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## MEDICAL ERRORS AND RESPONSIBILITY OF THE PHYSICIAN

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#### Introduction

The physician is an active member of the society. He interacts with it, influences and takes care of it. His duty is not only to cure patients, but also to take the necessary procedures to reduce errors and to lessen the harm resulting from these errors on the health of the patient. Such faults and errors may seem travail, but they are serious however tiny they are because they are related to the divine and precious life of the human being.

It is not possible then to commit errors that endanger the right of life of the human who was honored by God and it is not permitted either to abuse the sacredness or to agree on bodies as a result of ignorance, carelessness, and laziness or for any other reason. Man was originally created to have mistakes and to be hasty regardless of his personal traits, profession and career, he is also deprived from perfection and infallibility. Whether he likes it or not, he cannot be free of guilt and sins and that is why God accepts his repentance. The physician should be proficient and has mastery in avoiding errors and in getting rid of them as much as possible. This is possible; only after gaining both theoretical and practical experience which needs years of study, training and practice. He should also be wise, patient and careful. He should consult others whenever necessary because the life of the patient can never be compensated. It is an honor to serve people but it is never

easy to do so because this requires effort, devotion, faith, trust and self-denial in different situations.

In 931 A.D., after a report about the death of a man because of a mistake of medication, the Islamic ruler AL-Muqtadir Billah prevented physicians from practicing the job unless they pass a test conducted by the experienced physician Sinan Bin Thabit who tested more than 860 physicians in Baghdad. He accepted those who were well known as good physicians. Most of the times, medicine as a job was carried out without control or supervision, but physicians are only led, controlled and inspected by their hearts and minds.

Muslims always distinguished between death resulting from errors of treatment and death resulting from intentional criminal drives. They also distinguished between the physician as a human being who is subjected to do errors like all human being and what he does as a professional in his work.

Old legislators insisted on protecting people from errors of physicians. For example, ancient Egyptian physicians were not allowed to deviate from instructions of the Holy Book or they would be punished. Legislations of Hamourabi were very firm concerning errors of physicians and physicians were to work according to the rules dictated in the Holy Books. If they did so, they would not be taken as responsible even if the patient died, but if they deviated from

the rules, they might themselves be sentenced to amputation of their limbs or even death.

Alexander, the Macedonian, ordered that Gloux, the physician to be crucified because of his carelessness causing death of a patient. Plato said that physicians are paid whether they cure or kill the patient and physicians and lawyers can kill their clients and go unquestioned.

During the Roman era, the physician had to pay fine if he was not efficient enough when carrying out an operation, when he gave a medicine that caused death or when he left a patient before completing his cure. As Roman civilization progressed, the physicians enjoyed a kind of protection against penalty in case they committed errors because of the guessing nature of the job. In the barbarian society, if the patient died because of the carelessness or laziness of the physician, this physician would be handed to the family of the dead to decide whether to kill him or to employ him as a slave.

The Islamic jurisprudence ordered to prevent from practicing medicine, the ignorant physician whose appearance might be misleading enough to show whether he is good in his job.

### **Definition of errors**

In terms of the perspective of human laws, a work is erroneous if it leads to a harmful action resulting from carelessness, lack of readiness and nonobservance of rules & basic principles. The medical error is defined as the deviation of the medicator from the normal behavior. This error could be positive as in the case when an anesthetist gives the patient an anesthetic more than what his body can bear or it could be negative when the physician does not do the required in the suitable time or when there is lack of readiness and carelessness.

The error of the physician occurs when he is not sufficiently cautious, careful

and accurate, which as a discerning and covetous person, he should put into consideration so as to avoid doing any harm to others. In Islam, error is any action that the physician can avoid but it occurs and leads to results that he does not like whether directly or indirectly.

Islamic law necessitates that the physician should be very skilled. Islam holds a full responsibility of the physician if he starts his profession without being qualified and prepared enough because this will save him from committing errors that endanger the patient's life. Thus, it is imperative that the physician be well versed and equipped with knowledge and skill. The physician should have an acquittal from the patient or his patron. The physician who does not have these traits and who is not efficient and well prepared, should be considered responsible if he causes any harm to the patient whether physically or mentally.

### **Medical responsibility**

The responsibility of the physician includes all the obligations that he should undertake and which make him under question either publicly or legally or both. The set of factors that determine the responsibility of the physician includes:

- 1- The nature of likelihood in the profession of medicine where the physician can not guarantee healing of the patient.
- 2- The constraints imposed on organizing practicing the profession of medicine.
- 3- The approval of the patient as a necessary pre-condition to check and examine him.
- 4- The aim of the medical examination is to treat and cure the patient.

It is doubtless that carelessness is one of the main causes of the medical error. Carelessness means either complete or partial failure to give the basic medical circumstances, giving medical service that is not basically needed to solve a

problem agreed upon or not caring to apply the essentials of the profession that all physicians should know.

The error often results in physical and moral damage to part or all the body in addition to the damage to the family of the patient. Errors may occur and the patient is wholly or partially hurt because he does not get the best treatment due to forceful circumstances or because of a situation out of the control of the physician and which he was unable to change to the best.

Errors might be unpredictable and unexpected and they occur when the physician forgets some tiny actions or touches such as changing the dose or the drug or using alternative drugs though he is known as skilled and experienced and though he provided the patient with the best services that are similar to those provided by other physicians to their patients in such cases.

Cause of errors could be tangible or intangible, The most important cause is carelessness which can be defined as doing or not doing by the physician of an action that causes harm that could be avoided if he had done what he was supposed to do.

The second cause is lack of preparedness which reflects rashness, lack of discerning, not foreseeing the ends, and doing the least to avoid the expected danger. The third cause is non-observance of basic medical regulations and rules due to lack of experience, little idealism and not-bone fitting from the opinions of the experts in medicine.

It is agreed upon that the physician is judged to be good depending on the outcome of his work and skill. This is true to some extent but it is not final and this could not be taken for granted scientifically and legally. Failure of the physician is not an indication that he always commits errors, sometimes the problem that the patient did not heal is due to reasons that are not related to the physician.

Healing is not the responsibility of the physician only. It depends on many factors and considerations which are not always under the control of the physician or the surgeon like the body immunity, exposure to disease, genetic conditions like being infected with other diseases and variation of responses to the same treatment among individuals and finally the inefficiency of medical development which is still unable in some situations in spite of the great progress in medicine in modern times. So we should always believe that healing is a Will of God.

### **Types of medical errors**

- 1- Errors that either wholly or partially influence the health of the patient.
- 2- Errors that deviate from the ethics of the profession and that are related to the honor and honesty of the profession of medicine.
- 3- Errors that contradict legislations and rules of any sky religion
- 4- Ordinary errors that, like all people, physicians do such as bad behavior or drinking alcohol during the time of work.

Undoubtedly, errors are outcomes of the following points concerning the obligations that are agreed upon:

- 1- Delay of implementing the obligations.
- 2- Bad implementation of the obligations, such errors might be serious in that they are likened to the level of intended errors of deceiving for example.
- 3- Partial fulfillment of the obligations.

The responsibility of the physician should be within the scope of his adherence to use the reliable scientific methods and techniques in examining, diagnosing and treating the patient. If the physician adheres to these procedures, he will not be questioned when the patient does not heal or when he dies.

### **Cases of responsibility**

The physician is considered as responsible when:

- 1- He exceeds the limits of the scientific knowledge.
- 2- The error is disgraceful and unforgivable as far as diagnosis and treatment are concerned.
- 3- He refuses to give medication.
- 4- He is slow in giving the treatment or giving it in inappropriate time.
- 5- He wrongly implants treatment such as in case of transfusion of polluted blood or leaving a surgical tool inside the body.
- 6- He partially implants his medical obligation such as in case of leaving the patient before being sure of his condition after finishing the surgical operation.
- 7- There is a causal relationship between the medical error and the medical work, i.e. the harm occurs because of medication and not because of any other reason.

### **Types of penalties**

The penalties in case of committing errors by the physicians could be of the following nature:

- 1- Moral (of the consciousness).
- 2- Criminal.
- 3- Civil (compensation).
- 4- Administrative (educational).
- 5- Legislative (of God)

### **Cases of non-responsibility**

Cases when the physician is not considered responsible include:

- 1- Legislative license: 'When the physician is legally licensed and qualified with an official scientific degree and lie is not darning the profession.
- 2- Legislative approval of the patient: This should be after his being informed of the disease and the kind and method of treatment. His approval should be based on knowing these points and not blindly depending on his trust of the physician.
- 3- Limitation of cure: When the physician intends to cure the patient

because this is his duty and not because of reasons that are related to money or personal interests or to help the patient escape some critical nervous situations or, under the demand of the patient and for more personal interests he causes a defect in the patient's body.

- 4- When there is no disgraceful or unforgivable error.
- 5- Doing the minimum harm to avoid the maximum one.
- 6- The unexpected and unpredictable forceful circumstances that are imposed on the physician such as in availability of the essentials of treatment or the medical equipment as in case of disasters and wars.
- 7- No proof is made of the causal relationship i.e. the harm occurs not as immediate outcome of the treatment, but because of coincidence that fate and treatment occur simultaneously.
- 8- Errors committed by others: This includes errors that are not done by the physician such as errors of the patient who neglects to follow the instructions of the physician or errors of his family and companies. The physician is responsible for the errors committed by the nurses and other members of his staff since they are working in his team and under his supervision; just like the pilot or the military commander.
- 9- When the physician has good reputation and career and is known of his devotion and true intention and derives to serve the patient. It is unreasonable to blame who sincerely wishes to save the patients. Besides, his job is a legislative one and unless he is careless, he should not be blamed. On the contrary, the physician who is continuously committing errors and who has bad reputation in his field should be blamed.
- 10- The physician is not responsible for errors made previously by another

colleague who also treated the patient before.

#### BEFORE PUNISHING WE SHOULD MAKE A DISTINCTION BETWEEN:

- 1- The intended and the non-intended errors.
- 2- When errors are identified in advances i.e. before they occur, but they are done to serve personal interests that contradict those of the patient. This also includes deliberate deviation from the right ethics such as employing bad publicity to attract "clients" or offering a rate of profits to those who promote taking patients to the physician.
- 3- Errors of carelessness and lack of readiness on one side and consequences that are expected due to the treatment or the medical measures or consequences resulting from the nature of the disease which happen at the same time of the treatment and appear as if they are resulting from it on the other side.

#### **Civil obligation**

It is common that civil obligation is of two types: First, an obligation (of the physician) to do his job according to a certain means within the principles of the profession without guaranteeing the results desired. The obligation is no longer existing when there are forceful circumstances second there is obligation to reach a target. This obligation is not cancelled unless the contractor achieves the result desired. This is called obligation of the bond because the contractors are obliged to implement what is agreed upon in the bond unless an intrusive factor hinders that.

#### **Medical errors and Personal innovations**

Religious legislations admit the complete freedom of the physician to work, experiment and internalize appropriate methods of treatment. The experiments

were written down in special books to be read by other physicians and some physicians had special ways of treatment of their own.

Giving full freedom for innovation in any heavens religion came as a response to the call for all people to learn and research in all aspects of life. Innovations are permitted to physicians to cure disease and the physician may have opinion other than that of his colleagues on condition that it is based on right foundations.

It is preferred that innovations and changes in methods of treatment are admitted for discussion by a higher-level committee of specialized physician to see how useful or harmful it is before starting using it so as to guarantee the interest of the patient which is beyond any consideration. It is also obligatory that change is not only for the sake of change or to add to the reputation of the physician. Change should be improving the methods of treatment that are used to the best and the most useful and may be to reduce cost as well. Change should be based on solid scientific bases that match the clear medical reality.

#### **Possibilities of occurrence of errors**

Errors may happen at any point in the following situations and measures should be taken to avoid them:

- 1- First receiving of the patient in the clinic.
- 2- Listening to the patient's complaint and the clinical examination.
- 3- Sending the patient to make the required tests such as x-rays and analyses.
- 4- Selecting the appropriate treatment among the many methods known for that.
- 5- Regularly following up the condition of the patient.
- 6- During handling the case or the attempts to avoid the error that resulted from a previous treatment or a treatment in another place.

7- Fault in dealing with the interventions of the disease itself or intervention of the selected methods of treatment.

Knowing or realizing or even doing the error helps to a large extent to avoid a. especially at the first stage of the problem. Besides, occurrence of errors in one of the above-mentioned situations might lead to occurrence of other worse and more severe ones in the following stages.

Thus, the physician should count and recount every ounce when tackling the condition of the patient from the beginning up to his cure. It is a pity that developed medical equipment that help a lot in diagnosis of disease have negatively affected the importance of listening to the complaint of the patient and his examination. The researcher believes that the cornerstone in treatment or the sacred constitution of medication is listening to the patient's complaint very carefully and patiently and then should come the ideal clinical examination. This was emphasized by Abucratus who advised to "listen to the patient as he is the first one involved". He also said, listen to the patient complain and he will tell you the diagnosis".

#### **Reducing the likelihood of your error**

Protection is the best treatment. It is agreed upon that avoidance of errors before they occur is the best solution. Many factors and reasons enhance reducing medical errors to the minimum. Of these factors are:

1- The practical (clinical) experience of the physician which is the real criterion to assess the condition of the patient in all its phases. It is said that experiment is the best proof. The theoretical information derived from the continuous careful following, by the physician, of the latest developments in medicine in addition to what he has already had help a lot to avoid errors.

2- Seeking the view of the colleagues is a major requirement and it is a striking evidence of honesty, care and loyalty. Consulting could be from seniors and juniors as well. It is a fact that what you know is not necessarily known by other as well. So, it is necessary to consult and seek opinions of others and to exchange information with them. This is done by attending symposiums and clinical meetings or through personal communications and, nowadays, through the Internet.

Consulting others is not an insult that may reduce the status of the physician among his colleagues or in the eyes of the patients for whom he is responsible. On the contrary, the patient will respect the view if it comes from many physicians and not from only one. The consulted physician will look to the consulting colleague very respectfully and he will appreciate his spirit. We are all obliged to assist our colleagues, especially the new ones and no one has the right to keep the medical information hidden. Doubtless, it is a virtue to admit errors but realizing the error and admitting it without any dodging is the best means to avoid it in the future. The physician is obliged in front of God and the ethics of his profession to review with full truthfulness honesty and coverage all the medical measures that he is applying from the beginning to the end to care his patients when bad consequences happen. He is also obliged to admit to himself and to his colleagues and not necessarily to the patient and his family. The researcher believes that informing the patient of the error when it occurs or when his treatment is delayed is undesirable and it may lead to high negative reflections on the profession, the patient and his family care and high precision in dealing with the patient contribute a lot to reduce errors.

Finally, awareness of the physician of the limitations in his scientific abilities and the potential facilities of his work

such as tools, devices and equipment help also in reducing and limiting errors. The physician is not blamed whether legally or legislatively if he makes use of his capabilities or if he sends the patient to another more developed centre.

### Classification of medical errors

The physician, M.B. Sharim, carries out a study in Jordan in which he analyzed the complaints and cases about which decisions are made by the union during 1995. The survey includes 122 cases or files, sometimes, the complaint might contain more than one question. The findings reveal the following possible classification:

- 1- Excessive fees  
17.9%
- 2- Failure of treatment  
17%
- 3- Procedural errors  
18.28%
- 4- Wrong prescriptions  
10.88%
- 5- Flattering interests  
9.52%
- 7- False titles  
8.16%
- 8- Carelessness  
7.48%

- 9- Wrong medicine  
4.08%
  - 10- Unnecessary treatment  
2.4%
  - 11- Wrong diagnosis  
2.4%
  - 12- Fraud and Forgery  
1.36%
  - 13- Raping  
0.68%
- (*Al-Sama'a Journal*, No. 60, 1996)

### A legislative view of medical errors

It is a pity that many physicians are ignorant of the legislative aspects of medicine. This might be due to the absence of direct legal questioning or punishment about this error in our civil life. It is not within the scope of this study to mention the legislative related points in details. But it is important to say that the physician should adhere to them. He should consult the references to know the details of these rules. Most of all, the physician should have sufficient religious knowledge because much of his work is associated to religion.

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