

# Why medical laws are developed to serve doctors and patients

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## **Executive Summary**

Medical Laws exist in the UK to govern the operations of the medical practitioners within the country. Doctors should provide ethical services to their patients. These laws protect the patients from various malpractices that may occur in the course of practice. Patients are also protected from negligent behaviour from the doctors. Dr. Paulo was negligent of the services he was offering to Duncan that resulted in his death. There are various legal actions that can be taken by the family members against the hospital and the doctor. If a patient dies, the organs can be harvested for use with other patients. There are medical laws that exist to help with this practice. The decision made by the patients gives priority. This means that other people such as family members and close relatives do not have the authority to change the decision.

## **Introduction**

Medical practitioners have a duty to treat people and provide people with the appropriate medical services. However, medical experts are governed by medical laws that are established by the legislators in the country. The medical law refers to a body of laws that are focused on the rights and responsibilities of the medical practitioners and their patients. These laws govern the operations and behaviour of medical experts while handling their patients. There are areas of major focus within the field of medical law (Thompson, 2011). These include confidentiality, negligence, and other torts of law that are related to the practice of medicine. Medical experts have the obligation of being ethical in their practice. The medical laws majorly exist to protect patients against medical malpractices.

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**Analysis on Dr. Paulo**

Duncan's family can take some legal action against Dr. Paulo for the loss of Duncan. Medical experts have the responsibility of acting in an ethical manner while conducting their practices. They should ensure that they help patients recover from any illness or suffering they might be going through. The existence of medical laws helps to govern the operations of doctors by ensuring that they are doing the correct thing at all times. Based on these laws, Duncan's family can seek legal action because of the death of Duncan. Doctors have priority in the work they do. Patients should come first to doctors. The Medical Act makes up the most important law in the United Kingdom. Ethics is a virtue that should be practiced in every profession (Preston-Shoot et al, 2011). Ethics causes people to be responsible for their interactions with other people in their field of practice.

Duncan's family can take legal action against Dr. Paulo. When Duncan was taken to the hospital for recovery purposes, Dr. Paulo was charged with the responsibility of ensuring that Duncan makes a complete recovery. However, Dr. Paulo failed in executing his obligations by ensuring that Duncan makes a good recovery while in his care. Dr. Paulo was negligent when offering his services to Duncan. He concentrated on repairing the blood pressure machine instead of monitoring the progress being made by Duncan. He did not have the responsibility of repairing the blood pressure machine. As a doctor, he had the obligation of ensuring that Duncan was healthy and making a good and smooth recovery (Stirrat, Johnston, Gillon & Boyd, 2010). In the case of Dr. Paulo, he can be considered to be negligent of the services that he was supposed to be providing. A medical expert that is negligent in

their operations can be sued or barred from practicing medicine in the future.

Duncan's family can sue Dr. Paulo for negligence. The medical laws protect the patients against negligence from the doctors. Dr. Paulo should not have been concerned about the beeping blood pressure machine. Instead, he should be placing his focus on observing and monitoring the progress being made by Duncan. Legal action can be taken against the Gladhope NHS Trust, which is the medical institution where Duncan was taken for recovery purposes. This is because Duncan's family did not choose to have Dr. Paulo as their doctor. Instead, they only found him to be on duty on the day Duncan was being delivered to the health institution. The hospital management is charged with the obligation of ensuring that all their staff members are working diligently to ensure they provide the best medical care to their patients, possible (Thompson, 2011). For this reason, the management of the health institution should be held responsible for the actions of Dr. Paulo. Dr. Paulo should practice ethical behaviour as required by law. Ethically, a doctor is not supposed to be negligent of the events that surround him. He should always put the needs of the patients at a priority level.

### **Acting to Pursue**

For example, the case of Alexander Glancy V. The Southern General Hospital NHS Trust [2013] CSOH 35 - 1/3/2013 was about negligence on the part of a medical practitioner. After an operation, the patient was left with an incomplete tetraplegia. Another subsequent operation was conducted to remove the Halifax clamp in a bid to reverse its effects (UK. Laws, Cases). <https://assignbuster.com/why-medical-laws-are-developed-to-serve-doctors-and-patients/>

This was an unsuccessful procedure. Mr. Johnson, who conducted the procedure, failed to warn the patient of the significant risk of paralysis. Furthermore, the doctor failed to carry out a thorough paralysis analysis of the patient. Legal action was taken against the doctor, and the court ruled in favour of the patient. This shows the risk that doctors have to lose their licensing practice of not observing the ethical medical procedure that has been laid out by law. Having an ethical practice, requires doctors to do the right thing at all times. Therefore, doctors are required to observe all requirements and regulations when engaging in the medical practice. Human lives are very sensitive and should be treated with the utmost care possible. This care should be accorded to all patients across the board. This is because human lives cannot be replaced or repaired. Therefore, doctors only get one chance at getting it right. For this reason, they should make it their priority to monitor the progress their patients are making.

In the Duncan's family, they can sue the hospital for negligence on their part. This will require Duncan's family to gather evidence against the Dr. Paulo. This will go towards proving that he was negligent on his part. As soon as Duncan begun to complain of some pain, Dr. Paulo should have been quick to respond to the issue and ensure that Duncan was comfortable again. Having come from a surgical procedure, Duncan was very sensitive and required to have an extreme medical care to help him recover well. The family will then file a legal case against the health institution in a court of law. The family will then argue that the negligence of Dr. Paulo the death of their relative, Duncan (Brazier, Gillon & Harris, 2012). A negative action resulting from negligence on the part of the medical practitioner is highly

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prohibited in the UK. This is evident from the laws and statutes that have been put in place.

The medical law protects patients against such practices. Legally, a doctor is required to practice ethical behaviour while in the workplace. It is evident that the negligence of Dr. Paulo caused the death of Duncan. For this reason, the Duncan's death could have been avoided if Dr. Paulo paid more attention to the signs that Duncan was displaying based on the pain he was experiencing and how he was responding to the medication (Stirrat, Johnston, Gillon & Boyd, 2010). From the medical laws experienced in the country, it is clear that the best interests of the patients have been taken into consideration. Duncan's family is entitled to receiving compensation from the hospital for their loss. The type of compensation that will be received is dependent on how the case will be argued and the amount of damage that has been caused to them. Legally, it is impossible to put a monetary figure on the life of a person. This indicates the amount of value that has been associated with a living person.

### **Legal Framework on Donation**

Patients can decide to donate their organs to other patients who may be in need of them after they are dead. Organs can be harvested after the death of an individual, stored and be transplanted into the body of another individual who may need them. This practice is fairly common across the world, as well as in the UK. For organs to be harvested, there are special requirements necessary for doctors to be allowed to harvest the organs of a dead body. Dr. Schumer approached Duncan's family requesting if they could harvest the organs belonging to Duncan for future use. However, <https://assignbuster.com/why-medical-laws-are-developed-to-serve-doctors-and-patients/>

Duncan would have loved to become an organ donor, based on the small church he attended while he was still healthy. Despite this, he did not carry his donor card. This prompted the doctor to request for permission from the family members on the possibility of donor harvesting. Because Duncan was not married, there was no spouse in place to represent Duncan in this place and make the decisions on his behalf (Preston-Shoot et al, 2011). For this reason, the doctor decided to approach the family members instead. These donation laws have been put in place to ensure that there are minimal conflicts between medical practitioners and the family members of a deceased patient. Also, the doctor is protected by law on the move to harvest the organs of a dead patient, even if it goes against the wishes of the family members.

Organ donation in the UK is governed by the presence of these two major laws. The Human Tissue (Scotland) Act 2006 and The Human Tissue Act 2004 (England, Wales, and Northern Ireland). However, a new legislation called The Human Transplantation (Wales) Act 2013 came into effect on 1st December 2015 (UK. Laws, Cases). These laws state that any person who is above the age of 12 years, and is capable of making sound decisions, has the authority to give away their organs. The decision made by the person donating the organs is most important. This means that no relative has authority to reverse the decision after the patient is dead. For children who are under the age of 12 years, their guardians or parents can give permission on their behalf. An individual must express the wish to be a donor if they are going to be recognized as a donor. This is termed as the decision to 'opt it'. However, there are various ways in which people can express

their wishes to become a donor. This can be done by joining the NHS Organ Donor Register. This refers to the national confidential list that keeps and maintains a record of all persons that want to donate their body organs after they are dead. An individual can opt to carry a donor card that details their intention to donate their organs. A person can also write a letter or a will, which contains details about their wishes after they are dead. Alternatively, one can express these wishes by telling a close relative or friend. All these methods are legally acceptable as ways in which people can express their wishes to become organ donors.

### **Situational Analysis**

In the case of Duncan's family, they do not have any authority of going against the wishes of Duncan to become a donor. In this case, Duncan's niece, Lulu, refuses to give permission for harvesting Duncan's organs. However, Penny, his sister, agrees with the doctor as long as they are given to the members of the church that Duncan was attending. According to the human transplant laws in the UK, it was not the place of the family members to decide as to whether the organs will be harvested or not. The decision of the person giving up the organs always comes first. This means that the opinion of other close family members and friends, does not count (Brazier, Gillon & Harris, 2012). Duncan had already expressed his interest in becoming a donor to his fellow church members. This means that he wanted his organs to be donated upon death. For this reason, his wishes shall be observed above the wishes of any other person.

Dr. Schumer has the authority and responsibility of harvesting Duncan's organs despite the reactions of the family members. Therefore, he was only <https://assignbuster.com/why-medical-laws-are-developed-to-serve-doctors-and-patients/>



being cautious by seeking permission from the family members. Duncan did not carry a donor card. Some may argue that this is compulsory for him to express his interests in becoming a donor (Brazier, Gillon & Harris, 2012). However, there are other legal ways through which Duncan could have expressed his interests in becoming a donor. Duncan expressed his interests in becoming a donor to the church members of the church he attended. This is enough to cause the doctor to request his organs after he had passed. Further, his sister had already given the doctor permission to harvest his organs. Dr. Schumer has found himself at a crossroad when trying to make a decision regarding the harvesting of organs belonging to Duncan. However, Dr. Schumer has the legal authority to harvest organs from Duncan's body. This means that he does not need to request permission from the family members to harvest the organs.

Dr. Schumer faced demands of payment and rejection from some of the family members. By offering his organs for donation, Duncan is not entitled to any form of payments. During the time when he expressed his interest, there is no indication that he wanted to be compensated with some form of payment for the organs. For this reason, the family members had no right to request for payment from the hospital for them to allow the doctor to harvest the organs. The actions presented by the doctor are correct. From a legal perspective, the family members had no right or authority to block Dr. Schumer from harvesting the organs (Stirrat, Johnston, Gillon & Boyd, 2010). Therefore, Dr. Schumer can proceed and harvest the organs belonging to Duncan. However, he should conduct some due diligence to seek proof that Duncan had expressed his intention to become a donor. With this proof at <https://assignbuster.com/why-medical-laws-are-developed-to-serve-doctors-and-patients/>

hand, he can legally extract the organs from Duncan's body. Also, he is not obligated to make any form of payments to any of the family members or meeting any of their demands. It is for this reason that the donation laws exist. Dr. Schumer will win a court battle if he goes against the wishes of the family members. However, he may observe the wishes of the family members, but he is not obligated to do so.

### **Conclusion**

Medical laws are developed to help medical experts conduct their operations in the fairest manner. Patients are protected ethical behaviour from doctors are looking to make some quick money from them. Patients should be taken very seriously, and extra care should be taken when treating patients. The medical laws provide guidelines that should be followed by doctors. If these laws are broken by the medical practitioners, patients will have the authority to take legal action against the doctors. Negligence is something that can take place in other professions. However, the practice of medicine has no room for negligence. Proper care should be taken on patients because doctors only get one chance to treat a patient and get it right. Therefore, medical laws are developed in the best interests of the patients.