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RESPONSIBILITY OF PLASTIC (COSMETIC) DOCTOR FOR DAMAGES RESULTING OF ALL PLASTIC OPERATIONS

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ABSTRACT

Surgeries in general and plastic surgery in particular are among the most prominent surgeries that people perform, as interest in plastic surgeries has increased in the past few years, such as hair transplantation, liposuction, and enlargement or reduction of one of the body parts, and with the increase in these operations, which led to the occurrence of medical errors in Plastic surgeries, which often resulted in deformities, sometimes death, or injuries that turned into permanent disability and disrupted the organs from performing their functions; This makes the plastic surgeon under the circle of legal accountability in all its forms, whether it is criminal or civil , that the plastic surgeon has many obligations, and the question that arises is whether the doctor's obligations are to exert care or achieve a result? What is the cosmetic doctor 's obligations towards the patient because of the cosmetic surgery of the patient 's privacy has been critical senses of the detection process conducted by; PA person may accept a risky surgery? Does this behavior affect his right to compensation? Here, we find that this matter is inconsistent with the rule that the victim's consent to the harm nullifies its effect, or that the offender's mistake has an effect with the consent of the victim. In application of this rule, civil liability is not imposed on the surgeon who, because of his work, caused actual harm. It is fair that the civil liability of these people for mistakes must be established, and responsibility is not excluded because of the victim's consent to the exposure to danger, and the consent of the injured in harm differs in each case from the other, and there are cases in which prejudice to the human body and integrity becomes necessary to preserve his life.

Introduction

Patient satisfaction with plastic surgery and the legal nature of civil liability for plastic surgery: Surgeries in general and plastic surgery in particular are among the most prominent surgeries that people perform, as interest in plastic surgeries has increased in the past few years, such as hair transplantation, liposuction, and enlargement or reduction of one of the body parts, and with the increase in these operations, which led to the occurrence of medical errors in Plastic surgeries, which often resulted in deformities, sometimes death, or injuries that turned into permanent disability and disrupted the organs from performing their functions; Which makes the plastic surgeon under the circle of legal accountability in all its forms, whether it is criminal or civil , that plastic surgery operations may raise many legal problems in determining the nature of civil liability for errors and damages resulting from this type of surgery, and the statement required of the plastic surgeon, whether Required to exercise due diligence or is required to achieve a result? Especially in plastic surgery because of its peculiarity and prevalence nowadays; Because patients turn to this type of surgery, and they do not complain of a disease or disease, but rather strive to reach beauty, and to improve appearance in most cases , the relationship of the plastic surgeon with the patient has its own character; Because the patient trusts and trusts the plastic surgeon on his body without direct reasons, and the patient throws himself in the hands of the doctor for his high confidence in his ability and competence, despite the patient's knowledge of the damages and risks associated with this type of operations , and plastic surgery is one of the most important forms of satisfaction of the injured in terms of science. The resulting damage and acceptance of it

Literature review

1. Patient's satisfaction with plastic surgery

Beauty is a basic requirement for every human being, and the grace of God Almighty on the human being was that his creation was in the best possible way, but this principle may happen to him exceptional matters that affect him, so a person may be born with birth defects as a result of hereditary factors or infectious diseases, or the body is exposed to accidents or Disasters or diseases, or a person may grow old and the features of the body change and lose their aesthetic qualities , all of this has prompted cosmetic doctors to surgical intervention in the human body to remove congenital or acquired deformities, and from here appeared (plastic surgery) , so the patient who submits a plastic surgery to improve His appearance, or the removal of a deformity in his body, he performs this work based on his undue consent , so we must here know what plastic surgery is, and then we must know the importance of the patient's satisfaction as a reason for the legality of plastic surgery, and then know what is the basis of the patient's satisfaction in Plastic surgery.

- **Definition of Cosmetic Surgery**

It is meant by plastic surgery: it is surgery that aims to rebuild or change the appearance or characteristics of a specific part of the body, where modern and sophisticated techniques are used to perform these operations such as liposuction, enlarging and reducing the size of a member of the body, drawing edges, reshaping and hair transplantation, surgery. Cosmetic is performed on a person based on his free and enlightened request and consent. In order to fix the deformities on the outside of his body that do not cause him physical pain, but rather change his shape and affect his personal and social value, by restoring the harmony and balance of the deformed or defective part of his body according to the appropriate beauty standards for him (Abdalla , 2009) , as was defined by plastic surgery It is a surgery to improve the appearance of a part of the visible body parts, or a special function, if it has a deficiency, damage or deformation (Al-Azmi, 2010) , and it is also defined: it is where there is no satisfactory treatment by surgical intervention, but rather the removal of a distortion that occurred in the patient's body Through an acquired, congenital, or functional action (Orfali , 1984) , and through the above, we find that plastic surgery is characterized by certain characteristics that make it different from regular surgery, as it does not aim to treat an organic disease, and is only performed at the request of the person and his satisfaction after the surgeon is He may inform the person of the success rates of the operation, and of all the risks that may result from it, so that he can make an informed decision , and whether the goal of plastic surgery is to correct the deformities and defects on the outside of the human body; To give the body the desired external appearance, however, this surgery has two types: (Abdalla , 2009)

1) **Orthodontic plastic surgery:** It is plastic surgery in its precise meaning, and it aims to repair or correct deformities, or simple defects, whether congenital a person is born with them, such as nasal defects, or they are acquired by the person as a result of aging, and the occurrence of changes in his features, such as wrinkles, or as a result of what he is exposed to. Of operations or wounds that leave scars on his body, and its primary and direct goal is to beautify and improve the figure.

2) **Reconstructive or reconstructive plastic surgery:**It is plastic surgery that aims to repair severe deformities, both congenital and acquired, that defect the shape of the body and affect its functional performance. By repairing the deformed parts of the body, restoring them or compensating them for any damage or loss thereof; In order to restore it to its normal position in terms of functionally and approximate form, such as: repairing deformities resulting from burns, car accidents, and various disasters (Abdalla, 2009).

- **satisfaction as the reason the legality of plastic surgery**

The plastic surgeon cannot infringe on the patient's body or the person seeking treatment except with his permission or permission from his family, so their consent must be obtained. In therapeutic aesthetic surgeries, satisfaction is either verbal or implicit, but in non-therapeutic plastic surgeries, satisfaction must be extracted with great precision. Through a written support, from here it is necessary to identify satisfaction in two cases:

1) **Satisfaction in curative plastic surgery:** There is a difference in the jurisprudence about the legal basis on which the principle of respecting the will of the patient is based as a reason for the legality of plastic surgery. Some of them looked at the patient and took the principle of respecting the patient's will as a supreme principle the burden of adherence to and respect for it lies on the shoulders of the doctor, which is based on trust in the doctor and the need The patient is treated for treatment, which requires that he surrender to the surgeon who has the ability to properly estimate things , as for the other side of jurisprudence, the will of the patient is not taken into consideration even if the patient has the ability to choose, and they explain that the matter is disputed by the patient's right to recovery and his right to express his will. Either he accepts or rejects, and the patient's right to recovery is the priority of care because it results in saving the patient's life, and here it is necessary to distinguish between a case of necessity that may not require the doctor to obtain the patient's consent, and unnecessary cases that need the patient's consent, but through that It is necessary to return to the original, which is the necessity of obtaining the patient's satisfaction to perform any surgical intervention. What distinguishes therapeutic plastic surgery is the occurrence of potential risks, which are within the circle of probability in terms of their occurrence, so the patient's satisfaction must be obtained. These potential risks are so that their occurrence is not sudden for the patient in a way that affects the respect of the principle of his will in surgical intervention because it is the first to take care of, and Article (7 / g) of the Jordanian Medical Liability Law states: "Informing service recipients of complications that may result from diagnosis, medical treatment, or intervention. surgical before the start of its implementation, monitoring and initiative to treat whenever possible " , either the principle of respect for the will of the patient to choose his doctor, he went along with jurisprudence not to apply this principle when directed the patient to public hospitals, because the entry of the patient to the general hospital is within the Aiha is not the center The patient has a desire to determine the doctor, but in private hospitals the patient can agree with the surgeon he wants, and here the patient has the freedom to choose who treats him , and here the patient must be eligible to express his will with satisfaction by conducting non-urgent plastic surgeries, or obtaining the consent and approval of On his behalf, if he is a minor and has lost consciousness here, a distinction must be made between carrying out an urgent surgery, such as someone whose hand or finger was amputated and who needed to undergo an urgent plastic surgery to restore the organ to its place, so the intervention would be the A surgeon is a duty of the surgeon, without requiring the patient or his representative to perform the surgery, and according to Article (8 / a) of the Jordanian Medical and Health Liability Law, the service provider is prohibited from the following: "Treating the recipient of the service without his consent, with the exception of cases that require emergency intervention And it is not possible to obtain consent for any of the reasons or in which the disease is contagious or threatening to public health according to what is stated in the regulatory legislation , " but in the case of a minor patient who is unconscious and his condition is not urgent, the surgeon must obtain the consent of the patient legally acting on behalf of the patient. Or a deal.

2) Satisfaction in non-therapeutic plastic surgery: A part of the jurisprudence believes that the patient's consent is not a reason for the legitimacy of non-therapeutic plastic surgery, considering that it lacks the intention of treatment, and they relied on the principle of protecting the physical entity of the human body, on surgical intervention in cases other than necessity, and accordingly, the surgical intervention of the surgeon if it is not aimed at treatment, it is He is asked criminally, and this is what was mentioned in Article (8 / k) of the Jordanian Medical and Therapeutic Liability Law of 2018. The service provider is prohibited from the following: "Carrying out unnecessary medical procedures or surgeries for the recipient of the service without an informed consent." But this is not absolute. In both cases, whether the surgery is curative or non-therapeutic, they achieve a benefit and a legitimate interest for the patient, so the patient's satisfaction must be obtained in the case of cosmetic surgical intervention. (Al-Azmy, 2010)

- **The basis of patient satisfaction in plastic surgery**

Sometimes the doctor cannot undertake his medical work until after obtaining the patient's consent, and it is considered a special kind, because it is related to the lives of people and the safety of their physical being, and this satisfaction is of great importance, so the responsibility of the doctor arises when the patient's satisfaction is not obtained, and satisfaction is considered one of the pillars of the behavior. The law is general, but it is not considered a basis for permitting unlawful acts that are prohibited by law, but it can be considered a basis for permitting medical and surgical work such as plastic surgery, since medical work is basically legitimate, and consent here means giving up the protection that the law establishes for the body. Which leads to denying the assault from the action of the surgeon and making it permissible (Zaki , 2005) , and this consent must come from a person who has the legal capacity necessary to issue it in order to produce its legal effects, and it must also be free from defects of will (Rushdie , 1986) , and it falls to the doctor A commitment - regardless of his relationship with the patient - to obtain the prior consent of his patient before performing the medical work, including surgical intervention, such as: plastic surgeries and other other operations (Abu Al-Ghanem , 2010) , and the patient's satisfaction with medical work is not a reason for it being permitted, but a condition In practicing and practicing medicine, as the prescribed permissibility of medical work is based on the use of the right, and not on the patient's consent, the patient's consent is the basis of the legitimacy of the medical work and not the basis of permissibility (Adawi , 1992) , and the patient's correct consent comes after the plastic surgeon enlightens the patient with all the effects and results of the operation Negative and positive expectations; Therefore, the burden of proof falls on the patient's shoulders, whether with the information obtained from the plastic surgeon regarding the outcome of the operation or the expected risks. In a judgment issued by the French Court of Appeal (Greniol) issued in June 1975, it was stated that the court retreated from adhering to the responsibility of the surgeon regarding the dispute over the patient's satisfaction. The patient wanted to remove the abnormalities of her abdomen following an abdominal hernia operation. She provided evidence that she did not see the negative effects. That could result from the plastic surgery, and then

she obtained a judgment in her favor of compensation (Abu Al-Ghanem, 2010) . Therefore, the basis for exempting the surgeon from responsibility in performing plastic surgery is due to the patient's satisfaction who wants this type of operation. Hence, The patient's satisfaction may be an important element of the denial of responsibility for the doctor, but not everything, as it is not fit to be a legal basis for permitting medical errors, which could lead to harm to the patient , and therefore the patient's satisfaction must be issued free and free from Any defect that is tainted by it, issued by a rational person of the age of majority, or with the consent of his representative legally and legally, after being informed of the necessity of surgical intervention, its risks and its effects. Rar informs of knowledge and approval of this, as well as giving him sufficient time to think and approve (Abu Al-Ghanem, 2010). Article (2) of the Jordanian Medical Constitution confirmed this by saying, "Every medical act must be aimed at the patient's interest, or have a necessity that is justified, and be Barzaih, or satisfaction guardian, though he was a minor or unconscious " , and also Article 6 of the Jordanian medical Constitution stipulates that" prohibits the doctor any actions that would weaken the resistance of people 's physical or mental, " with the exception of this text Treatment with anesthesia if this is necessary , and the expression of consent must be explicit or implicit, as silence is not considered the consent of the patient to the operation, and it is not considered an implicit consent unless there are accompanying circumstances indicating satisfaction (Adawi , 1992).

- **The legal nature of civil liability for plastic surgery**

The research into the nature of civil liability for plastic surgeons calls for research into the legal conditioning of that responsibility, as it is in jurisprudence and civil law that liability is divided into contractual liability and tort liability, so if a general rule or commitment is violated from a legal text that leads to the establishment of tort, And also that responsibility is realized when there is no contract between the doctor and the patient, but if the obligation is breached from the contract concluded between the two parties, then we are facing contractual liability, taking into account the validity of the concluded contract (Al-Fadl , 1994) . Most of the general provisions for liability are found in the text of Article (256). Of the Jordanian Civil Law, as it stipulates that "every harm to others is obligatory for the perpetrator, even if he is not privileged to guarantee the harm".

2. Nodal responsibility in plastic surgery

It is proven in legal jurisprudence that the contract is the Shari'a of the contractors; therefore, it is imperative for the parties to the contract to implement the terms and conditions stated in the contract, and to respect the legal bond by exerting sufficient effort and sincere intention to achieve the purpose for which the contract was concluded (Al-Sanhouri, 1964). Article (2/199) of the Jordanian Civil Law stipulated "the contract rights must be on both parties to fulfill the enjoined contract upon them" , and therefore it must be provisions to be the contract binding on both sides, and set out the rights and obligations of each, showing the intention and the will of the limbs, directing efforts and actions towards the common goal between them by bringing the benefit of each Of them, whether material or moral , and contractual liability is

defined as the penalty for breaching a contractual obligation that differs according to the obligations contained in the contract . The doctor who did not make sure that the wound was sutured well as required by the principles of the profession must bear the expenses of removing any deformation or damage that afflicts the patient. , And bear the payment of compensation to the patient for the pain he suffered during the period of recovery from its effects (Al-Azmi, 2010) , and when the surgeon performs surgery on the person at the request of the patient, and goes to the doctor's clinic of his free will, which expresses his sure desire With surgical work, we are in front of a contract concluded between them, and the formality of writing in the contract is not required for the responsibility to be established when the expression is explicit (Al-Ahwani , 2000) , where the owners of the tendency hold that the relationship of the plastic surgeon with the patient is a contractual relationship, that this relationship starts from the moment the doctor performs By treating the patient in normal circumstances and based on a prior agreement, the patient who contracts with a plastic surgeon for liposuction or hair transplantation here is a contractual relationship between them based on a contract concluded between the two parties , and the owners of this trend based that the doctor's responsibility is contractual with several arguments:

- 1) **Streptococcus ligament:** The consideration of the plastic surgeon in a permanent positive state even in cases of urgency, and this positive is directed to the public through his commitment to the principles of the profession and its basic rules, and the sign hanging on the door of the clinic indicates his data, qualifications and medical specialization of his eligibility to do medical work (Njeidah , 1992) , and therefore the responsibility of the plastic surgeon Streptococcus when he begins treating the patient at his request or the request of his deputy, even if the doctor was curious and the damage resulted from the doctor's breach of one of the obligations that he did not abide by towards the patient (Mark, 1989).
- 2) **The nature of the medical profession:** When the patient concludes the contract, the plastic surgeon takes it upon him to exert the necessary care in a manner consistent with the medical rules followed in this field (Nujida, 1992).
- 3) **General order:** People's lives are not the subject of a contract originally, and the rules of public order protect the patient from failure of the plastic surgeon to act on the patient's body as he wishes. Nevertheless, these obligations can be considered of a contractual nature, as the contract does not exempt the doctor and the hospital from observing the principles of the profession, and the idea of public order sets the limit the minimum obligations of the doctor, and did not impose the application of the provisions of tort liability to medical errors (Al- Abrashi, 2012).

1. The responsibility of a plastic surgeon is contractual and, in some cases, negligent

The tort liability is that which arises outside the contract and the source of commitment therein is the law, so if a person causes harm to others, compensation is required. The owners of this trend say that the doctor's responsibility towards the patient is a contractual responsibility, but this does not prevent it from being negligent, such as a surgeon who performs a plastic surgery for a person in a hospital

General or a person who is unconscious, and adheres to the fact that the plastic surgeon in the general hospital has performed plastic surgery without prior agreement with the patient, and that any mistake of the doctor has caused harm to the patient, the tort liability is assumed here, and the same is the case if the patient is unconscious, there is no contractual relationship between the doctor. The patient is responsible for default on the doctor in the event of the cause of harm to the patient, and he must ask the doctor for every failure in his medical course that does not occur from a doctor who is attentive in his professional level, and he is asked about his regular mistakes such as negligence and lack of caution and about his technical mistakes, provided that the patient proves to the judge that the doctor violated the principles of work Medical. (Al-Azmy, 2010)

- **The nature of a doctor's commitment to plastic surgery**

We have concluded that the responsibility of the plastic surgeon is originally a contract, arising from the contract concluded between the doctor and his patient, but that does not preclude the establishment of tort, such as performing a plastic surgery in a public hospital and that the patient was unconscious, so here the tort liability is based on the lack of And the existence of a contract between the doctor and the patient, so the plastic surgeon has obligations that he must observe before and after the patient's plastic surgery. In accordance with the rules and literature of the medical profession, whether the doctor performed it in his own clinic or conducted it in a private or public hospital, and also when a plastic surgeon performs surgery, is his commitment here to achieve a result or to pay attention to the privacy of plastic surgery because the patient seeks plastic surgery to obtain a specific shape for his body or appearance.

1. Obligations of a plastic surgeon prior to plastic surgery

Before performing any surgical work, the plastic surgeon has several obligations required by the rules and ethics of the practice of the profession, in addition to the ethics of practicing medical work, especially plastic surgery, because of its peculiarity that many cosmetic surgeries have the patient not suffering from a specific disease that he wants to treat, but rather the patient aims to obtain. Due to a change in the shape, reduction or enlargement of a specific part or organ of the body, here the plastic surgeon has obligations before performing the surgery, and they must be adhered to, and among these obligations:

1) The plastic surgeon's commitment to enlighten the patient: The plastic surgeon must, before performing a cosmetic surgery for the patient, inform him of the risks of treatment and surgery, whether these risks are normal or exceptional, as stated in Article (7 / g) of the Jordanian Medical and Health Liability Law: "Inform the service recipient or his family of the complications that may arise. for diagnosis or medical treatment or surgical intervention before the start of its implementation, monitoring and initiative to treat whenever possible", it is through this article became a cosmetic media doctor service recipient or his family complications diagnosis or treatment or

work surgery before starting out , and also came the same article (7 \ F): "Inform the service recipient of the nature of his illness and the degree of his severity, unless his interest requires otherwise. Any of his relatives, relatives, or companions must be notified in the following cases: 1 -If his psychological state does not allow him to be informed. 2 -If he was incompetent or deficient. 3 -If his health condition does not allow him to be informed personally and it is not possible to obtain his consent. Through this article also, the plastic surgeon must inform the patient before performing the surgical intervention of the nature of his disease and the degree of seriousness of the surgical work, for example the patient who wants to perform a gastric sleeve operation, which is considered one of the major operations; the doctor here must inform the patient of the risks of this operation and its degree of danger , and it also came in Article (7 \ d) of the Law on Medical Liability and health Jordan "Enlighten service recipients treatment options available except for emergency medical conditions that cannot be delayed" , and also through this article explicitly made the commitment of the doctor Ptbesar patient treatment options available, as it was the decision of the Court of Magistrates The Amman penalty, in the second paragraph thereof (not to be informed of the treatment options available in contravention of the provisions of Article 7 / D of the Jordanian Medical and Health Liability Law).

2) The plastic surgeon's commitment to obtaining the patient's satisfaction: The plastic surgeon must, before starting the cosmetic surgery work, obtain the patient's satisfaction. The doctor must empty the patient's satisfaction with its written documents, especially in non-therapeutic surgeries, and he must also include this document with the contract concluded between them as one of the requirements of the contract. The patient has to prove that the surgeon did not obtain his consent in order to assume that the surgeon is wrong with him. Article 8 of the Jordanian Medical and Health Liability Law "prohibits the service provider from the following: Treating the recipient of the service without his consent, with the exception of cases that require emergency intervention and it is not possible to obtain approval for any reason, or in which the disease is contagious or threatening to public health or safety in accordance with what is stated in the regulations, and according to the text of Article (8 / a) No A plastic surgeon may perform any surgical procedure on a patient without his consent.

3)The commitment of the plastic surgeon to preserve the secrets of the profession: The plastic surgeon is required to preserve the information he receives from the patient from the first meeting with him until after the completion of the treatment without specifying a specific time, and not to disclose it to others except in exceptional cases, as stated in Article (8 / e) of the Jordanian Medical and Health Liability Law prohibits The service provider must "disclose the secrets of the recipient of the service that he learns about while practicing the profession or because of it, whether the recipient of the service has entrusted him with this secret and trusts him or if the service provider has seen it himself, and this prohibition does not apply in any of the following cases: 1 -If the disclosure of the secret was at the request of the recipient of the service and with his written consent. 2 -If the disclosure of the secret was in the interest of the husband or wife, and he was personally informed. 3 -

- If the purpose of divulging the secret is to prevent the occurrence of a crime or to report it, and the disclosure in this case shall be to the competent official authority.
- 4 -If the service provider is legally mandated to do so.
- 5 -If the secret was disclosed before the Higher Technical Committee.

2. Subsequent obligations of a plastic surgeon on plastic surgery

The obligations of the plastic surgeon do not end with the end of the surgical work, the obligations of the plastic surgeon extend beyond the surgery by following up the patient's condition, the plastic doctor is obligated either by contract or under general legal rules to follow up on the patient's treatment and not to leave him before the end of the treatment as long as the patient's condition calls for the doctor's follow-up. His, and the medical fault here is his breach of his obligations, in the fact that the patient missed the opportunity to treat the patient in a timely manner, and the burden of proving the plastic surgeon's implementation of his obligations falls on the doctor, and the patient also has to prove that the injury is a result of the plastic doctor's failure to follow up on his treatment. The doctor has the right to prove that the damage occurred as a result of a foreign cause (Al-Azmi, 2010), as stated in Article (8) of the Jordanian Medical and Health Liability Law, "The service provider is prohibited from the following: Refraining from providing the service in emergency cases or discontinuing its provision in all cases, unless the recipient of the service violates the instructions, or if the abstention or interruption was due to reasons beyond the control of the service provider, as the Amman Penal Magistrate's Court issued a decision on 11/28/2019, (discontinuation) For providing treatment to the patient without justification, contrary to the provisions of Article 8 / b of the Medical Liability Law.

3. The commitment of the plastic surgeon to exert a mother's care to achieve a result

There are two types of obligations in contractual responsibility, the first is the obligation to exert care, and it is in which the contractor is obligated to exert effort to reach a purpose, whether this purpose is achieved or not achieved, meaning that he is not obligated to guarantee the result , but it is the debtor's responsibility to exert a certain amount of care that is required of the ordinary person And the second is the obligation to achieve a result: the debtor here has to achieve a specific and clear result, and the contractor is considered to be in breach of his obligation as soon as the result fails, and the search is not carried out if he was in error or not because failure to reach a result is considered in the case of a mistake unless the failure to achieve the result is due to a cause Foreigner . (Al-Fadl, 1994), the basic rule in the doctor's obligations is the obligation to take care. However, there are exceptional cases in which the doctor has a specific obligation, which is an obligation to achieve a result in the safety of the patient (Shuraim, 2000), since the technological development in the medical field in terms of devices Used, and advanced research enables to reach certain results, and then the doctor's commitment sometimes became an obligation to achieve a result. The responsibility here became built on the wrong basis supposed stainless to prove the contrary, cannot be eliminated from liability unless proof of the existence of force majeure or fortuitous event, or foreign reason , such as laboratory analysis or blood preservation (Mansour , 2001) , there is of the opinion that commitment

The plastic surgeon is to take care of his patient, take due care to reach the desired results; Because the patient 's healing depends on factors and considerations many are not always subject to the authority of the doctor, such as: worker genetics, and the willingness of the patient from the physical (bey, 1993) , and there are branches of medicine has become a work in which the inherently outcome, as it exceeded the testing phase so that is The mere mistake, or failure to achieve the expected results, causes the doctor's responsibility; Because he is committed to achieving a result such as medical analyzes and plastic surgery doctors (Al-Tahan, 2006) , and among the obligations of the doctor to achieve a result, the doctor's obligation to enlighten the patient so that the patient has a true satisfaction based on certain knowledge of the expected results, so it is the doctor's responsibility to enlighten the patient by informing him The nature of the surgery, the treatment, and the surgical risks that may occur, otherwise the doctor is responsible for the harmful consequences that befall the patient, even if he has not made a mistake in practicing his work (Mansour , 2001) , and the doctor's commitment to enlightening the patient is based on the trust that the patient places in him. This confidence comes as a result of the inequality between science and knowledge between them, which places the doctor who is more informed is obligated to disclose all the information that limits the surgical operation to the other party, which is the patient (Njeidah , 1992) , and the plastic surgeon has the obligation to enlighten and inform The patient about his health condition; In order for him to be able to compare the benefits of treatment with the risks, so that he makes his decision to accept or reject the treatment while fully aware of his order , and with regard to cosmetic operations and abortions, the doctor is obligated to inform and fully inform the patient of all the expected risks (Al-Bayh, 1993) , and from the obligations Which is to achieve a result is the patient's satisfaction, as the general rule says that the doctor is obligated in order to perform the treatment and surgeries to obtain the patient's satisfaction, provided that the patient's approval of the treatment method does not mean that he agrees with the risks of treatment resulting from the doctor's negligence, as he remains responsible for this negligence (Njeideh , 1992) , and there is a strong correlation between the obligation to obtain consent from the patient and the obligation to inform him of the risks of treatment. This is because obtaining the patient's consent and consent with treatment, surgery, or undergoing a special type of operation such as plastic surgery is linked to an unquestionable link to informing him of all possible risks (Mansour, 2001) , and plastic surgery is one of the most important surgeries that must be Where confidentiality is; Many people do not want others to know that he has performed a plastic surgery so that he looks natural , and plastic surgery - in general - considers these obligations in which he will achieve a result. In plastic surgery, commitment does not differ from other medical work, in order to ensure the safety of those who wish to undergo a plastic surgery, and we tend that the commitment of a plastic surgeon is a commitment that is mixed between giving care and a commitment to achieving a result. The applicant for the plastic surgery, on the basis of which the consent and satisfaction of the patient with surgery is obtained.

- **The impact of the victim's satisfaction with the damage in plastic surgery on his right to compensation**

It is agreed upon that a person may not endanger his life and safety, but it is sometimes possible that compromising the integrity of the human body is necessary to preserve the integrity of his body, and this is what called for the approval of the legality of medical work and the aim of it is to ward off harm for the sick person, and therefore the use of treatment methods Different risks or complications may entail the patient, so does the patient accept the risks involved in cosmetic work such as sleeve gastrectomy operations; Does the responsibility entail the plastic surgeon and the patient does not have the right to claim compensation, or does the patient's satisfaction and acceptance of risks exempt the plastic surgeon from liability? The patient is not entitled, based on his consent, to claim compensation. (Jaafar, 2003) , and accordingly, when a patient suffers damage in connection with a plastic surgery, and this damage necessitates the responsibility of the plastic surgeon who performed the surgery, then the patient files a lawsuit against this surgeon and demands compensation for the damage he suffered, whether this mistake occurred due to a mistake Personal from the surgeon, or one of his assistants, or because of the defective things that were used in the surgery, and this lawsuit is filed on the basis of contractual liability, due to the existence of a medical contract in most cases between the patient and the plastic surgeon (Abdallah , 2009) , and the compensation lawsuit is filed on the basis of contractual liability. The surgeon is the one who contracts with the patient, but if the surgery is done in a general hospital and this hospital is the one who decided on the plastic surgeon, then the compensation lawsuit is filed against the hospital. Because the contract here is concluded between the patient and the hospital administration, and if in such cases it is permissible to file a lawsuit against the plastic surgeon who performed the plastic surgery on the basis of tort (Abdallah, 2009), and until the compensation lawsuit is filed against the plastic surgeon, it is necessary to clarify who is the burden of proof. Civil responsibility.

1. The burden of proving liability for damage caused by plastic surgery: In order for civil liability to be established on the plastic surgeon, the elements of this responsibility must be fulfilled, and according to the general rules of proof and in accordance with the jurisprudence rule (evidence for whoever claims), the patient affected by the plastic surgery or his heirs is the one who bears the burden of proving the elements of this responsibility. This is because the injured is the one who claims that the surgeon committed a mistake that caused him harm, and then he must present evidence until the responsibility of the plastic surgeon is fulfilled, and he must also prove the damage that resulted from the plastic surgery, as well as prove the causal relationship between the plastic surgeon's mistake and the damage he sustained. (Mansour, 2001)

1) Proof of fault of a plastic surgeon: The proof of the surgeon's error varies according to the nature of the commitment that the plastic surgeon has violated if it is by exerting care or commitment to achieve the result , and therefore if the commitment that the plastic surgeon breached is his main commitment to correcting the defect or deformation that the patient complains of, with the aim of beautifying his shape, that is, the commitment It is to carry out the medical work necessary to correct this defect or deformation according to stable medical and scientific

principles, which is the obligation to take care, so the patient must prove the plastic surgeon's mistake, which is the failure to exert the necessary amount of care (Mansour , 2001) , and the evidence here is to prove the occurrence of The negligence or negligence of a plastic surgeon during the procedure of surgery, and is considered a deviation from the principles of the profession, and does not occur from a surgeon who is attentive to the same peers in the profession, and in the same circumstances that surrounded him (Abdullah , 2009) , and proof of the patient's negligence or negligence in the care of the doctor It is considered a difficult matter especially that the patient is unconscious in the operating room, and then it is impossible to prove the wrong behavior of the doctor (Mohsen , 2016) , and to solve this problem, the jurisprudence believes that neglect is a material fact that may be proven by all methods of proof, so that the patient proves A specific incident is due to the negligence of the surgeon, so a judicial presumption is based on the surgeon's failure to implement his commitment, and it is the responsibility of the surgeon to prove the opposite in order to get rid of civil liability , but if the commitment of the plastic surgeon is to achieve a result, such as his commitment to ensuring the safety of the things used in surgery from defects, or his commitment to guarantee The patient's safety from transmitting the infection to him, or his commitment not to divulge the patient's secrets (Mohsen , 2016) . The patient here is not obligated to prove the mistake of the surgeon, but is content to prove that the injury occurred to him so that the civil plastic surgeon's responsibility is fulfilled. This is because the surgeon is obligated to achieve the result (Mansour, 2001), and with regard to the surgeon's obligation to inform the patient of the risks of surgery, and his commitment to the patient's consent to undergo this surgery, the burden of proof rests with the doctor, not the patient, and that the doctor must provide evidence that he has implemented this obligation (AbdaLaLah, 2009).

2) **Prove the damage caused by the plastic surgeon's mistake:** Is the responsibility of the patient or his heirs the burden of proof of damage claiming to be infected because of surgeon error, whether this physically damage or damage was significant, since the damage and material fact, ie, it is not an act or a legal act, it may be proven by all methods of Evidence T., is the damage the essential element of civil liability. If there is no harm, the claim for compensation is not accepted by the plaintiff, then there is no liability without harm (Mansour, 2001). Article (256) of the Jordanian Civil Code stipulates that "all harm to others is obligatory for the perpetrator, even if he is not privileged to guarantee the damage" .

3) **Establishing the causal relationship between the plastic surgeon's mistake and the patient's damage:** The corner of causation the burden of proof falls on the patient or his inheritors, as is the case in the previous pillars, so that the causal relationship between the plastic surgeon's mistake and the damage that he suffered , and therefore if the patient proves that the plastic surgeon's mistake is the cause of the damage caused to him, and that error That this damage usually occurs, because the presumption is that there is a causal relationship between them in the interest of the patient, and the plastic surgeon must prove that the damage to the patient has arisen from a foreign cause that he has no control over (Mansour , 2001) . Article (261) of the Civil Code stipulates The Jordanian on that by saying: "If the person proves that the damage arose from a foreign cause that he has no hand in, such as a celestial pest,

a sudden accident, or force majeure, or the action of others, or the action of the injured, he is not obligated to guarantee unless the law or agreement requires otherwise. “, and the judiciary usually tolerates a lot to prove a causal relationship, so the patient 's interest to prevail, and the interpretation of the doubt on this relationship for the benefit of the patient is difficult to prove medical error often (Abdellah, 2009).

2. The legitimate risks resulting from plastic surgery and their impact on the patient's satisfaction on his right to compensation

The risks to which the patient is exposed as a result of undergoing cosmetic surgery are divided according to the legality of accepting these risks from his illegality of accepting them, and that the patient's consent to accept the risks in terms of compromising the integrity of his body is recognized by the law. As long as the acceptance of these risks is legitimate and the patient bears them as long as he is satisfied with the surgical work performed by the doctor , and in order to assess the legality of accepting the risks resulting from plastic surgery, we must take into account the importance of the risks of plastic surgery and the amount of damage resulting from them, and therefore the acceptance of illegal risks arises as a result of a discrepancy between What is realized or possible from compromising the integrity of the body and the intended purpose of endangering the patient's life , so the risks must be reasonable. A patient who accepts a plastic surgery, for example, must accept reasonable risks from the plastic surgery. Not that these risks may lead to the end of his life, the legitimacy of the patient's consent to harm his body must be assessed subjectively and not objectively, and each case must be considered separately. And comparing the damage caused by the plastic surgery with the intended purpose, and therefore if the importance of the purpose in the plastic surgery exceeds the damage resulting from the cosmetic operation, the patient's satisfaction for the procedure is valid here. The patient is void and unlawful, and the patient is responsible for accepting exposure to risks that outweigh the importance of the desired benefit from performing a plastic surgery, and the plastic surgeon is responsible even if the patient calls him to perform it with knowledge of the risks of the operation, so the patient here has the right to ask the plastic surgeon for compensation , here A distinction must be made between two matters if accepting the risks of plastic surgery by the patient is legitimate, and a mistake was made by the plastic surgeon, so we refer to the nature of the surgeon's mistake and the severity of this mistake so that the injured patient can claim compensation, but if accepting the risks of the plastic surgery is illegal, the responsibility falls It is the responsibility of the patient who is exposed to the risks and the doctor who before the operation, each according to his own fault.

Results

1. In cosmetic operations, whether curative or non-therapeutic, they achieve a legitimate benefit for the patient. The patient's satisfaction must be obtained in the case of surgical intervention.

2. In plastic surgery, the relationship between the patient and the doctor is a contractual relationship and not a default, because the doctor in all cases will obtain the consent of the patient or his representative to perform the plastic surgery.
3. Obligations of a plastic surgeon are a commitment that is mixed between exerting care and a commitment to achieving a result. The doctor must pay special attention to the patient and achieve the result promised to the patient.
4. In plastic surgery, the risks must be reasonable, and the damage caused by plastic surgery must be compared with the intended purpose.

Recommendations

1. Emphasis in cases of plastic surgery, whether therapeutic or non-therapeutic, by obtaining the patient's personal satisfaction, if possible, to perform the cosmetic operation and to be in writing by discharging it in a contract between the patient and the doctor.
2. Emphasize the obligations of the plastic surgeon to exert the utmost care in order to achieve the result and purpose of plastic surgery.
3. We call for the creation of a special text that regulates civil liability, plastic surgery, and a compensation mechanism.

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