



KENYA MEDICAL PRACTITIONERS AND  
DENTISTS BOARD



# MEDICAL REGULATION – MAKING A DIFFERENCE CASE STUDY IN KENYA

DURING THE 12<sup>TH</sup> IAMRA INTERNATIONAL CONFERENCE  
ON MEDICAL REGULATION IN MELBOURNE, AUSTRALIA  
ON 21<sup>ST</sup> SEPTEMBER, 2016.

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# **THE REPUBLIC OF KENYA**



# INTRODUCTION



- The concept of health professionals bearing responsibility for errors resulting medical treatment can be traced to as early as 2030 BC under the Code of Hammurabi.
- Code of Hammurabi states: that if the doctor has treated a gentleman with lancet of bronze and has caused the gentleman to die, or has opened an abscess of the eye a gentleman with a bronze lancet, and has caused the loss of the gentleman's eye, one shall cut off his hands.
- The Kenyan health sector had over the years enjoyed autonomy with minimal public scrutiny. This changed after the promulgation of the Constitution of Kenya (2010).



CASE STUDY  
PROFESSIONAL NEGLIGENCE, PATIENT ABANDONMENT,  
PROFESSIONAL MISCONDUCT



- Complaint was lodged on 14<sup>th</sup> July, 2010 by **A** (husband to deceased) on behalf of **B** (deceased) against **Dr. XY** and **Hospital Z** with a brief description of the complaint as:

*“Negligence of doctor leading to death of patient and new born.”*



## CASE STUDY – Background of Case (1)



- On 23<sup>rd</sup> June 2010 patient B was referred to Hospital Z with a diagnosis of obstructed labour and arrived at the hospital at around 11pm.
- She was reviewed by nurse OP who noted to be bleeding and pale.
- She made preparations for theater and sought for Dr. XY who was the doctor on call in Hospital Z.
- Dr. XY was picked by the hospital driver from a local bar.
- He went into theatre at 1am (2 hours later) while he was drunk and smelling of alcohol and performed a caesarean section. 5



## CASE STUDY – Background of Case (3)



- A fresh still born was delivered.
- However, the patient B developed bradycardia and resuscitation commenced.
- An altercation ensued between the Dr. XY and a theatre nurse OP.
- In anger Dr. XY de-gloved, de-gowned and walked out of the theatre with the womb of the patient still open and returned to the bar.



## CASE STUDY – Background of Case (4)



- Dr. XY was sought for again by the driver, who found him at the same bar and took him back the hospital.
- By this time the patient's condition had deteriorated and resuscitation was unsuccessful.
- He sutured patient's uterus and declared her dead.



# You decide



On the basis of the information you have so far, what level of risk to the public do you think this practitioner represents?

- a) Medium
- b) High
- c) Very high
- d) Extreme



# You decide



How do you think the regulator should respond?

- a) Investigate
- b) Take immediate action to suspend
- c) Refer the matter to police
- d) All of the above



## CASE STUDY – Charges against Dr. XY



- Operated under the influence of alcohol contributing to the death of the patient
- Negatively affected the reputation of the profession by treating and managing the patient while under the influence of alcohol
- failed to provide required treatment, care and management contributing to patient's death
- Failed to act with required care and skill
- Disregarded the written and unwritten rules of the profession



## CASE STUDY – Full Board Tribunal Determination



- The Board sitting as a Tribunal on 23<sup>rd</sup> and 24<sup>th</sup> May 2013 considered the charges preferred against Dr. X and found them proved.



# You decide



What action should the regulator take?

- a) Nothing further
- b) Issue warning/caution
- c) Impose conditions – e.g. work under supervision, complete education, re-training, etc
- d) Suspend registration
- e) Cancel registration



## CASE STUDY – Full Board Tribunal determination



- Dr. XY was removed from the register on 24<sup>th</sup> May 2013
- The Board also referred Dr XY to the Director of Public Prosecutions to consider criminal charges
- In a related case, disciplinary findings were also made against the Medical Director of Hospital Z for allowing a practitioner to treat a patient while under the influence of alcohol and having inappropriate systems that contributed to the death of Patient B



# CASE STUDY – Application of Restoration to the Register



- Dr. X made an application for restoration of his name in the register on 13<sup>th</sup> October 2015



# You decide



What would be your verdict on the application for restoration to the register by Dr. X?

- a) Refuse outright
- b) Require evidence of rehabilitation before considering application
- c) Require a period of 5 years before considering application
- d) Grant registration subject to conditions of monitoring and rehabilitation



# You decide



Should the nurse be referred to the Nursing regulator for investigation?

- a) Yes
- b) No