



Midwives experiences in maternal health litigations: A perspective from a rural district hospital in South Africa

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ABSTRACT

Maternal health litigations have become a public concern. Necessarily, various strategies are to be established to manage litigations and improve quality of care. The study explored the experiences of midwives on maternal health litigations in a rural district hospital in South Africa. Data was collected through eight (8) individual unstructured face to face interviews of midwives on maternal litigations in a rural district hospital in Eastern Cape, South Africa. A qualitative research design was utilised, which was explorative, descriptive, and contextual. Data analysis revealed three themes: (1) the experiences of midwives on litigations, which emanated from poor working conditions; (2) midwives' lack of competence, which is a leading cause of maternal incidences; (3) shortage of midwives and high admission of pregnant women, which contribute to poor recording. The study revealed that the experiences of midwives were conceptualised negatively, although the interview questions were intentionally neutral. This is believed to be due to the fact that the subject of the topic is a daily song in maternal health; indeed, there are many litigations and midwives are so negative in government delays to manage litigation issues. It is recommended that primary health care be strengthened as sources of these patients delivering in public hospitals. This will would help to minimise late bookings and unnecessary incidences in the maternal health facilities that later turn into litigations. Lastly, the study recommended that staff coverage should be considered such as employment of highly skilled midwives and in-service trainings to the current ones to improve their skills which hoped in reducing the medical malpractice and litigations.

KEY CONCEPTS: Experiences, Litigations, Maternity Unit, Midwives.

Introduction

Maternal health litigations continued to become a global concern (Dunn, Lesyna&Zaret, 2017). Countries are obliged to investigate possible causes and establish strategies to manage future occurrences. Attaining these strategies would improve quality of care and minimise ligation in the maternal health facilities (Gowda, Bhandiwad, & Anupama, 2016). In the African countries, maternal health facilities continued facing the serious adverse complaints regarding poor quality of care including staff negligence as a result it is regarded as the most litigious field (Tangcharoensathien, Limwattananon, Patcharanarumol, Thammatacharee, Jongudomsuk&Sirilak, 2015). Various problems such as inadequate basic equipment, shortage of midwives, maternal mortality rate and their incompetence are associated with these ligations (Tangcharoensathien, et al, 2015). Consistently, a study in Japan on comparison of medical litigation filed against obstetrics, gynaecology and surgery department found that shortage of midwives is a serious concern led to high litigations in their hospital settings (Matlala&Lumadi, 2019). This study further report that midwives lack of their involvement in staff establishment of maternal health facilities also contribute to this devastating litigations. In Portugal, a study by Domingues, Belo & Vieira

(2015) on medico-legal litigations in obstetrics found that the most common cause of litigations includes perinatal asphyxia which is classically regarded as the frequent reason for medical liability prosecution in obstetrics and usually related with intrapartum fetal deaths. Further, a study in Nigeria on circumstances leading to litigations of obstetrician in clinical practice found that litigations are driven by four major stakeholders namely clients, health practitioners and paramedical workers, insurance companies and the legal practitioners (Adinma, 2016). This study further stated that health practitioners such as midwives are the frontline practitioners. Patients spend most of their time with these practitioners and therefore lack of their involvement in the strategic plan of managing litigations could not help the health sector facilities as they are the key in the provision of quality of care.

Further, the high rate of litigations had also led to increasing insurance cost of obstetricians and gynaecologist, which add more frustrations and overall danger to the future of maternal health practice (Hamasaki & Hagihara, 2015). In some cases, professionals such as medical doctors and midwives are individually sued to their alleged malpractice as a result some of them have intended to leave their profession. In United Kingdom, a study on litigations of clinicians found that that 80% of senior obstetricians, gynaecologists and midwives were involved in litigation (Robertson & Thomson, 2015). These litigations implicated into a situation where their indemnities have to increase in maternal health to cover the costs. In Sudan, a study on the concepts of defensive medicine and litigation found that 89.7% of obstetricians, gynaecologist and midwives had an impression that litigations against them are increasing and are directly affecting their professional speciality field because many practitioners continued losing interest in their speciality field (Ali, Hummeida, Elhassan, Nabag, Ahmed, & Adam, 2016). Another fact was that in developed countries, the majority studies found that maternal litigations are associated with human errors other than skills' inadequacies, shortage of both human and material resources including poor working conditions (Almutairi, Kashiwagi & Sullivan, 2015). These litigations emanating from the maternal health complaints are generally centred on errors such as poor antenatal screening and diagnosis, ultrasound diagnostic errors, neurologically impaired infant, neonatal encephalopathy, neonatal death, and shoulder dystocia.

In South Africa, litigations in maternal health facilities are regarded as a public concern (Gowda, Bhandiwad & Anupama, 2016). This followed a series of report from the then national minister of department of health, Dr Aaron Motsoaledi during parliamentary session on the 9th June 2015 that the department of health has incurred R1.2 billion in legal costs due to medical malpractice (South Africa 2019). The minister further states that 80 million from the stated amount has been spent on maternal legal cases. These are considerable costs that could have been spent on essential services to improve quality of care on maternal health facilities either by procuring basic equipment, staff capacitation and recruitment than fighting lawsuits (James 2015). In addition, the South African department of health remain struggling to manage litigations (South Africa 2019). This affects the country's ability to finance healthcare in the medium to long-term strategic plan thus this study explored midwives' perceptions in maternal health litigations in a rural district hospital in South Africa.

Purpose of the study

The study explored the experiences of midwives on maternal health litigations in a rural district hospital in South Africa.

Definitions of keywords/concepts

Experiences in this study refers to the series of litigation events experienced by midwives while caring for pregnant women in maternity unit.

Litigation in this study refers to the action which a lawyer on behalf of the patient brings case in court to enforce a particular right.

Maternity unit in this study refers to an accredited health facility unit in a rural area that specialising in caring for pregnant mothers during labour and delivery procedures.

Midwives in this study refers to a nurse who has registered with the South African Nursing Council as a midwife and is in possession of the appropriate qualification(s) in Basic or Advanced Midwifery Nursing Science, and who cares for pregnant mothers in a public hospital in the Eastern Cape Province.

Research methodology

The study used qualitative research design, in which midwives who have been working in maternity unit for at least one year or more were purposely recruited. This purposive sampling technique was suitable as it allows the researcher to select participants according to their knowledge level about the subject of phenomenon.

These individual interviews were conducted using an in-depth unstructured face to face interviews and continued until data saturation was achieved. Further, data saturation in this study refers to a stage where participants could not come up with any new information during interviews and the researcher was deemed to stop the interview session immediately. All these participants were interviewed in English and their interviews were based on the grand tour question “explain fully, what your experiences are with regard to litigations continuously occurring in maternity unit”. Further probing questions were asked based on each participant’s response. With permission from the participants, the interviews were audiotaped. In addition to the audiotaped verbal conversations and field notes were also kept.

Data analysis

Manual data analysis was used, in which generic process of qualitative data analysis, as suggested by Creswell (2014). This process includes interview transcription from the audiotapes and emerging the transcripts of the interviews with filed notes into one document. Secondly, the transcripts were also read many times while coding and categorising the data into similar segments. Therefore, the main themes and subthemes were identified. Each theme was described separately. Finally, data were interpreted, formulating an exhaustive description of litigation reasons in the maternity unit.

Discussion of research results

A total of eight participants were interviewed as the sample size was determined by data saturation. The sample comprised of midwives working in maternal unit only. All participants could effectively communicate in English and were the employees of the research site. Based on the transcribed interviews, the following themes were identified.

Table 1: Summary of themes and subthemes that emerged during the study

| Themes | Subthemes |
|--|-------------------------|
| Experiences of midwives on litigations | Poor working conditions |
| Midwives' lack of competence | Maternal incidences |
| Shortage of midwives and high admission pregnant women | Poor recording |

These themes and sub-themes are discussed in details in the following sub-sections that include quotations of some of the perceptions of the nurses.

Experiences of midwives on litigations

Although midwives are the base of the maternal health facilities, they are confronted with multiple patient safety incidences that emanate from medical malpractice and later into litigations (Margaret, 2016). In this study, most participants uncovered that they have been the part of the State attorney's consultation in the research site when there is a claim under maternal health. These gatherings assist lawyers to find possible cause of the legal case and defend the department of health where possible. Despite these meetings, most of these cases are not won by the State attorneys because multiple unresolved issues, the litigations continue happening. Some of these issues include the huge shortage of lawyers to defend cases in the court. Therefore, there are few lawyers embarking in many cases and they do not have time for proper consultations and preparations. The public hospitals end up losing many of these cases due to poor defence as explained above.

Poor working conditions

Participants perceived that other causes of incidences result from poor working conditions that result in litigations against the government. These participants also cited that they are expected to deliver quality of care services despite the unbearable situations encountered in their maternal health facilities. These poor working conditions leading to litigations were none other than lack of cleanliness, staff shortage and lack of basic resources. One of the participants suggested that:

"The department of health should outsource the cleaning services because they do not manage to purchase cleaning materials which would be used for proper cleaning as part prevention strategy of litigations related to cleanliness". P6

Another participant added that:

"Government must outsource cleaning services because there is a shortage of general assistants to provide cleaning quality services as the staff has been reduced in the new staff establishment; having high quality cleaning services would help in litigations related to cleaning services." P1

This was consistent with the report provided by the Office of Health Standard Compliance (OHSC) on national core standard report that most common problems experienced in public health facilities include lack of cleanliness; poor safety and security; long waiting times; shortage and poor staff attitude; lack of basic resources and poor infection control measures, budget constraints and the non-availability of drugs (National department of health 2011). Similarly, a study by Rispel (2015) found that continued inability to achieve ministerial health priority areas of national core standard as suggested by OHSC could be a significant symptom of poor quality health provision and unbearable poor working conditions. Further, inadequate cleaning is also found to be a contributory factor of unnecessary deaths in the maternal health facilities which later become litigations against the public hospitals.

The addition that cleaning services should be outsourced in the health facilities was consistent with the report published by news24 in the survey conducted in South Africa on the 28th August 2019 revealed that some hospital functions where government is unable to comply can be outsourced to reach international standards of quality health care provision. The outsourcing reduces costs and enable South African companies to quickly attain high standard of grading which would reduce alarming litigations.

Plenty of literature sources revealed that multiple incidences are associated with huge shortage of staff, basic equipment and other material resources that later complicate into litigations. Further, government in South Africa particularly department of health have considered to reduce staffing without improvising quality of care expected. In this study, the participants perceived that department of health will continue experiencing these types of litigations emanating from shortage of staff and material resources.

Midwives' lack of competence

Midwives do have human errors like any other health care providers and should not be judged as lacking of competence. Necessary steps are to be adhered to follow a midwife and found incompetent unless the incident is exceptionally serious. Many scholars perceived that a single clinical incident would not be justifying a general lack of competence on the part of a midwife. Further, poor quality care provision that calls into question a midwife's competence would usually involve an unacceptably low standard of professional performance that put a patient's life at risk. This usually occur when midwives demonstrate the lack of knowledge in their procedure skills, showing that they are unable to provide a safe and effective practice in a patient.

Ideally, competence refers to a combination of skills to render nursing care on a woman to achieve and maintain optimum health from pregnancy, through all stages of labour and puerperium. The midwife is considered competent if he or she has the ability to integrate and apply the knowledge, skill, judgement, attitudes, values and abilities required to practice safely and ethically in a designated role and setting. Although midwives undergo these vast trainings with all types of assessment that allow them attaining professional competence in their skills, to date, there are still challenges related to lack of competences that require further investigations. These are none other failure of midwives to perform necessary procedure that save the lives of both mothers and their infants. These are mostly observed through continuous reporting of maternal incidences that are already investigated and have shown midwives lack of skills and their competence. There are multiple patient safety incidences reported under maternal health due to midwives' poor skills performance (Mayeng&Wolvaardt, 2015). In this study, many participants reported that most of the incidences are caused by inexperienced nurses, lack of required resources and in-service trainings in maternal health sector. The following subtheme details the consequences of incompetence midwives.

Maternal incidences

Participants perceived that the most maternal incidences in the hospital setting result from the poor management of pregnant women in the primary health care. There is high rate of late bookings of pregnant women due to delivery as a result, some of these patients could lose their infants and report of maternal incidences increase from these losses. Many of these factors are claimed to be the leading causes of litigations in the maternal health facilities.

One participant was quoted saying:

“It is very demotivating when you examine a late booking pregnant woman and find that there are no signs of lives in the unborn baby and as a nurse you have to inform the pregnant woman about such bad news; yhoo! I am afraid of being litigated by patients”. (P1)

The other participant stated that:

“Patient safety incidence is frustrating especially when you know that it is not your fault and you have to write a report about it in short period of time and send it to the next level; again you don’t even know whether this may turn back on you as a litigation”. (P3)

Participants also stated that their skills inadequacies to manage pregnant women, poor working conditions, lack of equipment and other required resources are the leading cause of maternal incidences in the hospital setting. One of the participants expressed her feelings as follow:

“Hee! I remember in December 2017 I was alone in labour ward assisting pregnant woman who was in labour and had no CTG to trace labour progress and that woman end up in theatre and delivered a fresh still birth”. (P2)

A study by Hassan (2015) found that midwives become very furious when their outcomes of the examination reveal that the infant is no longer alive. This study stated that this is a trauma as a result it gives hard time to disclose such news to the woman and fear of unknown or litigations. This concluded that there should be a debriefing and counselling session provided. These sessions help midwives to be able to cope with the existing situation.

The guidelines of patient safety incidences reporting in South Africa stipulate that a practitioner who was involved in the activities related to the incident have to write a statement to assist the patient safety incident committee in their process of investigation. In this study maternal incidences cited by participants are among serious adverse events that have to be reported within stipulated time. Therefore, they should report each incident occurred in maternity irrespective of its cause (Department of health 2017). Another study concurred that where government failed to provide quality of care is highly liked to be litigated because many patients are now knowing their rights. In South Africa, no studies reported personally suing midwives yet. The focus is still in the state government.

A plenty study by Mulaudzi, Phiri, Peu, Mataboge, Ngunyulu&Mogale (2015) found that the sub-Saharan countries including South Africa struggle to attain good quality of care provision due to their lack of basic equipment to manage maternal health facilities. These issues emanate from various factors such as shortage of competent staff and CTGs to manage their labour stage progresses. These failures could result in many patients litigating the government due to their failure to have essential and functional basic equipment.

A study by Margaret (2016) on resources of maternal health found that unavailability of cardiotoco-graph machine (CTG) to monitor labour progress is a serious concern. This study further reported that many maternal incidences were associated with failure to monitor labour stage progress. The utilisation of CTG by midwives enable them to observe signs of distress, especially with high-risk patients in order to make a decision regarding further care and to prevent malpractice. Attaining to this will help in the minimization of litigations that faced by government recently.

Shortage of midwives and high admission pregnant women

According to Margaret (2016) in a study conducted in South Africa regarding establishment of midwives’ perception of ethical and professional malpractices in labour units found that the shortage of staff especially of the midwives has been cited as a challenge and a contributory factor of litigations in maternal health. In this study, participants cited that they are short staffed and their workload continue increasing. This high workload could lead to exhaustion of midwives and low

morale which adds to absenteeism and poor quality care. Definitely, unattended patients would lay complaints and litigate where there is an opportunity to do so. This has been reported in most research findings and posed as an internal concern due to the fact that not the entire world report similar results, therefore health facilities could intervene on workload as other literature studies suggested. Consistently, a study conducted in America on conceptual framework of nursing workload found that heavy workload against nurses was a major problem that was caused by failure to supply adequate midwives and that led to nurses functioning improper and reported many litigations from those issues.

Poor record keeping

The participants indicated that the priority in the maternity ward is to ensure that all pregnant women admitted are not turned back without being attended by practitioners. This would prevent occurrence of unnecessary patient safety incidences which lead to litigations. Due to high volume of pregnant women referred to the ward, there is a poor documentation which is caused by various reasons. This include: shortage of staff and degree or stage of labour to the admitted pregnant women. This results into many documents not being filled correctly or full. One of the participants suggested that:

“Yes... Yes.... Government must employ more midwives and motivate them by increasing their salaries”. (P4)

Other participant stated that:

“We were two nurses in maternity and four pregnant women were brought by Metro ambulance and all were due to deliver. There was no time for documentation and we strive to save the lives of both mothers”. (P5)

The abovementioned prescript is consistent with the study by Margaret (2016) on establishment of midwives' perception of ethical and professional malpractice in labour unit found that midwives were not satisfied with their salary packages comparing their daily performance activities. This study further recommend that midwives' salaries should be revised into the next level. Though incentives such as overtime payments and annual increment have been established to inspire employee's loyalty and increase productivity, this was not the case because these incentives have no change difference in their living conditions. Another study by Newton, McLachlana, Forster & Willis (2016) reported that in a busy work schedule in maternity there is no time for any type of documentation due to the pressure the midwives might have of ensuring that the women labour become safe in both women and infants. Further, during busy schedule in a maternity unit and with experiences of shortage of midwives, there are possibilities of poor recording and could be disadvantageous during litigation process when the hospital has to conduct consultation with their attorneys. It is observed that poor recording could contribute in losing the case and be litigated. Therefore, the study recommended consideration of having adequate and highly skilled midwives to manage maternity in all times.

Recommendations

In line with findings and the literature reviewed in this research, he researcher recommends the implementation of the following to improve provision of quality of care in maternal health, which in turn should reduce the future litigations.

- The study found that midwives also deal with critical incidences, therefore the researcher recommend establishment of debriefing session. This is a structured voluntary discussion aim to put an abnormal event into perspective. It offers midwives clarity about the critical incident they have experienced and assists them to establish a process for recovery.

- Due to the unbearable situation, the midwives face when they are involved in maternal incidences and fear of being expelled from South African Nursing Council, the researcher recommends the establishment of counseling session by management of the research site. Achieving this would help midwives to explore problems and develop the skills and mind-set needed to transcend challenges and live a life of emotional health.
- The study revealed that shortage of resources, midwives and their lack of competence as a challenge, the researcher recommends that there should be a consideration of recruiting and employing highly skilled midwives to improve quality of care provision and reduce litigations emanating from shortage and lack of skills. This should include continuous in-service trainings to the existing midwives to improve their skills. There should be a procurement committee that looks in the required basic equipment and other necessary resources such as cleaning materials. This committee should have proper plans to purchase according to the need of the maternal health facility.
- Many of the literature papers revealed that outsourcing is an option where where government is not coping with purchasing certain material resources, and works under constraint of limited budget. The researcher recommends that there should be consideration of outsourcing those services for the benefit of attaining good compliance as short term goal, and consider having long plan of adequate allocation of funds and adequate staffing.
- The study lastly recommends strengthening of primary health care (PHC) clinics. With good PHC services there will be no late booking patients and unnecessary incidences into the hospital. This will contribute to less litigations as there will be no incidences to be reported.

Scope and limitations of the study

The study was conducted in the maternity unit of the research site reported higher incidence of litigations in the Eastern Cape in South Africa. The results cannot be applicable in other maternal health sites of the country or the continent.

Conclusions

The study focused at perceptions of midwives regarding litigations in maternity unit in a rural district hospital in South Africa. Although unstructured individual interview questions were phrased in a neutral manner, most of the participants' replies were negative about the situation they are experiencing in their maternity unit.

Indeed, the study revealed that midwives involved in management and caring pregnant women experienced serious challenges emanating from non-compliance with 6 priority areas of national core standards as suggested by national minister of department of health. The study also cited other factors such as shortage of staff, midwives lack of competence and labour complications as part of negative issue towards quality of care provision. However, continued negligence of these issues affect quality of care expected by the public as a result, many clients end up suing the government due to their negligence.

Litigation in maternal health has increased because of these non-attended issues. Therefore, study concludes that the de-

partment of health should consider having strategies that would enhance availability of required and functional resources in the maternal health. Midwives are the frontline essential practitioners who are always next to the pregnant women and play major role in monitoring the progress of labour. Therefore, recruiting and employing highly skilled and adequate midwives to deliver quality care would minimise unnecessary litigations. Lastly, there should be an ongoing establishment of medical malpractice training courses to midwives so that they will be kept with updated knowledge.

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