

Medical Malpractice In The Algerian Health Legislation

Lamri salha

Faculty of Law and Political Sciences, Mohamed Khider University-

Briska,Algeria

salha.lamri@univ-biskra.dz

Received: 23/11/2025

Accepted: 25/12/2025

Published:25/12/2025

Abstract:

In treating patients, the doctor's responsibility is merely to use the necessary caution; it is not necessary for every patient to be cured. The responsibility is limited to employing current scientific and therapeutic methods and taking all required safety measures, without needing to produce any particular outcome other than that. in circumstances required by law, such as blood transfusions or prosthetic fittings. This is due to the fact that the outcome of treatment is not always entirely dependent on the technique employed, but also includes a number of other variables. including the patient's immune system strength, the stage of the illness, family medical history, the presence of other diseases, and the patient's adherence to the recommended course of therapy. In any case, the doctor is responsible for any mistake committed while prescribing treatment, regardless of whether it involves surgery or just regular care.

Keywords:Medical Malpractice,Medical error,The Algerian Health Legislation, the Start of Ordinary Treatment, During Surgical Intervention.

Corresponding authorlamrisalha, **e-mail:**,salha.lamri@univ-biskra.dz

1. INTRODUCTION

Given the inherently compassionate nature of healthcare, policymakers are obligated to confront and ameliorate the handling of medical malpractice, including strategies for their reduction and prevention. In contemporary medical practice, physicians face heightened apprehension due to increased public awareness and concern regarding health issues, leading to a rise in litigation following perceived medical malpractice. Individuals now assert their rights and, diverging from past acceptance of outcomes as fate, anticipate equitable treatment from medical professionals and judicial systems.

Medical malpractice, in its various manifestations, is an inherent aspect of any society. The critical difference lies in the legal framework's response to these malpractice s and the resulting impact on affected individuals, reflecting a nation's scientific and technological development. Despite ongoing revisions to healthcare regulations both domestically and internationally, the volume of grievances continues to grow. Jurists face ongoing difficulties in categorizing these malpractice s, especially as technical and sophisticated medical advancements evolve. This raises a fundamental question:

To what extent are physicians accountable for malpractice s committed during the provision of medical care?

To address this complex issue, we propose a two-pronged approach. The first axis examines medical malpractice occurring during standard therapeutic procedures, while the second focuses on malpractice s arising during surgical interventions.

1. Medical malpractice at the Start of Ordinary Treatment

Medical malpractice begin from the very first step taken by the physician, which is obtaining the patient's consent and informing him of the risks of the disease he suffers from. The physician also describes the treatment steps and explains how to proceed, whether with medication through a prescription, or the necessity of intervention and performing

surgery, including anesthesia, blood transfusion, etc. Furthermore, the disclosure of the patient's secrets is also considered a medical malpractice due to its moral repercussions on the patient and his family alike.

Medical cost through complex scenarios Among other proposals used since the beginning of the surveys are case details and studies describing the harm caused by medical malpractice related to the use of specific medical techniques. In surveys of new formulations. (SLOAN A & LINDSEY M, 2008, p. 73)

1.1. The Physician's Breach of the Obligation to Inform the Patient

The patient resorts to the physician to alleviate pain and achieve healing, and the latter must be a trustworthy person in whom confidence has been placed. The patient must assist him in understanding his condition by explaining his health status in detail so that the physician can prescribe effective treatment. Before undertaking any therapeutic step, the physician must inform the patient of the medical work he is about to perform so that the patient can give his consent with insight and awareness of the results of what he is about to undergo. The basis of this obligation is respect for the sanctity of the human body.

1.1.1. The Importance of Medical Information: The process ensures patients are informed about potential risks inherent in the proposed treatment and corresponding mitigation strategies. It also outlines the intended therapeutic approach. Obtaining consent for the recommended course of action, whether from a competent adult patient, their legal guardian, or another legally authorized representative, necessitates a prior assessment of the intervention's potential hazards. (Ben Sghir, 2008, p. 174)

Providing comprehensive information upfront is crucial for any medical intervention. This allows patients to grasp their condition, evaluate

their overall health, and become familiar with the proposed treatment approach. This process empowers them to deliberate thoughtfully, gain a robust understanding of the planned procedure, and subsequently consent to and engage with the therapy. The explanation should be presented in straightforward language easily digestible by the individual, ensuring clarity, candor, a logical progression, and a thorough overview of the complete treatment process. Furthermore, the patient's emotional state must be considered during the information delivery, and a sufficient explanation of the illness, along with both anticipated and unforeseen risks associated with the approved treatment, should be provided. Ideally, this explanation should be delivered directly to the patient; however, if that is not feasible, it should be communicated to their legally authorized representative.

2.1.1. The Legal foundation: Article 23 of Law No. 18/11, pertaining to healthcare, mandates comprehensive disclosure to individuals regarding their medical status, necessary interventions, and potential hazards. This stipulation extends to minors or legally incompetent individuals, with their health information conveyed through guardians or legal proxies. Consequently, this legal mandate obligates physicians to provide such information; failure to do so constitutes professional negligence.

Reinforcing this principle, Article 43 of the Code of Medical Ethics requires physicians to furnish patients with unambiguous and accurate data concerning all administered medical procedures. This right to information is not arbitrary but originates from legal, religious, and ethical imperatives. Indeed, numerous medico-legal disputes adjudicated by the courts have solidified this duty as a core obligation for medical practitioners.

2.1. The Doctor's Breach in Obtaining Patient Consent: It is a principle that a doctor must not resort to treating the patient or touching their body before obtaining prior consent from the patient or their guardian regarding the method of treatment.

1.2.1. Meaning of Patient Consent: Obtaining the patient's consent is considered an ethical duty arising from individuals' right to respect for life and bodily integrity. Before commencing any medical procedure, the doctor must obtain the patient's informed consent, meaning that the patient's

consent must be complete and sound before starting the therapeutic intervention, by informing the patient of all information related to the nature of the treatment and its risks. This consent must be free from defects in administration, as defective consent entails the doctor's liability for harmful results arising from their therapeutic intervention, even if no malpractice was committed in their work..(Mamoun, 1986, pp. 27-39)

Beyond the obligations surrounding patient agreement, while practitioners are responsible for securing informed consent, the lawmaker did not define the necessary modality for obtaining such authorization. This raises the question of whether oral agreement suffices or if documented agreement is mandated. Nevertheless, explicit regulations stipulate that documented agreement is obligatory for specific medical interventions, for example, organ procurement, graft procedures, or tissue transfer. Practitioners may face legal culpability, potentially incurring punitive measures, should they neglect to secure patient agreement due to carelessness or inattention. Furthermore, to foster comprehensive understanding and promote genuine fulfillment, the individual receiving care must receive comprehensive details about the therapeutic process, including methodology, anticipated timeframe, and projected outcomes. (Shreim, 2000, p. 40)

However, should the patient or a relative decline treatment, the physician must obtain a written statement acknowledging the refusal and the potential ramifications thereof, thereby mitigating any liability and precluding accusations of negligence. Furthermore, in situations necessitating immediate intervention to preserve the patient's life, and where securing prior consent is unfeasible due to an inability to reach the legally authorized representative, the physician assumes no responsibility for proceeding with the required treatment.(Article 344/2 of Law 18/11 relating to health)

Regarding the methodology for demonstrating assent, various approaches are acceptable, as formalized documentation is not universally mandated. While written affirmation, particularly when unequivocal, offers

the most compelling substantiation, acquiescence can also be established circumstantially. This implicit agreement is deduced from presented evidence and the contextual framework surrounding the therapeutic intervention. Examples include a patient's solicitation of a specialist referral and their adherence to pre-operative protocols. The ultimate determination rests with the adjudicating judicial officer, based on a comprehensive evaluation of the evidentiary record.

2.2.1. The Legal Basis for Obtaining Patient Consent: Article 42 of the Code of Medical Ethics states that the legislator granted the patient absolute freedom to choose the treating physician, which is a fundamental principle underlying all medical relationships, as the physician must obtain the patient's consent before providing any treatment to absolve his liability.

As is well known, obtaining the patient's free and informed consent before commencing treatment is one of the reasons legitimizing medical practice according to Article 343 of Law No. 18/11 related to health. The patient's will must be respected after informing him of the results of his options regarding various treatments or preventive measures, their urgent nature, the foreseeable risks, and the expected consequences in case of refusal, after enabling him to weigh the positives and negatives of the medical intervention, in a clear, easy, simple, and understandable manner.

The rights of minors and legally incapacitated persons are exercised by their guardian or legal representative, as confirmed by Articles 43 and 44 of the Code of Medical Ethics, especially if the procedure involves risk to the patient. If the patient is a minor, the consent of his guardian or legal representative must be obtained.

Article 344 of the same law states that in case the patient refuses medical treatment, the legislator requires a written statement proving that from the patient or his legal representative.

1.3. Medical malpractice in Treatment Prescription

Jurisprudence and judiciary have established that the physician has full freedom to choose the appropriate method to treat his patient, provided that the latter conforms to the recognized scientific and medical principles

and to the latest scientific advancements in this field, and on the condition of obtaining the patient's prior consent after explaining to him the risks and complications of this treatment. The physician is not permitted to use any new treatment for the patient except after conducting tests, X-rays, and biological studies to determine the suitability of the treatment for the presented case, with due diligence to ensure that the treatment directly benefits the patient. (Articles 10.11. 18 and 46 of the. Code of Medical.)However, the doctor's responsibility arises if he provides treatment for Agree Medicine perhaps Its use is still experimental, and doctors cannot prescribe it because it remains a subject of debate in the scientific field. (Ghadan, 2006, p. 66).

Medical negligence is a highly complex subject due to its far-reaching implications. It involves not only physicians and patients, but also lawyers, insurance companies, and governments, which are often drawn into responding during medical negligence insurance crises. Rather, it encompasses all stakeholders, each with their own objectives, constraints, and cultural contexts. The outcomes are situated within four conceptually distinct markets: the legal market, the medical negligence insurance market, the healthcare market, and government activity (in no particular order). The convergence of these four markets is precisely what makes the issue of medical negligence so complex. While each market is theoretically independent, they interact in practice. Most previous studies have focused on a single aspect (or market). In this book, we analyze all of these aspects. (SLOAN A & LINDSEY M, 2008, p. 8)

There are multiple forms of medical treatment malpractice , whether in the case of the doctor's negligence, lack of foresight regarding the results of the treatment followed, or failure to take the necessary precautions during the treatment of the patient. Enumerating these forms seems impossible and contradicts the changing and evolving circumstances. Therefore, the standard adopted by the judge in assessing the existence of an malpractice or not is to compare it with the behavior of another doctor of the same level, same specialty, and same academic degree, taking into

account the circumstances in which the doctor and patient found themselves in terms of time, place, and capabilities, to be subject to liability. The treatment intervention process may take the form of issuing a medical prescription or performing a surgical operation. Accordingly, the malpractice is embodied in one of the following cases:

1.3.1. Malpractice in issuing the medical prescription: A medical prescription details the treatment plan, including the specific medications, dosage frequency, and timing relative to meals. Failure to adhere to the legal requirements of prescriptions, as outlined in Article 11 of the Medical Ethics Code, can result in legal consequences for the physician. Regulations also require doctors to prescribe medications only within their area of expertise.

A doctor can be held liable for failing to clearly explain the prescribed medications, dosages, and administration instructions, potentially leading to patient harm. (Al-Azzam, 2010, p. 65) To reduce malpractice s caused by illegible handwriting, many doctors now use electronic prescription systems, improving patient safety. A doctor is also responsible if they prescribe medications that are not yet approved or have been recalled by health authorities.

Writing a prescription as a favor, even if inappropriate for the patient's condition, constitutes professional negligence. While Article 11 grants physicians and dentists the freedom to prescribe suitable treatments, Article 45 emphasizes their commitment to dedication, scientific accuracy, and seeking expert consultation when necessary to ensure the prescribed medication is appropriate for the patient's health needs.

It is also stated in the text of Articles 174 and 181 of Law No. 18/11 relating to health that qualified health practitioners may, within the limits of their competence, prescribe diagnostic and treatment procedures and explore pharmaceutical substances.

2.3.1. Malpracticein Chemotherapy and Radiology Treatment: Medical radiology and chemotherapy are considered among the most important modern medical treatments, and they have become approved for certain

diseases such as various cancers. However, they carry risks and drawbacks that require their use with utmost caution and care, as the practitioner must be specialized in the field due to the sensitivity of their application.

Medical malpractice in this field is considered if these radiations cause burns that harm the treated person, such that they should only be applied in an amount appropriate to the treated person's tolerance level, whether young or old, male or female, and the body's susceptibility to radiation and its intensity. Among these is what was stated in the decision of the French Board Court, which ruled the radiologist responsible for causing burns due to the use of radiation on the body of a small child aged 18 months, and for not considering the sensitivity of the child's skin due to his early age. (Al-Abrashi, 1999, p. 331)

medical malpractice in this context refers to a healthcare provider's carelessness in managing medical equipment, specifically their lack of appropriate caution to avoid injuries caused by its use. They are legally responsible for how these devices are used, as stated in Article 138 of the Civil Code. This means they must guarantee correct operation and are accountable for any damage arising from a device malfunction, which is seen as presumed carelessness. This is based on the legal responsibility for maintaining inanimate objects. A doctor's error in utilizing this sophisticated treatment, especially when a specialist is expected to produce a positive outcome, such as with cancer patients, can be considered medical malpractice.

4.1. The doctor's malpractice in disclosing the Patient Secrets: Maintaining medical confidentiality is both a legal and ethical obligation, as well as a professional duty incumbent upon the physician. The physician must exercise due care in treating patients while necessarily preserving all their secrets and related information by not disclosing them to any other person, as this matter could harm the dignity of the patient and their reputation among people, as well as the dignity of their family.

1.4.1. Meaning of Disclosing Medical Confidentiality:

The defines medical confidentiality very broadly, encompassing all information relating to the patient, their health status, social relationships, and financial or living conditions. It should be noted that, for certain diseases, information identifying the social relationships of individuals at risk of contracting a contagious disease may be crucial. For a physician to take the necessary measures, it is essential to obtain relevant information and data about the patient, regardless of its source. Generally, the physician is also bound by confidentiality after the patient's death. Before discussing exceptions to medical confidentiality, it is important to emphasize the specific nature of this system, which includes a provision limiting the disclosure of patient information to the extent necessary. (MariaZon, 2017, p. 300)

It is when the treating physician reveals to others all information related to the patient's health condition that he received from the patient and their family or obtained in the course of practicing his profession and the patient's appearance before him for treatment.

It is assumed that all facts related to the patient are kept in their medical file, which is considered one of the professional secrets that the physician must not disclose except in legally specified cases, including if public medical order preservation requires it, as in cases of reporting contagious diseases, or reporting mental illnesses, or if judicial necessity requires it, such as summoning physicians to appear before judicial authorities to give testimony or provide medical expertise, or cases of search orders or in the commission of organ trafficking acts. In fact, this error constitutes a crime under the provisions of Article 417 of the Health Law, for which the law often holds the physician accountable.

2.4.1. The legal basis for a doctor's malpractice in disclosing medical confidentiality

Article 24 of Law No. 18/11 related to health states: "Every person has the right to respect for their private life and the confidentiality of medical information related to them, except in cases provided for by law." The legislator then defined medical confidentiality in the second paragraph of the same article as "all information known to the health professional."

Article 25 of the same law provides that "medical confidentiality may be disclosed to the family of a patient with a serious illness for the purpose of assisting him or to the family of the deceased person to claim his rights unless he explicitly refused this before his death." Article 417 of the same law states that "in the event of non-compliance with medical and professional confidentiality, the doctor shall be subject to the penalties stipulated in Article 301 of the Penal Code."

2. medical malpractice During Surgical Intervention

Surgical intervention is considered one of the most important medical procedures, and malpractice that occur during the performance of surgical work are the most frequently brought before the courts due to their seriousness for patients. Therefore, the doctor must exercise patience and complete accuracy when diagnosing the disease and commencing treatment through surgical intervention, especially if the patient's condition is critical. The doctor must also anticipate potential complications and risks during the operation and avoid resorting to surgical intervention if there is no benefit behind it. The patient has full freedom to accept or refuse the surgical procedure. The doctor's liability for malpractice resulting from surgical intervention is established through three stages.(Mansour, 1999, p. 61)

Doctors who face medical malpractice lawsuits are not necessarily superior, nor inferior, on average, to those who do not face lawsuits (myth number two). Some critics of medical malpractice claim that keeping up with the latest technologies makes a physician more susceptible to lawsuits. There is no empirical evidence that being sued is an indicator of superior performance, as is sometimes claimed. There is some empirical evidence about differences in physician-patient relationships between physicians with a history of adverse medical malpractice lawsuits and physicians without lawsuits, with patients rating the latter as, or at least appearing to be, more understanding, more caring, more available, and better communicators. A more patient-centered practice style is good defensive medicine, a point rarely mentioned in the public discourse on medical malpractice.(SLOAN A & LINDSEY M, 2008, p. 17)

1.2. Medical malpractice Occurring Before the Surgical Operation

The surgeon must take all necessary precautions before commencing the surgical operation, such as preparing the patient psychologically and physically by conducting blood tests or allergy tests, taking precautions for chronic diseases, or the possibility of complications and the patient's ability to accept the transplanted organ, for example, if it is a transplant operation. An error may occur if the doctor neglects to exercise the necessary care and sufficient precautions in verifying the compatibility of the organ with the patient's body, as he is the primary person responsible within the team.

Regardless of the purpose of the surgical work, whether therapeutic or non-therapeutic (cosmetic), the doctor must not expose the patient to any unjustified risk, and he must seek the assistance of experts at every step he takes, such as verifying the strength of the patient's heart before anesthesia and the presence of blood of the patient's group in case of necessity, for example, etc.

2.2. Medical malpractice During the Surgical Operation

The patient resorts to undergoing the surgical operation based on the personal consideration of the surgeon's skill, professional experience, and good reputation in his specialty, whereby the patient entrusts himself to the doctors hoping for recovery. It is considered a medical malpractice for someone else to perform the operation without the patient's consent, as it is a personal medical obligation. The surgeon also bears responsibility for his error during the operation or the error of any member of his surgical team, as he is the primary person responsible for the success of the operation.

However, the surgeon does not guarantee the patient's recovery but is only committed to exercising the necessary care based on the established scientific principles in the profession, as well as guaranteeing the patient's safety. It is considered a surgical medical malpractice to neglect cleaning and disinfecting the wound during surgery, leaving residues of the gauze used in the operation, or leaving one of the surgical instruments inside the patient's body. The doctor is liable if he does not perform the surgical work with the skill required by his profession.

Current reforms to tort laws are not making care safer. There has been extensive debate about patient safety, particularly since around 2000, including the rise in medical error rates. As Chapter 8 points out, despite the significant national attention given to medical errors, surprisingly little progress has been made in implementing error reduction systems. This is partly due to the lack of effective financial incentives for healthcare providers to adopt patient safety measures.(SLOAN A & LINDSEY M, 2008, p. 23)

Cosmetic surgery can be highly invasive and therefore poses a high degree of risk to the professionals, technicians, and clinics involved. Furthermore, a patient undergoing cosmetic surgery is considered a client purchasing a service to correct or alter a body feature. Consequently, the standard of success or failure of the surgical outcome, although not usually life-threatening, will be at least partially subjective. As mentioned above, surgeons can be held liable for breach of contract if they guarantee a specific outcome and that outcome is not achieved. However, claims and proofs of negligence are more common. For example, in the case of *Tiglao v Slethholm*, the plaintiff underwent breast augmentation and a procedure to remove a cesarean scar. The plaintiff was Filipino and spoke little to no English. Although the doctor explained the procedure and all its associated risks, the court ruled that his treatment was, in fact, negligent because his explanation was given entirely in English.(FOLICK, CECILIA, MORGAN, & AMELIA, p. 7)

Surgical malpractice during the operation include:

1.2.2. Anesthesia malpractice:

The surgeon relies on the anesthesiologist during the operation because it takes a long time, and anesthesia is administered either locally to the treated organ or as general anesthesia. Therefore, responsibility arises if the surgical operation is performed without the assistance of an anesthesia specialist. (Lafi, 2009, p. 243)

The question of a surgeon's liability for the actions of an anesthesiologist has been debated, particularly given the lack of a direct

agreement between the patient and the anesthesiologist. Earlier legal interpretations tended to treat the responsibilities of the surgeon and anesthesiologist as distinct and specialty-specific. However, current legal thinking generally considers the patient's agreement to be with the surgeon, who then engages the anesthesiologist as an assistant. This establishes a relationship of control, making the surgeon responsible for the anesthesiologist's conduct under standard legal principles. Typically, the relationship between patient and surgeon is contractual. Consequently, the surgeon is liable, based on relevant sections of the Civil Code, for issues arising from the contract, which must be fulfilled in good faith. This liability extends to the surgeon's own negligence and the actions of those working under their direction, as stipulated by the contract.

Failure to obtain full and informed consent before a medical procedure, or obtaining it through fraud, coercion, or undue influence, constitutes assault. For example, in the case of *Quick v. Retzek*, a patient was referred to a dentist for the extraction of a single tooth. The dentist stated that he would be removing "two roots," meaning two teeth, but the patient believed he meant only one. The plaintiff subsequently filed an assault suit and won on the grounds that her consent was not fully informed. The evidence also established that the patient had been referred only for the extraction of a single tooth. (FOLICK, CECILIA, MORGAN, & AMELIA, p. 2)

Conversely, in situations of non-contractual liability, such as emergencies resulting from accidents, the surgical procedure fulfills a legal obligation for the physician. In these cases, liability for any harm arises from tort law, with each physician responsible for their individual contribution.

In practice, the anesthesiologist is obligated to adhere to established professional standards by verifying relevant patient information, such as blood type and cardiac health, and carefully determining the appropriate anesthetic dosage based on the operation's complexity and duration. Failure to exercise such due diligence under typical conditions may result in legal accountability.

2.2.2.Malpractice that occur during blood transfusions:During surgical operations, the patient may need a blood transfusion, and this must be done within the necessary care and vigilance, requiring verification of the patient's blood type, otherwise it may lead to death or cause serious harm. It is also necessary to verify that the blood is free from any diseases to ensure that no infection is transmitted due to this transfusion, i.e., the transferred blood must be free from defects so as not to add new diseases alongside the disease being treated.

The reality is that the purpose of the surgical intervention is often to achieve a therapeutic goal to relieve the patient's pain or to free them from any ailments. As for cosmetic surgery, it may aim for therapeutic medical beautification such as correcting deformities or changing appearance like reducing the nose or enlarging the lips... etc., and liability arises if the potential risks are not proportionate to the intended goal.

The relationship between a patient and a doctor, or between a client and a clinic, is a contractual one. A patient may sue a doctor for breach of contract and medical malpractice based on an express or implied clause within the contract. In most cases, the doctor is obligated under the implied contract to exercise reasonable care and skill.(FOLICK, CECILIA, MORGAN, & AMELIA, p. 3)

Surgery is a dynamic specialty fraught with potential risks. Surgical competence comprises a combination of technical skill, teamwork, communication, and decision-making. All these factors influence the course of surgical patients, from their initial pre-operative appointment to their final discharge from the hospital. Therefore, to understand and avoid surgical errors, we must explore this complex and multifaceted process.(K.SARKER & CHARLES, 2005, p. 76)

The responsibility of the surgeon does not end upon completion of the operation, but their accountability also extends to post-operative monitoring of the patient, to ensure the surgical intervention achieves the desired results. The Paris Court ruled to convict a specialist doctor in ear, nose, and throat treatment for the crime of involuntary manslaughter resulting from lack of follow-up and medical supervision a few hours after performing a tonsillectomy, where the patient suffered severe bleeding

leading to death. Consequently, the doctor must exercise the necessary care to avoid liability by mandating the patient's stay in the hospital until their condition stabilizes, to verify that no complications occur at any moment, and to visit the patient in the early moments after discharge, as delay in doing so may cause harm and entail liability.

Surgical competence encompasses a combination of: Sound decision-making (before, during, and after the procedure), Team performance, Effective communication (among surgeons, anesthesiologists, nurses, and other key staff members), and technical skills. These skills, along with the high volume of surgical procedures performed on a large number of patients, contribute to reducing patient mortality and complications. It is unlikely that errors will occur during this procedure, even in the simplest cases.(K.SARKER & CHARLES, 2005, p. 77)For example, The lead surgeon will continuously review documentation, communicate effectively, reassess the clinical situation, the operating room setup, reassess patient care, and the progress of the procedure. This is all aimed at minimizing the error rate that occurs during this procedure. However, errors still happen.

One way to measure technical skill is by examining the number of errors a surgeon makes during the procedure. One study evaluated the performance of trainees performing a small bowel anastomosis on a pig model, and calculated the total error score. 27 Eubanks and others 28 developed a scale for minor and major errors of technical errors committed during laparoscopic cholecystectomy, along with a checklist in which these errors were weighted according to their severity. Using an error classification based on an external error pattern framework, Joyce et al. 29 identified errors committed during laparoscopic cholecystectomy. This error classification included procedural errors that occurred due to either omission or reordering of steps during the procedure, or execution errors which consisted of the surgeon's failure to perform a step correctly.(K.SARKER & CHARLES, 2005, p. 79)

4. CONCLUSION

Medical malpractice represents a significant challenge in contemporary society. Despite advancements in medical science and technology, such errors continue to pose a threat to individual health and well-being. The fundamental objective of medical practice is to improve patient health, not to worsen it. Consequently, Algerian lawmakers have consistently sought to

address and resolve this issue through a series of health protection regulations, most recently Law No. 18/11.

Judicial accountability for professional misconduct arises when a practitioner contravenes established and accepted medical standards, irrespective of whether the error occurs during examination, diagnosis, treatment prescription, or surgical procedures. This study focuses specifically on the treatment phase. Despite legislative efforts to regulate professional negligence, the number of related court cases is increasing, reflecting the complexity and intricacy of the issue. Key findings include:

- Professional negligence is defined as any departure from accepted standards of practice within the medical domain.
- Algerian law stipulates accountability for errors of all magnitudes, provided they result in physical harm to the patient, as articulated in Article 413 of the Health Law.

In light of these findings, the following recommendations are proposed:

- Detailed legal codification of the concept of professional misconduct is crucial, given its nuanced, complex, and multifaceted nature. The repercussions of such errors can manifest over extended periods, with seemingly minor incidents potentially causing significant harm to patients.
- Activation of awareness programs by medical associations is essential for the prevention of incidents. These associations should also strengthen their advocacy role to ensure that those harmed by professional misconduct can seek redress from practitioners or healthcare institutions.
- Regular medical reports should be mandated, detailing disease progression and treatment response. This documentation helps clarify liability in the event of adverse patient outcomes.
- Mandatory continuing education should be put into place to allow doctors to remain current with the latest innovations in medical science concerning the treatment of known and emerging diseases.

- Intensified educational campaigns should target both medical professionals and the public, covering the legal parameters of medical practice and potential violations. Conferences, seminars, and media programs can contribute to reducing instances of professional misconduct.

5. Bibliography List :

1. Al-Abrashi, M. Z. (1999). *The Tort Liability of Physicians in Arab Legislations*. Damascus: Ghabbour Foundation.
2. Al-Azzam, S. M. (2010). *Medical Errors*. Amman, Jordan.
3. Article 344/2 of Law 18/11 relating to health.
4. Articles 10.11. 18 and 46 of the. Code of Medical.
5. Ben Sghir, M. (2008). The extent of the doctor's obligation to inform the patient: a comparative study. *Critical Journal of Law and Political Science* (Special Issue No. 1), p. 174.
6. FOLICK, L., CECILIA, H., MORGAN, M., & AMELIA, S. *Medical Malpractice*. Vancouver, BC, CANADA.
7. Ghadan, I. A. (2006). *Medical Error*. Lebanon: Zain Legal Publications.
8. K.SARKER, S., & CHARLES, V. (2005). ERRORS SURGERY. *International journal of surgery review*, 3.
9. Lafi, M. M. (2009). *Criminal Liability Arising from Medical Error (A Comparative Study)*. Jordan: Dar Al-Thaqafa.
10. Mamoun, A. R. (1986). *The Treatment Contract: Between Theory and Practice*. Cairo: Dar Al Nahda Al Arabiya.
11. Mansour, M. H. (1999, December). Medical Error through Surgical Operations. *Journal of Legal Studies, a semi-annual journal* (3), p. 61.
12. MariaZon, k. (2017). "Exceptions To The Obligation Of Medical Confidentiality In The Context Of Public Health". *Zdrowie-Publiczne I Zarzadzanie*, 15 (4), 300.
13. Shreim, M. B. (2000). *Medical Errors Between Commitment and Responsibility*. Jordan: Cooperative Printing Workers Association.
14. SLOAN A, F., & LINDSEY M, C. (2008). *Medical Malpractice*. Cambrdge Massachusttes LODON, ENGLAND: The Mit Press.