a legal practitioner”.

While, in the case of *Denloye Vs Medical & Dental Practitioners Disciplinary Committee* according to Uvieghara “the plaintiff a medical doctor and an employee in the public service, who was accused of inter alia of attempting to have carnal knowledge of, unlawfully and indecently assault female patient was criminal misconduct.”

3.4 Consequences of Misconduct

Depending on the nature of the misconduct it could lead to either severe or mild consequence. As earlier mentioned every employee who is said to have breached a duty either of care or otherwise is guilty of misconduct and liable for sanction. According to Ogbu (2002) “appropriate sanctions have therefore been stipulated for professional misconduct by members of the profession”. Some of the consequences of misconduct include:

3.4.1 Dismissal

One of the major consequences of misconduct is dismissal from employment in the case of *Spain Vs Arontl (1817) 2 stake 256 Lord Ellenborough* held that where an employee persists in refusing to obey his master's orders the master will be justified in dismissing him. In the Nigerian case of *British American Insurance Company (Nig) Ltd Vs Omolaya supra* the Court of Appeal held that absence from work was gross misconduct which entitled the employer to dismiss summarily.

3.4.2 Criminal Prosecution

Another consequence of misconduct is Criminal prosecution especially where the misconduct itself is breach of a regulation contained in a statute and is defined as a crime.

3.4.3 Deregistration

Equally, a person accused of misconduct especially professional misconduct which is viewed as infamous conduct may have his name removed from the register either permanently or temporarily until he purges himself.

Discussing the likely consequences of professional misconduct by a legal practitioner Imhanobe (2009) said that the Disciplinary Committee, may, if it thinks fit give a directive;

- (1) Ordering the Registrar to strike that person's name of the roll, or
- (2) Suspending the person from practice by ordinary him not to engage in practice as a legal practitioner for such period as may be specified in the direction, or
- (3) Admonishing that person.

Although, this seems to be the position in the legal profession, It is however applicable to a Community Health Practitioner. Specifically considering the provisions of section 23 of the CHPRBN Act, CAP C19 LFN 2004.

4.0 Conclusion

In this unit you have learned the definition of misconduct, the some types of misconduct. You have also learned about professional misconduct and the consequence of misconduct.

It is hoped that you should now be able to define misconduct, list some types of misconduct, define professional misconduct and mention some consequences of misconduct.

5.0 Summary

The focus of this unit was on the definition of misconduct, some types of misconduct and defined professional misconduct. We equally, considered the consequences of misconduct.

6.0 Tutor Marked Assignment

1. Using your own words define professional misconduct
2. List two types of misconduct and the consequences of misconduct.

7.0 Reference/Further Reading

Allison V General Council of Medical Education and Registration (1894)
10b 750

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UNIT 14 DISCIPLINE AND DISCIPLINARY COMMITTEE

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 Meaning of Discipline
 - 3.2 Definition of unprofessional conduct
 - 3.2.1 Unprofessional conducts in Community Health
 - 3.3 Community Health Practitioners Disciplinary Committee
 - 3.4 Penalty for Acts of Indiscipline
 - 3.5 Appeals
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 Reference/Further Reading

1.0 Introduction

This unit shall focus on the definition of discipline, unprofessional conducts, procedure for discipline of members, the community health practitioners disciplinary committee, penalty for indiscipline and appeals.

2.0 Objectives

At the end of studying this Unit the learner should be able to:

- Define discipline
- Define indiscipline
- State unprofessional conducts in community health
- Outline the procedure for discipline of members
- Outline the disciplinary measures available under the community health practitioner Act
- State procedures for appeal.

3.0 Main Content

3.1 Meaning of Discipline

According the New Webster's Dictionary of the English Language Discipline means to bring under control. While the Free English online Dictionary defined "discipline as training to act in accordance with established rules according to system and regular action, drill."

Discipline can also be defined as "the process of bringing persons who have breached a professional duty under control using and laid down procedure and measures".

What the above simply means is that where a person is said to have behaved in a manner that is outside his professional integrity and behave in a manner that is unprofessional or can set this to profession to public odium. Measures would have to be taken to bring him under control such measures and the procedure to be adopted is referred to as discipline.

3.2 Definition Unprofessional Conduct

Unprofessional conduct is any conduct that is capable of bringing shame to other members of a give profession.

In the case of *Allison V. General Council of Medical Education and Registration 1894 10b 750* it was held that where a medical man in the pursuit of his profession has done something with regards to it which would be reasonably regarded as a disgraceful or dishonourable by his professional brethren of good repute and competing we can be said to have been guilty of infamous conduct.

However, it is important to state that it is not only misconducts or unprofessional conducts that are written down that constitute unprofessional. A disciplinary body can still discipline a practitioner for any conduct it consider unprofessional even though it is not written in its rules.

3.2.1 Unprofessional Conduct in Community Health

There are several conducts that are considered unprofessional conducts in the community health profession. These are contained in both the Community Health Practitioners Registration Board of Nigeria Act CAP C19 LFN 2004 and the Rules of Professional Code of Conduct. Some of them include:

- Obtaining registration by fraudulent means

- Making of statement which is believed to be false in a material particular
- Recklessly making a statement which is false in a material particular
- Conviction for a criminal offence by a Court or Tribunal of competent jurisdiction
- Assisting an unqualified person to secure registration
- Carrying out any procedure on client/patient without his consent
- Procurement of abortion even when requested
- Adultery with a patient or their spouse or other relations.
- Impersonating another Community Health Practitioner.
- Practicing medicine while under the influence of alcohol, narcotics or hypotonic drugs or any substance that impairs or may impair the licensee's ability to safely and skillfully practice medicine.
- Prescribing, dispensing or administering controlled substances.
- Willfully betraying professional secret or willfully violating a privilege communication except as either may otherwise be required by law.
- Advertising in a false, deceptive or misleading manner
- Charging or collecting inappropriate fees.

3.3 Community Health Practitioner Disciplinary Committee

Just like most professional bodies the Community Health Profession have a body recognized by the law that is responsible for the discipline of Community Health Practitioners

The Community Health Practitioner Disciplinary Committee is established by section 21 of the Community Health Practitioner Registration Board of Nigeria Act CAP C19 LFN 2004 and it states as follows:

- (1) There shall be established a Disciplinary Committee to be known as the Community Health Practitioners Disciplinary Committee thereafter in this Act referred to as "the Disciplinary Committee" which shall be charged with the duty of considering and determining any case referred to it by the investigating panel established by the following provision of this Act.
- (2) The Disciplinary Committee shall consist of the chairman of the Board and four other members of the Board to include members holding office by virtue of paragraph (b) (c) and (d) of section 2 of this Act
- (3) There shall be established a body to be known as the Community Health Practitioner Investigating Panel in this Act referred to as the Investigating Panel which shall be charged with the duty of-
 - a) conducting preliminary investigation into any case where it is alleged that a registered person has misbehaved in his capacity as such or should for any

other reason be the subject of proceeding before the Disciplinary Committee; and

- b) deciding whether the case should be referred to the Disciplinary Committee.
- (4) The investigating panel shall be appointed by the Board and shall consist of five members of the Board one of whom shall be named as the chairman
- (5) The provision of the third schedule to this Act shall, in so far as is applicable to the Disciplinary Committee and the Investigating Panel respectively, have effect with respect to those bodies.

From the above provision of the law you can notice that the body responsible for the disciplinary of Community Health Profession is the Disciplinary Committee and which must consist of five members Board, who must be those appointed under S. (2) (a) (b), (c) and d of the Act.

Also, there is another body which must have done a preliminary investigation to establish a prima-facie case against a member of the profession alleged to have committed a breach before the Disciplinary Committee can act. This body which is referred to as the Investigating Panel also has five members. However, the Act is silent on the composition of members of the panel. It nevertheless, stated that it should consist of five Board members.

3.3.1 Proceeding of the Disciplinary Committee

The next thing we shall be discussing is the proceeding of the Disciplinary Committee. According section 22 of the Community Health Practitioners Registration Board of Nigeria Act CAP C19 LFN 2004;

- (1) At any meeting of the disciplinary committee three members shall form a quorum
- (2) The chairman shall preside at any meeting of the disciplinary committee
- (3) Any question proposed for decision by the disciplinary committee shall be determined by the majority of the members present and voting at a meeting of the Disciplinary Committee at which a quorum is present.
- (4) At all meeting of the Disciplinary Committee each member present shall have one vote on a question. Proposed for decision by the disciplinary committee and in the event of an equality of votes, the chairman shall have in addition to a deliberative vote, a casting vote.

3.4 Penalty for Acts of in Discipline

Where the disciplinary committee hears any allegation against any person especially a community health practitioner and found such a person guilty of the offence. There are some punishments that have been prescribed under the Act, that the disciplinary committee can impose on the person. According to section 23 of the Act

(1) Where-

- a) a person registered under this Act is convicted by any Court or Tribunal in Nigeria or elsewhere having power to award punishment for an offence (whether or not an offence punishable with imprisonment) which is the opinion of the disciplinary committee is in compatible with the professional status of such person; or
- b) a person registered is adjudged by the disciplinary committee to be guilty of infamous conduct in a professional respect or
- c) the disciplinary committee is satisfied that the name of any person has been fraudulently registered.

The disciplinary committee may give a direction mentioned in subsection (2) of this section.

- (1) the disciplinary committee may give a direction under subsection (1) of this section –
 - a) ordering the Registrar to strike the person's name off the relevant part in the register;
 - b) suspending the person from practice for such period as may be specified in the directions,
 - c) reprimanding the person,
 - d) ordering the person to pay to the Board any costs of and incidental to the proceeding incurred by the Board; or
 - e) cautioning the person and postponing for a period not exceeding one year any further action against him on one or more condition as to his conduct during that period and any such direction may where appropriate include provisions requiring the referred of money paid or the handing over the documents or any other things as the case may require.

From the above it is important you note the following points:

- That, the disciplinary committee can punish a Community Health Practitioner whether he was tried by it or not provided another court or tribunal has tried him and found him guilty of an offence that is incompatible with the profession,

- Secondly, the disciplinary committee cannot punish any community health practitioner for an infamous conduct except it relate to the discharge of his professional duties.
- Also, that the Board may ask the person charged with the professional misconduct to pay for the cost of the Disciplinary Committee meetings.

3.5 Appeals

Having discussed the penalties that a guilty community health practitioners is likely to face the next issue we want to consider is the process of appeal and where appeals lie. Where punishment has been imposed on a Community Health Practitioner by the disciplinary committee and he is not satisfied with the decision of the Committee he can appeal to the Federal High Court. See section 26 of the CHPRBN Act.

From the provisions section 26 of the Act there are some key points that must be noted. These include:

- First, that there are three grounds for appealing the decision of the Disciplinary Committee.
- Secondly, that all appeals against the decision of the Disciplinary Committee lies as of right to the Federal High Court and no other court;
- Thirdly, that all decision of the Disciplinary Committee must be communicated to the respondents (the person accused of professional misconduct or breach of duty) by the Registrar.
- Fourthly, the person(s) who is dissatisfied with the decision of the Disciplinary Committee has 28 days within which to appeal after the Registrar has communicated the decision of the Board to him.
- Also, that no decision of the Disciplinary Committee would become effect until after 28 days of its disposal or an appeal brought before the Federal High Court.
- Equally, that the Federal High Court has powers to overturn or confirm all decisions of the Disciplinary Committee.
- Furthermore, that Federal High Court would not interfere with the decision of the Disciplinary Committee even though it is informal provided the appellant not was prejudiced or embarrassed with the proceedings. That is in so long as he was given fair hearing.

4.0 Conclusion

In this unit you have learned about the definition of discipline and indiscipline. You have also learned about unprofessional conduct and the body responsible for the discipline of community health practitioners.

You have equally learned about the composition of the Disciplinary Committee and the Investigating Panel, the proceeding of the Disciplinary Committee and the penalties it can impose and finally, the right of appeal, procedure of appeal and the Court to which appeal will ordinarily lie as of right.

It is believed that you should now be able to define discipline and unprofessional conduct as well as state some unprofessional conduct in community health. You should also be able to describe the community health disciplinary committee. Again, you should be able to list some of the penalties the Disciplinary Committee can impose and where a person who is dissatisfied with a decision of the Committee can appeal to.

5.0 Summary

The focus of this unit was the definition of discipline and unprofessional conduct. It also focused on the body responsible for the discipline of Community Health Practitioner, its proceedings, the punishment it can impose and the Court to which a person dissatisfied with its decision may appeal to.

6.0 Tutor Marked Assignment

1. (a) Define discipline in your own words.
(b) List at least five acts considered as unprofessional conduct in Community Health that you have learnt on this Unit.
2. (a) What is the body responsible for the discipline of Community Health Practitioners?
(b) List at least two penalties it can impose.

7.0 Reference/Further Reading

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UNIT 15: NIGERIAN LEGAL SYSTEM AND PROFESSIONAL DISCIPLINE

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1.0 INTRODUCTION

In the unit we shall be discussing what is a legal system and the Nigeria Legal System as well as the role of judiciary in professional discipline.

2.0 OBJECTIVES

At the end of studying this unit the learner should be able to:

- Define a Legal System.
- Describe the Nigerian Legal System.
- State the hierarchy of Courts in Nigeria.
- State role of the judiciary in professional discipline.

3.0 MAIN CONTENT

3.1 Meaning of a Legal System:

A legal system is the collection of activities, institution and statutes that interact within a jurisdiction to help it in the attainment of justice and sustenance of rule of law.

Dias (1985) opined that ‘the use of the word a system’ here implies that a legal system consists of coordinated activities”

According to Business Dictionary.Com “A legal regimes of a country consist of (1) a written or oral constitution, (2) primary legislation statutes enacted by the legislative body established by the constitution, (3) subsidiary legislature (bylaws) made by person or bodies authorized by the primary legislature to do so, (4) customs applied by the courts on the basis of traditional practice, and (5) principles or practices of civil, common, Roman or other code of laws.

What all of the above definitions are trying to say is that a legal system consists of a collection of other subsystem the aids the interpretation and enforcement of law. It includes both the laws, the constitutions, the agents that are authorized and the process as well as procedures involved in enforcing or ensuring compliance.

Furthermore, a legal system entails the fact finding and dispute resolution methods.

3.2 Method of fact finding:

Now that you may have understood what we mean by a legal system, the next issue we shall be discussing in this unit is the methods of fact finding and dispute resolution.

According to Sanni (1999), “parties are likely to believe that justice has been done and be pacified when the adjudicator has followed certain standard procedures or methods in resolving the dispute. Law, over the years, has striven to evolve an efficient means of resolving disputes in the modern time.”

From the above, can you see that there are different methods of dispute resolution? Some of methods of facts finding and dispute resolution include:

1) The adversarial methods:

This is a method where each party to dispute is under obligation to assemble his facts, evidence and witness to canvass their point and discredit the case of the other party. This is the type that is largely practice in Nigeria. According to Sanni (1999), “the parties in the adversary method apparently appear as adversaries and engaged in contentious argument with each other and accusing are another as the cause of the dispute, simply put in this method the adjudicator does not have to inquiry onto who is the cause. He basis his decision on the evidence presented before him and whoever has superior evidence and argument whether right or wrong carries the day.”

2) The inquisitional method:

This method is slightly opposite of the earlier method we discussed. In this method, the adjudicator does not allow the collection of facts, evidence witnesses to the parties alone. Sometimes he is involved in the assemblage of evidence and witness.

Another unique feature of this method is that the adjudicator is not a neutral umpire who ought not to descend into the area. Nigeria does not practice the inquisitionist method of justice. According Nnaemika-Agu JSC in the case of *Okoduwa Vs State (1998)*, *ACLR 319 at 344* “there are certain fundamental norms of the system of administration of justice we operate. That system is the adversary system in contradiction to the inquisitional system. In that adversary system parties with their counsel and the judge have their respective roles to play. Basically, it is the role of the judge to hold the balance between the contending parties and to decide the case on the evidence brought by both sides and in accordance with rules of the particular court and the procedure and practice chosen by the parties in accordance with those rules. Under no circumstance must a judge under the system do anything which can give the impression that he has descended into the arena as obviously his sense of justice will be observed.”

3.3 The Nigerian Legal System

According Dias (1985) “the Nigeria Legal System embraces those rules, institution and activities whose main functions only achievement within which people audit their affairs, and shaping of people’s ideas.

However, the Nigerian legal systems like most other countries legal systems have some unique features or characteristics. According to Ogbu (2002) the main features of the Nigerian Legal System include:

Institutions for the promulgation, interpretation, application, and enforcement of laws. What this means is that within the Nigerian Legal System there different bodies or agencies charged with the responsibility of making law, interpreting (or explaining) what the law made means, those applying the law and those ensuring that the laws made are interpreted, applied and obeyed.

Another feature of the Nigerian Legal System is the strong presence and influence of English Law. And what this means is that most of our laws are based on English Laws and even now in some case especially in criminal and civil proceeding reference is still made to what obtains in England.

Finally, as earlier mention the Nigerian Legal System operate what is called the adversary system of administration of justice.

From the above you can see that the Nigerian Legal System has its unique features which are different from those of other countries, especially non-commonwealth countries.

3.3 Hierarchy of Courts:

The next thing we shall consider in this unit is the various courts that exist in Nigerian. And the purpose is for us to lay a foundation that would enable you at end know the role the judiciary play in professional discipline and in particular the court that handles issue of discipline of Community Health Practitioners.

However, before we go on to mention the various courts in Nigeria we shall first define a court. According Jowitt E. Jowitt's Dictionary of English Law "a court is a place where justice is judicially administered or the judge or judges who sit in a court or an aggregate of separate courts judges" While the judiciary can be defined as that organ of government that interpret the law and determine issues of dispute between parties."

What the above simply means is that a court is a place where a person empowered by law sit to determine issue to ensure that justice is done.

Generally speaking, the courts in Nigeria are divided into two broad group. These are the courts of superior record and those of inferior record. According to Dada (1998) the courts may also be classified as inferior or superior depending on their powers and competence. They may either be referred to as courts of first instance or appellate courts while they may also be limited or unlimited in jurisdiction. Courts may also be courts of records or not."

Precisely speaking, superior courts of records are those courts expressly created and recognized by the constitution, while the inferior courts or record are those not expressly created and recognized by the constitution.

In Nigeria unlike some other countries such as the United States of America where states have their own Supreme courts. There is only one Supreme Court in Nigeria and it is the highest court in the land. Appeal lies to no other court from it except appeal to God. The list of courts based on their order of superiority is as follows:

- Supreme Court of Nigeria is the highest court in Nigeria. It receives appeals from the court of appeal and its decision is final on any matter. However, it has original jurisdiction in matters between the various State Governments, or between State Government and the Federal Government or between the arms of government.
- Court of Appeal is the second highest court in Nigeria it takes appeals from the Federal High Court, the State High Courts and the High Court of the Federal Capital Territory, the Sharia and Customary Courts of Appeal.

However, it has original jurisdiction in matters of Presidential election dispute and has the final decision in matters of Governorship election, National and State Houses of the Assembly Elections.

- Federal High Court is the next court in the hierarchy of court in Nigeria it takes appeal from the magistrate courts on special cases. It has concurrent (the same) jurisdiction with the State high Court.
- State High Courts and the High of the Federal Capital Territory. They have original jurisdiction in a lot of matters except those expressly excluded by S- 251 of the 1999 constitution. They take appeals from the Sharia Courts, Magistrates, Customary Courts and Area Courts.
- Sharia Court of Appeal takes appeal from the Upper Area Courts on issues of Islamic personal law. It does not have original jurisdiction in any matter. They are found in the Northern States and the Federal Capital Territory Abuja.
- Customary Court of Appeal takes appeal from the customary courts on issues of customary laws. They are found in the Southern part of the country and the Federal Capital Territory Abuja. It does not have original jurisdiction in any matter.
- Magistrates Court. This is one of the Courts of inferior record. In the South they handle both matters of criminal and civil nature.
- Sharia and Customary Courts are also courts of inferior records. It is just like the customary court they handle non-criminal issues dealing with Islamic personal law, and native law and custom.

3.4 The Judiciary and Professional Discipline

You will recall that we have described the court and the judiciary. Now the next issue we want to consider is what role the judiciary play in professional discipline?

The role of the judiciary entails determining the culpability (the guiltiness or otherwise) of person who has been charged for profession indiscipline, negligence, misconduct or breach of duty.

Specifically speaking in the case of community health the Judiciary has two major roles to play by virtue of S. 17 and S. 26 of the Community Health Practitioners Registration Board Act CAP CI9 LFN 2004. The first is prosecution of individual who is not registered as a community health practitioner.

The second role is to receive appeal from persons who are grieved with the decisions of the disciplinary committee to determined the correctness or otherwise of any disciplinary action of the committee.

And the court that has powers or jurisdiction to handle the matters set out the S.17 and S.26 respectively is the Federal High Court.

From the above can you see that the judiciary has a role to play in professional discipline?

4.0 Conclusion:

In this unit you have learned about a legal system, the features of the Nigerian Legal Systems. You have also learned about the various methods of fact finding, the hierarchy of court as well as the role of judiciary in professional discipline.

It is believed that you should now be able to define a legal system, state the feature of the Nigerian Legal System. You should also be able to state some methods of facts finding, the hierarchy of courts in Nigeria and the role of the judiciary in professional discipline especially community health practitioners.

5.0 Summary:

This unit focused on a legal system, the Nigerian legal system, the various facts finding and dispute resolution methods. It also focused on the hierarchy of courts in the Nigeria and finally, the role of the judiciary in the discipline of community health practitioners.

6.0 Tutor Marked Assignment:

1. State the main features f the Nigerian Legal System.
2. (a) State the various facts finding and dispute resolution methods you have learnt.
(b) Comment on the facts finding method adopted in Nigeria

7.0 References/Further Reading:

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