

## The Provisions of Civil Liability for Cosmetic Medical Errors: A Comparative Study

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### Abstract

The research analyzes the legal framework and potential duties and responsibilities of both healthcare professionals and patients involved in cosmetic medical malpractice cases and the paper highlights the importance of understanding the legal standards and regulations of cosmetic medicine. He emphasizes that healthcare professionals who provide cosmetic procedures are expected to adhere to their patient's duty of care, which includes informed consent, proper evaluation, and safe performance of procedures.

Negligence has also been identified as a key factor in establishing civil liability. Various forms of negligence are discussed in cosmetic medical errors, such as inadequate training, lack of valid consent, surgical errors, improper administration of anesthesia, and failure to treat complications. Various forms of negligence are discussed in cosmetic

medical errors, such as inadequate training, lack of valid consent, surgical errors, improper administration of anesthesia, and failure to treat complications.

The paper also addresses the concepts of causation and damages, explaining that patients seeking civil liability must establish a causal connection between the health care professional's negligence and the harm they suffered. They must also demonstrate the nature and extent of the damages, including physical injuries, emotional distress, and financial losses. Based on the results, the paper makes several recommendations to improve the legal landscape surrounding civil liability in cosmetic medical errors.

These recommendations include strengthening regulations, promoting continuing education and training, ensuring transparent communication, and implementing mandatory reporting mechanisms. The importance of public awareness,

collaboration and research in this area is also emphasized.

**Keywords:** medical error, medical negligence, legal framework, civil liability

**\* Study problem**

Cosmetic procedures, such as fsuction, breast augmentation, face/neck lift, eye/eyebrow lift, and rhinoplasty/septoplasty, are becoming increasingly popular. However, these procedures also carry risks, and when errors occur, patients may be harmed and seek recourse to the law. This study aims to explore the responsibility of medical professionals, their impact on patients, and existing problems in civil laws regarding cosmetic medical errors (Mohammed Al-Ghazzawi et al., 2022).

Cosmetic medical errors can have serious consequences for patients. A study conducted in Australia reviewed 481 malpractice claims from 2002 to 2008 and found that 16% of legal disputes related to consent issues, while 70% of claims alleged failure to disclose information. Complications by medical providers. The most common procedures in these claims were liposuction, breast augmentation, face/neck lift, eye/eyebrow lift, and

rhinoplasty/septoplasty (Ola Abdelfattah Ismail, 2024).

Determining who is responsible for a cosmetic medical error can be complicated. In cases of medical negligence, a doctor can only be convicted if it is below the level of reasonable medical care and the mere presence of errors in judgment, when two schools of thought are truly responsible for clinical case management, may not constitute negligence (Talal Salem Nawar Daham Al-Jumaili,2019).

The problem of civil liability arising from cosmetic medical errors is aggravated by deficiencies in civil laws and medical malpractice refers to professional negligence by a health care provider that leads to substandard treatment and leads to injury to the patient. However, the legal principles surrounding medical negligence can vary, and there may be challenges in determining liability and obtaining compensation for patients (Ola Abdel Fattah Ismail,2024)

**\* The importance of the study**

**\* Scientific importance**

1- The study contributes to the understanding of civil liability in cases of cosmetic medical errors. By examining existing laws and their limitations, research can highlight

areas that need improvement or clarification

2- The research can identify gaps and challenges in the current legal system regarding cosmetic medical errors. By analyzing case studies, legal precedents, and relevant legislation, the study can highlight areas where the law may be inadequate or ambiguous.

3- Understanding civil liability in the context of cosmetic medical errors is critical to protecting patient rights. By studying the legal responsibilities of medical professionals and patients' rights, the research can contribute to the development of legal frameworks that prioritize patient safety, valid consent, and fair compensation in cases of harm caused by cosmetic procedures.

#### **\* Applied Importance**

1- By addressing the problem of civil liability, the research aims to improve patient safety and quality of care in the field of cosmetic medicine. By identifying areas of interest and suggesting potential solutions, the study can help healthcare providers and regulators implement measures to reduce the incidence of cosmetic medical errors and ensure the highest standards of patient care.

2- The research can provide legal guidance to medical professionals involved in cosmetic procedures. By

clarifying legal responsibilities and potential obligations, the study can help healthcare providers navigate the complex legal landscape and make informed decisions to ensure patient safety and reduce the risk of legal disputes.

3- One practical meaning of the research is to ensure fair compensation for patients who have suffered harm due to cosmetic medical errors. By studying existing civil laws and defining their limits, the study can contribute to the development of legal frameworks that facilitate fair and timely compensation to affected patients, and provide them with the necessary support and redress.

#### **Third: Objectives of the study**

1- Analysis of the legal framework surrounding civil liability in cases of cosmetic medical errors

2- Examine the duty of care that cosmetic medicine specialists have towards their patients

3- Identify the common types of cosmetic medical errors that may lead to civil liability

4- Explore potential legal defenses available to cosmetic medicine professionals in civil liability cases

5- Evaluating the impact of cosmetic medical errors on the patient's health and quality of life

6- Verifying the role of valid consent in determining civil liability in cases of cosmetic medical errors

**\* Questions of the study**

1- What is the legal framework for civil liability in cases of cosmetic medical errors?

2- What duty of care do cosmetic medicine professionals have towards their patients?

3- What types of common cosmetic medical errors may lead to civil liability?

4- How does the level of care expected of cosmetic medicine professionals vary across jurisdictions?

5- What legal defenses are available to cosmetic medicine professionals in civil liability cases?

6- What is the impact of cosmetic medical errors on the patient's health and quality of life?

**\* Methodology**

This study uses the descriptive approach to study civil protection arising from cosmetic medical error. It aims to provide a comprehensive understanding of the current state of medical cosmetic error and the practical measures that can be taken to protect individuals from medical errors.

**\* Civil Liability in Cosmetic Medical Errors**

In the Egyptian Civil Code, it is established in Article 148 that anyone who causes harm to others due to error or negligence is obligated to compensate for the damage he caused, while Article 231 specifies that medical professionals, including plastic surgeons, are subject to civil liability for any damage caused to patients due to their negligence or failure to meet the required standards of care. Article 237 deals with cases of medical errors, including cosmetic medical errors that lead to the death of the patient and stipulates that medical professional who cause the death of a patient due to negligence or violation of medical standards may face criminal liability. In Article 238, cases of medical errors that result in injury or harm to the patient are covered. It states that medical professionals who cause injury to a patient due to negligence or violation of medical standards may also face criminal liability (Abbas Mustafa Abbas, 2021).

The Egyptian Medical Liability Law No. 4 of 2015 defines the framework of medical liability in Egypt. It defines the duties and obligations of medical professionals, the rights of patients, and the process for filing medical malpractice claims

while in Federal Law No. (4) of 2016 on Medical Liability this law governs medical liability in the UAE and provides a framework for holding medical professionals accountable for their actions.

It defines the duties and responsibilities of health care providers, the rights of patients, and the process for filing medical malpractice claims. Article 14 of this law states that any negligence on the part of the doctor can be classified as a medical error (Taha Al-Sayed Ahmed Al-Rashidi, 2018).

The UAE Penal Code deals with criminal liability for cases of medical malpractice that lead to harm or death to a patient due to negligence or violation of medical standards. Articles 336 to 339 of the Penal Code cover crimes related to endangering the lives or health of individuals, including medical workers. (Benomran, 2010).

The Jordanian Civil Code sets out the general principles of civil liability in Jordan. It provides a framework for holding individuals accountable for their actions that cause harm to others. Article 184 of the Civil Code states that anyone who causes harm to others through a wrongful act or negligence is obligated to compensate for the harm he has caused. The Jordanian Medical

Liability Law addresses cases of medical errors, including those related to medical cosmetic errors, and defines the duties and responsibilities of health care providers and the rights of patients. This law determines the process for filing medical malpractice claims and sets the criteria for determining liability in cases of medical error (Hwang, 2014).

### **\* Common Mistakes that Lead to Civil Liability in Cosmetic Medical Procedures**

Cosmetic medical procedures, like any medical intervention, carry potential risks and complications. Common mistakes that can lead to civil liability in cosmetic medical procedures include:-

**Neglect:** Neglect refers to the failure of a health care professional to exercise the required standard of care. In cosmetic procedures, neglect can occur in various forms, such as:-

- 1- Failure to properly assess a patient's suitability for the procedure, taking into account medical history, allergies and general health.
- 2- Lack of adequate evaluation before the operation, which may lead to - complications during or after the operation.
- 3- Inadequate monitoring during the procedure, leading to preventable errors or complications.

4- Improper post-operative care, which leads to complications or worsening of the patient's condition (Park et al, 2016).

Lack of express consent: Obtaining informed consent is a critical aspect of any medical procedure, including cosmetic surgery. Failure to adequately inform a patient about the risks, benefits, and alternatives to a procedure can result in civil liability. Common errors related to express consent include:-

- 1- Inadequate disclosure of the potential risks and complications associated with this procedure.
- 2- Not discussing alternative treatment options and their potential results.
- 3- Lack of clarity regarding the expected results of the procedure (Al-Majali et al, 2021).

Anesthesia errors: Anesthesia plays a crucial role in many cosmetic procedures. Errors in the administration of anesthesia can lead to serious complications or even death. Common anesthesia errors include:-

- 1- Giving incorrect doses of anesthetic drugs, which leads to negative reactions or complications.
- 2- Failure to monitor the patient's vital signs and adjust anesthesia levels accordingly.

3- Inadequate assessment of the patient's medical history, which may increase the risks associated with anesthesia (Mohamed Mustafa Barakat Al-Tarawneh, 2021).

Surgical errors: Surgical errors during cosmetic procedures can lead to significant harm and potential civil liability. Common surgical errors include:-

- 1- Incisions incorrectly, resulting in visible scarring or other cosmetic problems.
- 2- Damage to nerves, blood vessels or organs during the operation.
- 3- Incorrect placement of implants or prosthetic devices, leading to asymmetry or other complications (Al-Majali et al, 2021).

Postoperative complications: Complications that arise after a cosmetic procedure can lead to civil liability if they can be attributed to the negligence or errors of a healthcare provider. Common postoperative complications include:-

- 1- Infections at the surgical site due to insufficient sterilization or improper wound care.
- 2- Excessive bleeding or hematoma formation.
- 3- Delayed healing or poor wound closure, leading to unsatisfactory results (Vogt, 2009).

## \* Consequences of cosmetic medical errors on health and quality of life

Medical cosmetic errors can have serious consequences for a person's health and quality of life. While cosmetic procedures are meant to improve appearance, errors or complications from these procedures can lead to physical, emotional and psychological distress.

### **First: the physical consequences**

1- Pain and discomfort: Mistakes during cosmetic procedures can lead to physical pain and discomfort. This can include postoperative pain, nerve damage, scarring, infections, or complications from anesthesia.

2- Functional disabilities: Surgical errors or complications can lead to functional disabilities such as difficulty moving, poor vision or breathing, or loss of sensation in the treated area.

3- Permanent disfigurement: Serious errors can lead to permanent disfigurement or asymmetry, which may require corrective surgeries or may be irreversible (Cole, 2000)

### **Second: The emotional and psychological consequences**

1- Psychological distress: Cosmetic medical errors can cause significant psychological distress, including feelings of dissatisfaction, remorse, embarrassment, or self-

consciousness about one's appearance.

2- Depression and Anxiety: Individuals may experience symptoms of depression and anxiety due to the negative impact on their physical appearance and the emotional toll of a mistake.

3- Body image issues: Cosmetic medical errors can significantly affect an individual's body image, leading to a loss of self-confidence and a negative self-perception.

4- Social withdrawal and isolation: The emotional consequences of cosmetic medical errors can lead to social withdrawal, avoidance of social interactions, and loss of quality of life (Mahmoud Haroun Al-Naimat, 2021).

### **Third: Financial burdens**

1- Corrective actions and additional treatments: Correcting or remediating errors may require additional surgeries, treatments or treatments, resulting in financial stress.

2- Loss of income: Extended recovery periods, additional medical expenses, and psychological distress may lead to an inability to work, leading to loss of income and financial instability (Talal Salem Nawar Daham Al-Jumaili, 2019).

It is important to note that the consequences of cosmetic medical errors can vary depending on the

nature and seriousness of the error, the individual circumstances, and the corrective actions available. Seeking immediate medical attention and consulting with legal and medical professionals are crucial steps to address the consequences and explore potential avenues of recourse.

**\* The role and influence in determining civil liability in cases of cosmetic medical errors**

In determining civil liability in cases of cosmetic medical malpractice, various factors play a role, including the role and impact of legal principles and texts. Although specific laws may vary across countries, I will provide an overview, citing legal principles commonly applied in cases of cosmetic medical malpractice.

**1- Standard of care:** The concept of a standard of care is critical in determining civil liability in cases of cosmetic medical malpractice. A standard of care refers to the level of skill, knowledge, and care that a healthcare professional reasonably provides in the same specialty under similar circumstances. Courts and legal texts often refer to this standard to assess whether the healthcare professional's actions or negligence have deviated from the expected level of care. For example, in the United States, the level of care is determined

by expert testimony, which can be based on professional guidelines, medical literature, and the collective experience of the medical community (Al-Balawi, 2022).

**2- Negligence:** Negligence is a basic legal principle used to determine civil liability in cases of medical malpractice. Negligence occurs when a health care professional violates his or her duty of care, causing harm to the patient. Legal texts and precedents often specify the elements required to prove negligence, such as:

**3- Duty of care:** Evidence that the health care professional is bound by the patient's duty of care, which means that he or she has a responsibility to provide competent medical treatment.

**4- Breach of duty:** Evidence that a health care professional has violated his or her duty of care by failing to meet appropriate standards of care.

**5- Causation:** establishing a causal relationship between the breach of duty and the harm caused to the patient.

**6- Damages:** Proof that the patient suffered actual harm, whether physical, emotional, or financial (Dr. Daman Salman Al-Maaytah, 2021).

**7- Explicit consent:** Explicit consent is an important factor in determining civil liability in cases of cosmetic medical malpractice. Legal texts



often require healthcare professionals to obtain explicit consent from patients before performing any cosmetic procedure. This includes providing sufficient information about the risks, benefits and alternatives to this procedure, allowing patients to make an explicit decision. Legal texts specify specific requirements for explicit consent, such as the need for written consent, disclosure of potential risks and complications, and ensuring that the patient is understood (Al-Balawi, 2022).

**8- Expert testimony:** In many countries, expert testimony plays a crucial role in determining civil liability in cosmetic medical malpractice cases. Legal texts often require testimony from medical experts who specialize in the same field in which the defendant health care professional works, and these experts provide their opinions on the standard of care. And whether it was violated, and the causal relationship between the violation and the harm caused to the patient (Talal Salem Nawar Daham Al-Jumaili, 2019).

#### \* Literature Review

In a study aimed at defining clinical errors, their nature and origins, including their prevention, and examining the relationship between clinical errors and medical

negligence and exploring the characteristics of litigants and events that are a source of litigation, the study dealt with the pattern of medical malpractice claims in various disciplines and settings, focusing on the frequency of the harmful effects of medicines among patients in hospitals around the world. It also looked at the factors that predict the patient's resort to litigation, such as the previous bad relationship with the doctor and the feeling of lack of knowledge. The results showed that among patients in hospitals around the world, 3-16% of injuries suffer as a result of medical intervention, with the harmful effects of medicines being the most common. However, once rates were corrected for factors such as patient size, comorbidity, and number of medications prescribed, the difference in frequency of adverse effects of medications between intensive care units and emergency departments was not significant. The study concluded that perhaps no more than 1 in 7 adverse events in medicine lead to a claim of malpractice. Factors that predict a patient's recourse to litigation include the previous bad relationship with the doctor and a sense of lack of knowledge (Oyebode, 2013).

In a study aimed at examining the civil liability of plastic surgeons

in the UAE law, with a special focus on the nature of cosmetic medical procedures and civil liability resulting from medical errors in cosmetic operations and exploring the legal implications of the doctor's liability from a civil point of view, the study included the analysis of relevant legal documents, case studies, court rulings, and academic literature to collect information and insights on the nature of cosmetic medical procedures, the types of medical errors, the obligations of cosmetic doctors, and the legal liability and civil liability associated with them. The study concluded that the civil liability of plastic surgeons must be adhered to and the legal implications and responsibilities of cosmetic surgeons must be understood in the context of civil liability (Hussain Al-Yafai et al.,2019).

In a study aimed at clarifying the nature of legal relations and liability arising from medical activities in cosmetic centers and focusing on the relationship between cosmetic centers, plastic surgeons and medical staff, as well as liability for ill-treatment and damage resulting from errors during surgery or treatment, the sample included cosmetic centers, plastic surgeons and medical staff involved in

cosmetic operations and also included the analysis of legal regulations, case studies and relevant literature to collect information on the legal aspects and responsibilities associated with medical activities in cosmetic centers. The study provided insight into the nature of legal relations and liability in the context of medical activities in cosmetic centers and explored the legal challenges faced in practice due to the lack of specific regulations for these activities (Sherzad Abdul Sulaiman et al.,2018)

#### \* **Results**

By studying the legal regulations and previous literature, the research has reached the following results:-

**First: The legal framework:** The legal framework surrounding cosmetic medical errors varies from one country to another. In many countries, healthcare professionals who provide cosmetic procedures are held to the same standards of care as any other medical practitioner. However, specific regulations and guidelines may exist to address the unique nature of cosmetic medicine.

**Second: Duty of Care:** Health care professionals owe a duty of care to their patients, which includes providing accurate information, obtaining explicit consent, and

performing procedures with reasonable skill and care. Failure to fulfill this duty may result in civil liability.

**Third: Negligence:** To prove civil liability, patients must prove that the health care professional violated his or her duty of care, causing harm. Negligence may arise from various factors, such as insufficient training, insufficient explicit consent, surgical errors, or Improper administration of anesthesia, or failure to recognize and manage complications.

**Fourth: Potential consequences:** The consequences of civil liability arising from cosmetic medical errors can be significant. Healthcare professionals may face legal action, damage to their professional reputation, and potential disciplinary action from medical regulatory bodies. On the other hand, patients may suffer from physical injuries and emotional distress. Financial burdens due to corrective actions and loss of income.

#### **\* Conclusion**

The legal landscape surrounding civil liability arising from cosmetic medical errors is complex and multifaceted. This research explored the legal framework, duties and potential consequences for both healthcare professionals and patients in cases of

medical errors in the field of cosmetic medicine. It is clear that healthcare professionals who provide cosmetic procedures have a duty of care to their patients, and require them to exercise reasonable skill and care in their practice. Failure to fulfill this duty can lead to civil liability, as patients can request legal remedies for damage caused by medical errors.

Negligence, as an essential element in establishing civil liability, can take different forms in the context of cosmetic medical errors. Inadequate training, lack of explicit consent, surgical errors, improper management of anesthesia, and failure to recognize and treat complications are just a few examples of potential acts of negligence that may lead to legal consequences.

Causation and damages also play a crucial role in civil liability cases. Patients must prove a causal connection between the health care professional's negligence and the harm they suffered. In addition, they must prove the nature and extent of damages, including physical injuries, emotional distress, and financial losses.

It is essential that healthcare professionals are aware of the legal framework and their responsibilities in the field of cosmetic medicine. By maintaining a high level of care,

ensuring effective communication, and obtaining explicit consent, healthcare professionals can reduce the occurrence of medical errors and protect the health of their patients. Moreover, patients should be informed of their rights and the potential legal avenues available to them in cases of medical aesthetic errors. Seeking appropriate legal recourse can help them obtain compensation for the damages they have suffered and hold the responsible parties accountable.

Ultimately, this research serves as a guide for healthcare professionals, patients, and legal practitioners involved in civil liability cases arising from cosmetic medical errors. By fostering a culture of accountability, adherence to legal standards, and continuous improvement in the field of cosmetic medicine, the goal is to enhance patient safety, protect their rights, and promote more responsible and reliable practice of cosmetic procedures.

#### \* **Recommendations**

**1- Strengthening regulations:** Governments and regulators should consider implementing or revising specific regulations and guidelines that address the unique nature of cosmetic medicine. These regulations should define the level of care

expected of healthcare professionals and provide clear guidance on explicit consent, training requirements, and safety protocols.

**2- Continuous Education and Training:** Healthcare professionals practicing cosmetic medicine should be encouraged to continue education and training to enhance their skills and stay abreast of the latest developments. This will help reduce the incidence of medical errors and ensure that practitioners are adequately equipped to provide safe and effective procedures.

**3- Explicit consent:** Healthcare professionals should prioritize the process of obtaining explicit consent from patients. It is essential to provide comprehensive information about the potential risks, benefits and outcomes of cosmetic procedures. This will enable patients to make explicit decisions and reduce the likelihood of misunderstandings or claims of inadequate consent.

**4- Transparent communication:** Effective communication between healthcare professionals and patients is vital in preventing and treating cosmetic medical errors. Open and transparent channels of communication should be established to facilitate information sharing, address patient concerns, and respond

quickly to any complications or adverse events.

**5- Documentation and record keeping:** Healthcare professionals should maintain accurate and detailed documentation of all aspects of patient care, including consultations, consent forms, preoperative assessments, procedure details, and postoperative follow-up. These documents can serve as evidence in the event of any legal disputes or claims.

**6- Mandatory reporting:** Governments and regulatory bodies should consider implementing mandatory reporting mechanisms for cosmetic medical errors. This will help track and analyze trends, identify areas for improvement, and hold accountable healthcare professionals who repeatedly engage in negligent practices.

**7- Mediation and ADR:** Encouraging the use of mediation and ADR can provide a more efficient and less adversarial approach to resolving civil liability claims arising from cosmetic medical errors. These methods can help facilitate dialogue, reach fair settlements, and ease the burden on the legal system.

**8- Public awareness and education:** Efforts should be made to raise public awareness about the potential risks, benefits and legal implications

associated with cosmetic procedures. Education campaigns can educate patients about their rights, the importance of selecting qualified healthcare professionals, and the potential consequences of medical errors.

**9- Collaboration and knowledge sharing:** Healthcare professionals, legal practitioners, and regulators should collaborate and share knowledge and best practices to promote a culture of continuous improvement in the field of cosmetic medicine. Regular forums, conferences, and discussion platforms can facilitate information sharing and promote safer practices.

**10- Research and data collection:** More research needs to be done to explore the prevalence of cosmetic medical errors and their specific causes. Collecting data on the types of errors, their impact on patients, and legal outcomes can provide valuable insights into future prevention strategies and legal reforms.

By implementing these recommendations, it is possible to provide a safer and more accountable environment in the field of cosmetic medicine, reducing the incidence of medical errors and protecting patients' rights and well-being.

**\* Confession**

The researchers declare that there is no conflict of interest

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