

The Law's Role in Defining Surgical Standards of Care

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ABSTRACT

Maintaining patient safety, ensuring responsibility, and advancing medical procedures all depend on laws defining criteria for surgical treatment. This study examines, via the prism of legal frameworks, how surgical standards have evolved over time, with particular attention to how historical events, significant court decisions, and professional guidelines have shaped things. Examined are the challenges of defining a "standard of care," with an eye on the issues resulting from rapidly evolving technology and variations in resource availability across various locations. Comparative research reveals quite variable national surgical norms. Higher income countries have solid systems; lower income countries battle with a shortage of resources. The report emphasises the need of international standards—such as the WHO's Safe Surgery Checklist—in ensuring that all approaches are the same and that outcomes are better everywhere. Carefully examined are historical instances, the value of expert testimony, how court rulings impact medical practice, and how law and medicine are continually evolving. The findings make it abundantly evident that laws and morality must be flexible enough to address fresh issues, particularly in light of combined usage of robots and artificial intelligence. This research encourages cooperating with individuals from many disciplines worldwide to develop fair, evidence-based criteria for medical treatment that upholds the values of safety, efficacy, and justice.

Keywords: Surgical Standards, Medical Malpractice, Legal Frameworks, Patient Safety, Informed Consent, Judicial Precedents, Healthcare Regulation, Surgical Errors, Global Health, Medical Ethics.

1. INTRODUCTION

Medical workers can do their jobs safely and well by following surgery standards of care. These standards help them do their jobs while keeping patients as safe as possible. The rules are based on the idea that care should show the level of knowledge and attention to detail that a sensible professional would show in the same situation [1]. Surgical standards cover things like planning before surgery, the techniques used during surgery, and care given after surgery. They make sure that people get the best results possible from the medical treatments that are suggested. These standards have changed over time, thanks in large part to medical research, new surgery tools, and, most importantly, the law systems that set and protect duty. When it comes to surgery, where mistakes or going against what is known can be very bad for patients, the intersection of law and medicine is especially obvious. So, laws are very important for protecting patients' rights, making sure experts know what they need to do, and planning ways for people to file complaints [2]. These plans are meant to build trust in the healthcare system and a sense of what is right and fair. Punishments for bad behaviour help the law stop people from being careless and promote a culture of alertness among medical workers through ongoing improvement. Legal acts that set surgery standards have an effect on how.

healthcare methods change over time through laws and practices, which goes beyond simple punishments. For instance, big court decisions often bring attention to places where standards are low and force professional groups to change or improve their rules [3]. Laws about patient privacy, informed consent, and the use of new tools in surgery show how the legal system adapts to the changing world of healthcare. When the law and medical fields work together, surgery standards stay up-to-date, thorough, and in line with what the public wants [4]

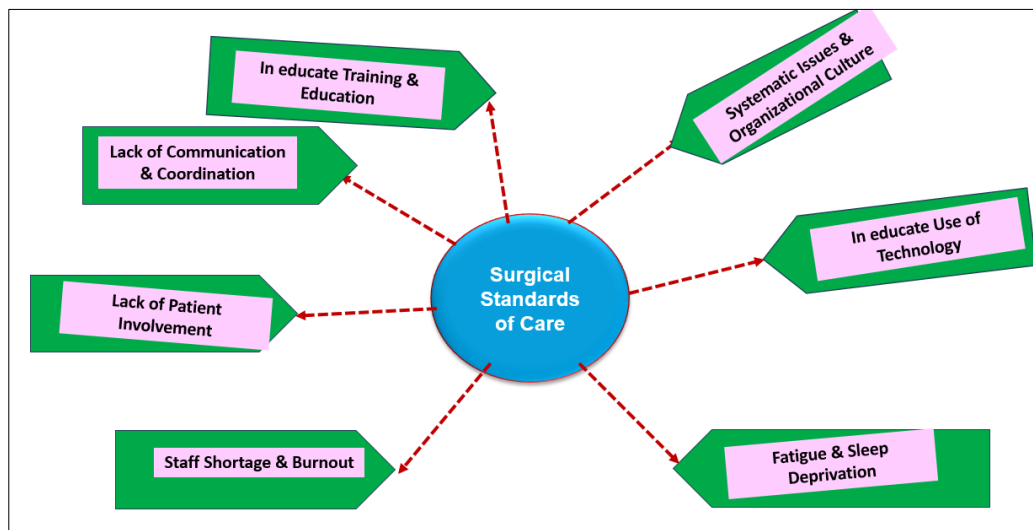


Figure 1. Enforcement of Surgical Standards of Care

To provide a whole picture of the matter, this research covers social, legal, and medical as well as other spheres of study. It examines how courts see surgical norms, how technology influences legal duty, and how professional guidelines assist to close the gap between what the law states and what surgeons really do [5]. The study intends to contribute to the present debate on how robust legal systems could enhance medical treatment by combining concepts from other spheres. As shown in figure 1, surgery should be under legal supervision at a period when healthcare systems are growing more complex. Medical procedures have to evolve along with patients' demands and technological advancements; so, the laws controlling them also have to adapt. Examining the complex interaction between law and medicine, this study demonstrates how crucial the law is in establishing and enhancing surgical standards of care, thereby ensuring they remain in accordance with the principles of safety, efficacy, and justice [6].

2. HISTORICAL DEVELOPMENT OF SURGICAL STANDARDS OF CARE

The historical development of surgical standards of care has been deeply intertwined with the evolution of medical malpractice laws, societal expectations, and landmark legal cases that have shaped contemporary practices. These standards have evolved from rudimentary practices in ancient times to the complex and highly regulated frameworks of today, reflecting the dynamic interplay between medicine, law, and societal needs [7].

a. Evolution of Medical Malpractice Laws

In ancient civilisations, simple legal norms held nurses and physicians accountable for their deeds. Medical malpractice laws originated in this regard. One of the first known legal books, the Code of Hammurabi, written in 1754 BCE, made physicians responsible for treatments that failed [8]. These regulations were an early step towards understanding the importance of medical practices being responsible, even if they were designed to penalise individuals. Mediaeval Europe saw clubs and colleges attempting to regulate physicians' conduct and education, therefore influencing the standard of medicine. However, during this period the rule had little effect as medicine was often seen as a spiritual rather than a scientific discipline.

Era	Historical Context	Key Development	Landmark Case	Impact on Standards
Ancient Times	Early recognition of surgical responsibilities	Code of Hammurabi	N/A	Introduced accountability principles.

19th Century	Rise of medical malpractice laws	Professionalization of surgery	N/A	Codification of medical negligence laws.
Mid-20th Century	Rapid medical advancements	Bolam Test	Bolam v. Friern Hospital	Established the standard of care concept.
Modern Era	Technological integration	AI and robotics in surgery	Multiple	Challenged applicability of traditional standards.

Table 1: Evolution of Surgical Standards and Key Legal Milestones

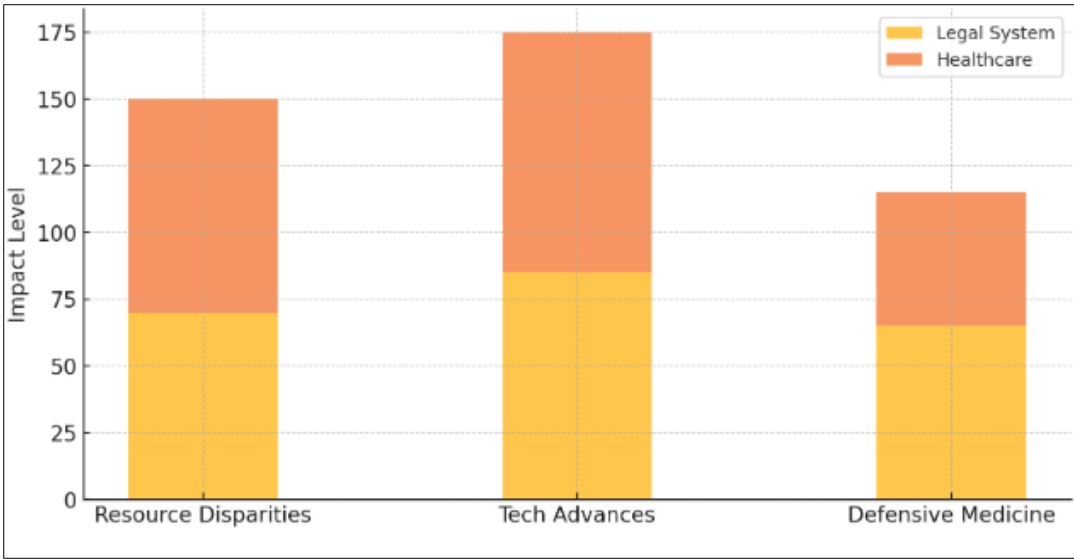


Figure 2. Represents the Numerical Figure of landmark legal cases

b. Shifts in Societal and Legal Expectations Over Time

Medical knowledge has expanded, patient support has developed, and individuals have become more conscious of their healthcare rights, therefore altering society expectations of surgical treatment. People used to often trust physicians entirely and had no input or knowledge on how they were treated. But as patient-centered care gained traction in the middle of the 20th century, it placed additional pressure on things like informed consent, collaborative decision-making, and honest, open communication. Legal criteria have also evolved with society [12]. We have a better knowledge of surgical neglect as medical procedures grow more complex and public attention increases. Courts now consider not only whether a doctor followed accepted protocols but also whether those treatments appropriately managed known dangers and reflected the most current medical knowledge. These developments have resulted in a flexible and continually shifting standard of care that balances professional knowledge with legal obligation. Examining how surgical standards have evolved over time makes it abundantly evident that the law has had a significant influence on developing procedures that prioritise patient safety and address fresh medical challenges.

The basis for ensuring that surgery treatment is responsible, of high quality, and consistent is legislation-defined set of criteria for surgery [13]. These systems are composed of laws, regulations, and professional norms. They simplify the process of defining precise expectations for the degree of medical attention physicians should provide. They also wish to defend patient rights, promote moral conduct, and handle any issues that develop when individuals disobey the guidelines.

3. OVERVIEW OF LAWS AND REGULATIONS IMPACTING SURGICAL CARE

The legal environment for medical treatment is shaped by many legislation, case law rulings, and government policies. Since the foundation of these models is the concept of the "standard of care," it is used to evaluate surgeon performance. Usually,

this criterion is seen as the degree of care a practitioner with a fair degree of knowledge and ability would provide in the same context. In surgery, this covers the assessment before to the operation, the techniques used, the post-operative care provided, and the appropriate technological utilisation. Like medical liability statutes, statutory laws define what healthcare professionals are legally obliged to do and what would happen should they neglect.

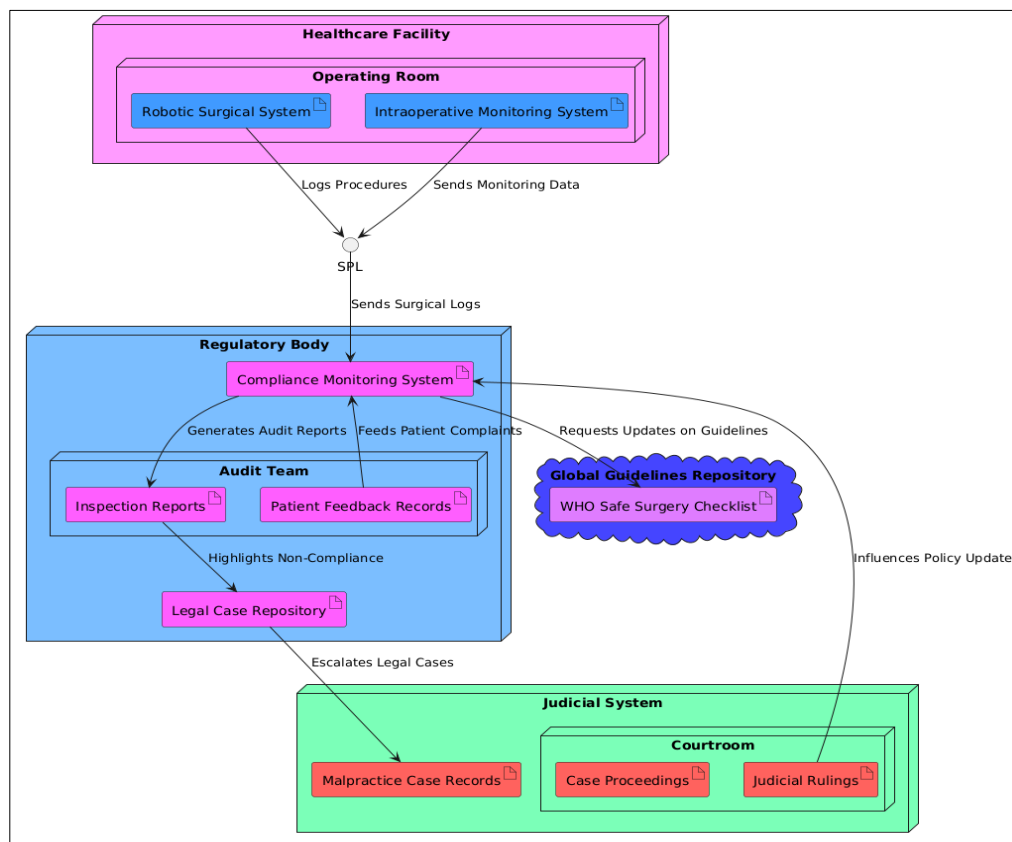


Figure 3. Diagram for Enforcement Laws & Regulation of Surgical Standards

Varied states within nations like the United States have varied malpractice policies, so medical standards are followed and administered in very diverse ways. For instance, some areas may have tougher policies while others rely mostly on the evidence of expert witnesses to determine whether a surgeon fulfilled the required level of care. Made by government and semi-government entities, administrative guidelines set even more stringent standards for medical treatment. These guidelines may address certain areas of surgery, such as how to avoid infections, how safe the operating room should be, and how informed permission must be obtained. To get government money, for example, the U.S. Centres for Medicare & Medicaid Services (CMS) mandates that physicians and hospitals fulfil certain quality criteria. As Figure 3 shows, this provides them with a motivation for doing this. Programs like the Safe Surgery Checklist make the World Health Organisation (WHO) very crucial for promoting surgical safety worldwide. These initiatives influence national policy and assist to unite medical standards worldwide even if they are not legally enforceable.

4. ROLE OF PROFESSIONAL MEDICAL BOARDS AND GUIDELINES

Medical workers can do their jobs safely and well by following surgery standards of care. These standards help them do their jobs while keeping patients as safe as possible. The rules are based on the idea that care should show the level of knowledge and attention to detail that a sensible professional would show in the same situation [1]. Surgical standards cover things like planning before surgery, the techniques used during surgery, and care given after surgery. They make sure that people get the best results possible from the medical treatments that are suggested. These standards have changed over time, thanks in large part to medical research, new surgery tools, and, most importantly, the law systems that set and protect duty. When it comes to surgery, where mistakes or going against what is known can be very bad for patients, the intersection of law and medicine is especially obvious. So, laws are very important for protecting patients' rights, making sure experts know what they need to do, and planning ways for people to file complaints [2]. These plans are meant to build trust in the healthcare system and a sense of what is right and fair. Punishments for bad behaviour help the law stop people from being careless and promote a culture of alertness among medical workers through ongoing improvement. Legal acts that set surgery standards have an effect on how healthcare methods change over time through laws and practices, which goes beyond simple

punishments. For instance, big court decisions often bring attention to places where standards are low and force professional groups to change or improve their rules [3]. Laws about patient privacy, informed consent, and the use of new tools in surgery show how the legal system adapts to the changing world of healthcare. When the law and medical fields work together, surgery standards stay up-to-date, thorough, and in line with what the public wants [4].

Law Generics	Description	Examples	Impact on Surgeons	Impact on Patients
Statutory Laws	Codified legal requirements for surgical practice	Medical malpractice statutes	Defines liability boundaries	Protects patient rights.
Case Law	Judicial precedents influencing standards	<i>Bolitho v. Hackney Health Authority</i>	Refines negligence criteria	Improves patient safety.
Professional Guidelines	Recommendations by medical boards	WHO Safe Surgery Checklist	Standardizes procedures	Reduces surgical errors.
Regulatory Oversight	Monitoring and enforcement by authorities	Accreditation systems	Encourages compliance	Ensures consistent care quality.

Table 2: Legal Frameworks Governing Surgery

Conversely, nations having civil law—France and Germany, for example—use written laws more to establish medical norms. Although these regulations provide better guidelines, their rigidity may not be sufficient to match the rapid changes in medical practices. Robotic-assisted surgery, for instance, has led some to question whether the common law and civil law systems' respective standards are sufficient. This emphasises how crucial it is to have legal regulations current. Developing nations struggle more to maintain and follow surgical standards due to limited resources and contemporary medical instruments. When this occurs, the emphasis often shifts to ensuring that, as Table 2 shows, fundamental standards of care are fulfilled—that is, that instruments are clean and that trained staff members are on hand. Handling these variations depends much on international cooperation and skill-building initiatives for individuals. Attempts to standardise surgical standards worldwide have accelerated in recent years. This is so because systems of healthcare are growingly interconnected. Both the World Health Organisation (WHO) and the International Surgical Society advocate the use of consistent safety guidelines that may be altered to suit various circumstances. Still, it is difficult to achieve unity as it calls for aligning local reality with global ideals as seen in figure 4.

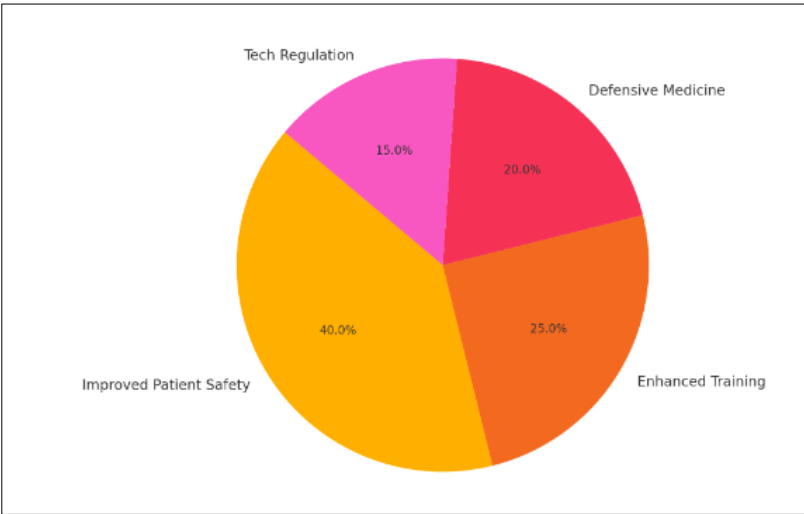


Figure 4. Illustrated the Legal Generics of Governing Surgery

Making ensuring patients get moral, safe, and efficient treatment depends much on the laws defining standards for medical treatment. These approaches provide a whole approach to create and apply criteria by combining legislative requirements, professional guidelines, and governmental supervision. Though they might be a challenge, varied legal requirements throughout the world also highlight how medical treatment is provided in various contexts. Laws supporting medicine must also adapt with its developments. This helps to ensure that medical standards remain fair, current, and flexible enough to solve fresh issues.

5. IMPLICATIONS OF JUDICIAL DECISIONS ON MEDICAL PRACTICE

When it comes to malpractice cases, the decisions courts make have a big effect on medical practice. This means that doctors and hospitals treat patients in different ways. Litigation is a direct rejection of flaws in people that they make. They are more likely to follow the rules and act quickly to avoid making mistakes. Cases like *Canterbury v. Spence*, which give informed consent a lot of weight, have made it possible for doctors to interact with their patients in a wider range of ways. Patients today know a lot about the risks, benefits, and different kinds of surgery. This makes it possible to make smart choices. People are freer now and trust their doctors more because of this change. In the same way, judges are closely looking at new medical technologies, which has changed how these tools are adopted and used. Cases involving robotic treatments or tests that are run by artificial intelligence often show how important it is to have the right training and supervision. This is why governments and hospitals have made it harder to use these technologies: to make sure they improve patient safety instead of putting it at risk. Sometimes, judges' decisions have effects that were not meant to happen. Protective medicine, or tests or treatments doctors do that aren't necessary to lower their risk of being sued, has been linked to doctors' fear of being sued. It's possible that this plan will protect doctors, but it could also hurt patients and cost more. For some reason, the court system still has a hard time balancing the need for responsibility with the risks of defence methods. Court rulings set standards for how professionals should act, which supports the change in medical ethics. Courts have an impact on how doctors deal with ethical problems in their work by making decisions about things like laziness, informed agreement, and sharing resources. Professional boards and politicians can also get feedback from these choices, which show them where standards may need to be tightened. The surgery standards are mostly decided by how case law is understood, how expert information is used, and how rules are made. Not only do court decisions settle disagreements, they also improve medical practice, which encourages responsibility and keeps patients safe. Experts disagree with each other, and military medicine is still up for debate. However, the way that law and medicine combine is always changing and improving medical standards. The courts will still play a big role in making sure that medical care meets standards of fairness, safety, and effectiveness, even as healthcare changes.

6. ETHICAL AND LEGAL INTERSECTIONS IN SURGERY

Surgery is a field where the interplay of ethics and law is particularly pronounced, given its potential for significant impact on patients' lives. Ethical principles such as patient autonomy, beneficence, non-maleficence, and justice must coexist with legal obligations to ensure accountability, transparency, and the upholding of patient rights. Navigating these intersections requires surgeons to balance competing priorities while adhering to both professional ethics and legal frameworks.

A. The judicial side of informed consent is based on the principle of self-determination, which keeps patients safe from medical treatments that aren't their permission. Courts have always said that not getting the right permission is either abuse or carelessness, based on the situation. Important decisions in the US, like *Canterbury v. Spence* (1972), have made it even more important to communicate clearly and talk about important risks. In this case, the court said it wasn't enough for doctors to just tell patients about risks that are in line with professional standards. The information also had to be in line with what the patient could reasonably expect.

B. Getting truly educated agreement is really hard, even though it is very important. The detailed words used in medicine and the difficulty of medical processes can make it hard for patients to understand. Also, when urgent care is needed, there may not be time for in-depth conversations, so doctors may have to act in the best interest of the patient without their clear permission. In these situations, doctors need to make choices that put patient safety first while still following the legal idea of working in good faith.

C. The tension between surgeons' duty to protect patient liberty and patients' right to choose their own treatment is especially clear when patients refuse recommended care or ask for procedures that aren't common in medicine. In these situations, doctors have to carefully weigh their professional duty to keep patients safe against their moral duty to accept their choices. To handle these situations well, you need to make decisions together and communicate clearly.

D. Surgical mistakes, whether they are caused by human error, system failure, or problems that were not expected, are very difficult from an ethical and legal point of view. When it comes to ethics, mistakes make us think about who is responsible, what should be disclosed, and what should be done to make things right. Legally, they bring up questions of carelessness, responsibility, and the right level of care.

For ethical reasons, doctors must admit when they've made a mistake and tell patients right away, giving a full account of

what happened, what might happen, and what is being done to fix the problem. Being open and honest builds trust, protects patients' rights, and is in line with the moral concept of truthfulness. However, people often don't tell the whole truth because they're afraid of getting in trouble with the law. This creates a conflict between their moral responsibilities and their natural urges to stay safe. The "Communication and Optimal Resolution" (CANDOUR) method and other programs that encourage open conversation have been shown to ease this stress by creating an environment where people are honest and responsible.

E Legally, mistakes are judged by whether they break the standard of care. The amount of ability and care that a fairly skilled expert would give in the same situation is called the standard of care. A lot of the time, expert evidence, medical data, and an analysis of the situation are needed to decide if a surgery mistake meets this standard.

7. GLOBAL PERSPECTIVES ON SURGICAL STANDARDS

Different countries have very different surgical standards because their rules, health care systems, cultural values, and finances are all different. Even though there are some changes, foreign deals and rules are very important for keeping standards the same and getting people to work together to make sure that surgery goes better everywhere. When you compare surgery standards from different countries, you can see that they have both similar goals and unique problems. This stresses how important it is for everyone to work together to make sure that everyone uses the same methods. How treatments are done is different in each country because of its society, healthcare system, and laws. Complete surgery standards are set by wealthy nations with strong legal systems, well-funded health care systems, and quick access to new technologies. These countries make sure that treatment is of high quality by having strict licensing rules and methods that are based on proof. In the meantime, it might be hard for low- and middle-income countries to adopt and uphold surgical standards. In the US, medical standards are set and enforced by groups like the Joint Commission and the American College of Surgeons (ACS), which focus on patient safety, informed consent, and care after surgery. Not enough staff in hospitals, not enough money, and not enough training opportunities for doctors could all affect the level of treatment. For example, many countries in Sub-Saharan Africa still don't have enough trained workers or the right tools, which makes it hard for people to get even the most basic medical care.

Country/Region	Primary Regulatory Body	Key Frameworks or Guidelines	Challenges	Strengths
United States	American College of Surgeons (ACS)	National Patient Safety Goals	Defensive medicine practices	Advanced technological infrastructure.
United Kingdom	Royal College of Surgeons (RCS)	NICE Guidelines	Resource allocation	Comprehensive training programs.
Sub-Saharan Africa	Varies	Basic surgical care initiatives	Limited resources	Growing international support.
Japan	Ministry of Health, Labour, and Welfare	Patient-centered care guidelines	Aging population	Strong emphasis on teamwork.

Table 3: Global Variations in Surgical Standards

According to the 2015 Lancet Commission on Global Surgery, five billion people worldwide lack access to reasonably priced, safe surgery. To narrow these gaps, they underlined the importance of concentrated actions. Furthermore influencing surgical standards are cultural aspects. Views on healthcare and patient autonomy vary among nations, which might affect the decisions taken during surgery and the adherence to policies. For instance, the concept of "collective decision-making" is quite crucial in health care in Japan, and Table 3 reveals how family members are helping in treatment presentations. This is not the case in Western nations, where patients' rights to be left alone take more front stage.

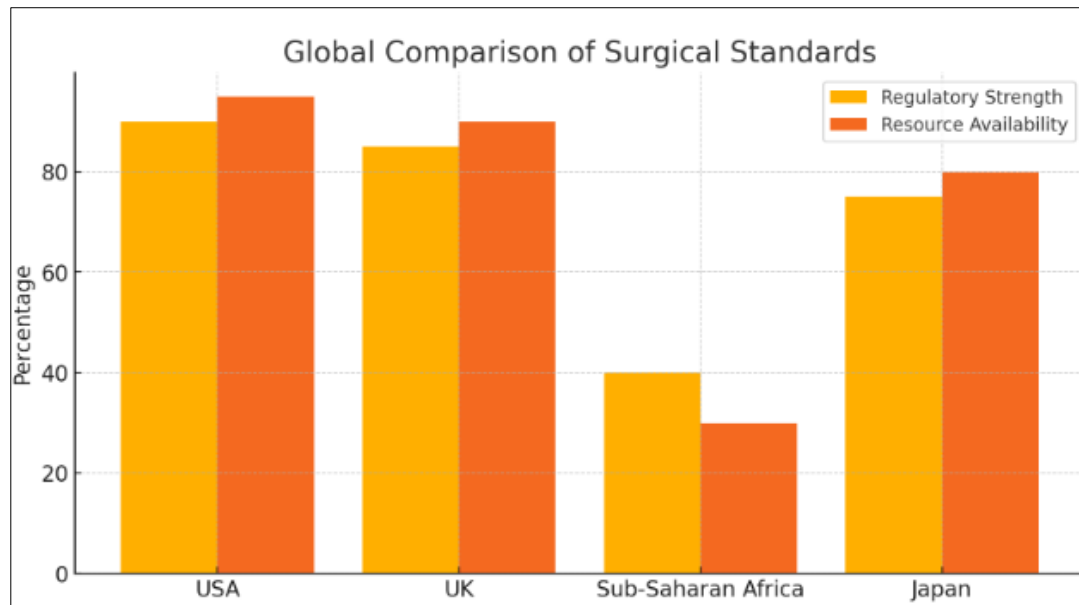


Figure 5. Graphical View of Global Comparison of Surgical Standard

Even though these things are different, some things are still the same. Making sure patients are safe, controlling illnesses, and using methods that have been shown to work are very important in most countries. Medical tourism spots like India, Thailand, and Singapore have also put in place similar surgery rules. These places serve people from all over the world and need to follow global standards as healthcare becomes more global. International deals and standards are mostly what bring together different medical standards and surgery standards. The World Health Organisation (WHO), the International Society of Surgery (ISS), and the World Federation of Societies of Anaesthesiologists (WFSA) have worked together to make sure that surgery is always done safely and correctly. A lot of people know that the WHO Safe Surgery Checklist is one of the best ways to make treatments better. The plan was made in 2008 so that surgeries could be done in the same way before, during, and after surgery. This makes it easier for medical teams to work together and cuts down on mistakes. Studies that used the checklist showed that death rates and problems after surgery might go down by a lot. This makes it useful for both rich and poor places with different resources, as shown in Figure 5. International agreements and rules also make sure that everyone has the same access to surgery. The Sustainable Development Goals (SDGs), especially Goal 3 (Good Health and Well-Being), stress how important it is for everyone to be able to get basic medical care and surgery. As countries work together to meet these goals, plans like the Global Surgery 2030 plan have emerged to improve surgery care in low- and middle-income countries. Efforts to standardise licensing and approval around the world help make surgery methods even more uniform. Groups like the Joint Commission International (JCI) help hospitals all over the world get recognised by making sure they follow standards that are known all over the world. The goal of these programs is to make sure that medical centres follow best practices and keep the quality of their services good. It's not always easy to carry out foreign policy. Standardised methods may not be used as much because of a lack of resources, culture differences, or a dislike of change. For example, the WHO guideline is supported by a lot of people, but some places don't always follow it because of practical and cultural reasons. To deal with these issues, we need answers that are right for the situation. For example, we could change the rules to fit the needs of the area and give people the tools and instructions they need to put them into action.

Surgical standards are set by how local situations and world projects interact with each other. Rich countries have access to current tools and systems that are well-built. But low- and middle-income countries have their own problems that need answers that are made just for them. International deals and rules help to fill in these gaps, uphold shared standards, and make it easier for people from all over the world to work together. The surgical community around the world can work towards fair, safe, and high-quality surgery care for everyone by expanding these projects and making them easier to carry out.

8. CONCLUSION

The difficult link between surgery and the law shows how important legal rules are for setting and following care standards. History, different points of view around the world, and the changing nature of law systems are used to show how they not only hold people responsible but also improve medical practices. Some of the most important things that were revealed are the need for big cases, how professional medical boards balance clinical knowledge with legal duties, and the issues that come up when people don't have the same access to resources and new technologies. People are mostly worried about how hard it is to make a "standard of care" that adapts to new tools, changing patient needs, and available resources in the area.

Making sure that all healthcare systems follow these rules exactly is another pretty big problem. Even though there are problems, global norms and cooperation have helped a lot with fixing unfair situations, putting patient safety first, and planning surgeries. In the future, researchers should look into how technologies that change quickly, like AI and robots, affect law duty and medical standards. Lawmakers should think about changing the rules that govern regulations in order to deal with these new problems and make sure that everyone has equal access to high-quality care. Working with experts in different areas, like law, medicine, technology, and more, can also help make standards that are flexible and show how healthcare is always changing. Medical care and the law are always changing, so it's important to keep an eye on them to make sure that professional duties, patient rights, and ethical issues are always in line with each other. The medical and law groups may help make sure that surgery standards stay strong, fair, and adaptable enough to meet the needs of a society that is always changing by filling in the holes and working together on a global level.

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