

Criminal And Disciplinary Liability Of Dentists In The Non-Surgical Cosmetic Dentistry Field In Jordanian Legislation Preparation

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Abstract:

The non-surgical cosmetic dentistry procedures performed by a dentist can lead to criminal liability, which is summarized in the dentist exceeding the boundaries of their medical practice. Medical responsibility varies depending on the nature of the dentist's commitment.

The Results: There are some medical specialties that overlap in their work with another medical specialization. For example, the dermatology specialty shares medical procedures around the mouth with dentists, such as injecting Botox to conceal the gummy smile. This is not considered a form of medical error.

Keywords: ☐ Legal Implications. ☐ Professional Integrity. ☐ Dentists. ☐ Professional Boundaries. ☐ Non-Surgical Cosmetic Dentistry Procedures. ☐ Dental Practitioners

Methods: The researcher followed the analytical approach by analyzing the legal texts in Jordanian law and applying them to cases of criminal liability for non-surgical cosmetic dentistry procedures.

Introduction

This research focuses on the topic of Criminal Liability for Non-Surgical Cosmetic Dentistry Procedures. The study explores various aspects related to this subject, including:

1. Dentists exceeding the scope of their practice to engage in facial or body cosmetic procedures.
2. Medical professionals from certain specialties exceeding their scope to practice non-surgical facial cosmetic procedures.
3. Dentists exceeding the boundaries of their profession based on their respective specialty.
4. The nature of a dentist's commitment to providing care in non-surgical medical procedures.
5. The nature of a dentist's commitment to achieving results in non-surgical procedures.

The research also highlights specific legal cases that exemplify instances where dentists crossed the boundaries of their expertise and practice, leading to legal consequences. For instance, the Administrative Court suspended a doctor from practicing due to the doctor's deviation from their designated medical profession. This deviation was manifested in the doctor holding a job title inconsistent with the medical procedures they performed, particularly involving cosmetic surgeries in a licensed hospital.

Furthermore, there was a judicial ruling concerning a doctor who exceeded the boundaries of the medical profession by awarding themselves the highest academic degree as a maxillofacial surgeon. This act was deemed as surpassing the officially recognized limits of their specialization (1).

This research sheds light on the legal implications and consequences surrounding non-surgical cosmetic dentistry procedures and emphasizes the importance of

adhering to professional boundaries and recognized standards within the dental profession

The First Branch: Dentist Exceeding the Boundaries of Their Practice to Engage in Cosmetic Procedures for the Face or Body:

As we mentioned the specialties falling under this field in the previous chapter, dentists, according to their job title (Oral and Maxillofacial Surgery), as previously mentioned, are limited to working on the mouth and teeth. They are not allowed to extend their practice to include other parts of the body, such as cosmetic procedures. In short, their non-surgical cosmetic work should be limited to the boundaries of the head and neck for the patient, and should not extend to the skin or cosmetic procedures outside of this framework. Examples of this include some individuals exceeding the boundaries of their profession in providing a description or job title, such as someone impersonating a doctor to practice non-surgical cosmetic procedures. A criminal court in North Amman ruled to convict the defendant in accordance with the provisions of Articles (177 and 234) of the Criminal Procedure Law, amending the criminal description attributed to the defendant from the crime of practicing dentistry without a license, contrary to the provisions of Article (76) of the Physicians' Profession Law, to the crime of practicing dentistry without a license, contrary to the provisions of Article (62/b/2) of the Public Health Law. He was convicted with the amended description and sentenced to four months in prison and fines."⁽²⁾

The Second Branch: Certain Medical Categories Exceeding Their Boundaries to Practice Non-Surgical Facial Cosmetic Procedures:

There are some medical categories that do not belong to the field of cosmetic specialization, but they exceed their recognized boundaries based on their professional qualifications to engage in cosmetic procedures. For example, a general physician working within a clinic who practices this profession. One of the key conditions that must be met for their work not to be considered in violation is the existence of an employment contract between the physician and the facility owner, or between

the physician and the clinic, and another condition is the lack of eligibility to practice the profession in any other facility while having a license for the facility in another location.

A criminal court ruling, Case No. 4107 of 2021, dated 5/10/2022, found a pharmacist practicing non-surgical cosmetic procedures involving injections, a branch of non-surgical cosmetic procedures, to have official documentation from the Pharmacists' Syndicate and a letter from the Ministry of Health indicating her eligibility to perform filler and Botox injections due to her completion of training courses. However, she was penalized for not possessing a practice certificate for the profession and for exceeding her boundaries of work. The court determined that the actions of the physician and the pharmacist, which involved practicing non-surgical cosmetic procedures in a clinic not registered in their names, despite owning another licensed clinic, and the pharmacist, who holds a pharmacy degree, performing medical procedures by injecting patients with fillers and Botox without obtaining a qualification certificate granting her the right to do so, and without undergoing training from the competent authority, all constitute a violation of the rules of the medical profession. This was despite them having obtained a letter allowing them to practice the injection profession from the syndicate and the Ministry of Health. However, the judiciary took a different stance and convicted them. The error lies in the elements and components of the crime of practicing a health or medical profession without obtaining a legal license according to the General Health Law No. 47 of 2008, specifically as defined in Article (5) of the same law, which pertains to all aspects of this crime. These aspects include the material element of the crime, represented by their practice of medical or health professions as specified in Article (5) of the General Health Law without obtaining a legal license for it. It also includes the moral element, represented by the criminal intent, defined by the Penal Code in Article 63 as "the will to commit the crime as defined by the law, with both the knowledge and intent, warranting their conviction for this crime and sentencing them according to the penalties prescribed by law in accordance with the provisions of the law(3)

And among the examples we highlight in this field as well: a general physician exceeded the boundaries of their practice as a general physician to perform non-surgical cosmetic procedures, specifically Botox and filler injections for a girl, which resulted in harm to her. From the text, it can be understood that the administration of injections in all its forms is not permitted for a category known as "technicians," including those specializing in skincare and laser. However, when we examine the regulations and conditions for medical specialties, one of the primary requirements is academic qualification and university education from recognized universities, in addition to practicing the profession according to this requirement.(4)

According to the Regulations for Practicing the Profession of Skincare and Hair Removal, amended in 2017, Article 8 states (5) "Skincare technicians are prohibited from engaging in any of the following activities: treating dermatological diseases, prescribing treatments and medications, conducting laboratory or radiological tests, using all types of laser devices, intense pulsed light devices, ultrasonic vibration devices, carboxy devices, and medical product injection devices such as mesotherapy, PRP, filler, and Botox. Chemical or electrical skin peeling or via a crystal device."

1. Patient examination by a dermatologist specialist, authorized through a specific form prepared by the ministry for this purpose and according to the type of procedure.
2. A licensed skincare technician under the provisions of this regulation and the following conditions: a. Holds a bachelor's degree in nursing or any other healthcare profession. It is suggested that the medical categories allowed to practice this profession be specified in a way that does not conflict with their original profession. b. Has completed an approved training course lasting no less than two years on a full-time basis at centers licensed by the ministry and subject to its supervision. Certificates from centers not accredited by the ministry are not accepted.

Just as there are regulations, conditions, and rules for practicing any medical profession that involve interacting

with the human body, it is not sufficient to simply provide training courses as technical experience, even if the trainee obtains a practice certificate for the profession.

4. The skincare technician mentioned in paragraphs (2) and (3) of this section is required to hold a certificate issued by the minister allowing them to use laser devices permitted for use in skincare centers. This certificate is granted after passing an examination conducted by the ministry in a manner it deems suitable for this purpose. The use of lasers carries risks that can lead to various harms, and as the percentage of harm increases, so does the medical responsibility. In the Medical Liability Law, medical specialties are listed, but not exhaustively, as they serve as examples of medical procedures that may entail medical liability, whether it is criminal or civil."

Branch Three: Specialized Dentists Exceeding the Boundaries of Their Specialization: Referring to the laws of the Dentists' Syndicate, a dentist must adhere to the location and timing of practicing their profession, and otherwise, it is considered a violation of this provision of the Syndicate's law. An example of this is a specialist orthodontist who holds the rank of specialist and is not authorized to perform cosmetic facial and jaw surgeries.(6)

Branch Four: The Nature of a Physician's Commitment in Non-Surgical Medical Procedures: We mentioned that a physician's commitment primarily involves making an effort and providing care. Some cases of non-surgical cosmetic procedures can be categorized under the commitment to providing care, while others fall under the commitment to achieving results. An example of this is a patient who requested porcelain veneers from the doctor, but the appearance of the teeth did not please the patient and was not suitable for the face. The patient then filed a complaint with the syndicate. After an examination by the dental prosthetics committee, a medical error was found in the scientific fundamentals of the prosthetic procedures, with a report written accordingly. So, was the physician's shortcoming in providing care or in achieving the desired result?(7)

Therefore, we can say that not all cases of dental prosthetics in the form of porcelain veneers deserve to be classified under the category of achieving results. These cases can be divided if there is an agreement or if the patient's natural condition allows for achieving a result from a medical and scientific perspective, in the absence of any misalignment or any natural or abnormal issue that may affect the physician's work..(8)

In another instance, for a patient who wishes to have Botox or filler injections, the doctor's commitment lies in providing care, not necessarily achieving a specific result. In this case, the process differs from dental prosthetics. The researcher prefers that non-surgical cosmetic procedures involving the face be approached with care and caution because people's perceptions of beauty vary from one individual to another, and their expectations regarding the results also differ. Therefore, some cosmetic procedures do not have a specific endpoint, making the achievement of results a challenging endeavor.

Branch Five: The Nature of the Physician's Commitment to Achieving Results in Non-Surgical Medical Procedures:

As previously mentioned regarding the commitment to providing care, the other type of commitment is related to achieving results, particularly in dental prosthetics. This topic can be divided into two distinctive aspects of a doctor's work:

The Medical Aspect: This involves identifying the nature of the medical issue and determining the most suitable treatment using dental prosthetics. This is a purely medical matter, where the doctor's commitment lies in providing care.

The Technical Aspect: This relates to determining the measurements of the prosthetics, the quality of the materials used, and how well they fit the patient's body, among other technical specifications of dental prosthetics that align with the patient's condition. In this aspect, the doctor's commitment is to achieve a result. If the prosthetics do not meet the standard specifications, the patient has the right to hold the doctor accountable for failing to meet the technical requirements. Similarly, if a

patient suffers from misalignment or dislocation of their teeth, the doctor's commitment to fitting the teeth involves achieving the result in terms of technical specifications and suitability for the patient's case. If the doctor fails in this regard, they cannot attribute it to a lack of effort and care if the result is not achieved. However, they may be able to defend themselves by proving that the result was not achieved due to external factors beyond their control.(9-10)

The researcher believes that this opinion contradicts logic in terms of the doctor's role. While the doctor's role may be limited to taking precise and accurate measurements, the other party, which is the laboratory, is responsible for manufacturing these prosthetics. Therefore, the researcher believes that the doctor's primary duty is, in essence, to provide care rather than to achieve the result.

Furthermore, if there is a discrepancy in the fit, meaning that it deviates from the ideal shape of the teeth, the commitment should still be to provide care. Regardless of the doctor's skill, it can be challenging to achieve the desired result for the patient in some cases. In certain treatments where the natural appearance of the teeth is not problematic and there are no issues with the prosthetics, achieving perfection, or in other words, achieving the result, is possible.

There are scientific principles, conditions, and guidelines upon which the doctor bases their treatment plan for dental prosthetics. If the patient meets these conditions, the commitment can shift from providing care to achieving the result. For example, if a person's alignment is correct, and the smile line is proper, but the only issue is the color of the teeth, then if an agreement is reached to create porcelain veneers based on an image provided by the patient, the doctor's commitment becomes achieving the result rather than simply providing care. However, if a person is missing some teeth and needs fixed dental prosthetics, this becomes a medical, functional condition, and as such, the doctor must provide the necessary care.

Results:

There are some medical specialties that overlap in their work with another medical specialization. For example, the dermatology specialty shares medical procedures around the mouth with dentists, such as injecting Botox to conceal the gummy smile. This is not considered a form of medical error.

One of the forms of medical errors that deserve punishment is negligence or lack of precautions or failure to adhere to laws, regulations, and instructions. Among them, as we mentioned, is when a doctor exceeds the boundaries of their work in the field of non-surgical cosmetic procedures, for example.

The responsibility of a dentist varies depending on the type of medical work, and it can be divided into providing care or achieving results.

Conclusion

In conclusion, this research on Criminal Liability for Non-Surgical Cosmetic Dentistry Procedures highlights several critical findings and insights:

1. Dentists who engage in facial or body cosmetic procedures outside the scope of their practice face legal consequences. Such actions violate professional boundaries and may result in criminal liability.
2. Medical professionals from specific specialties must stay within the limits of their expertise when performing non-surgical facial cosmetic procedures. Crossing these boundaries can lead to legal repercussions.
3. Dentists, even within their specialized field, must adhere to their professional boundaries. Deviating from these boundaries may result in criminal charges.
4. The commitment of dentists in non-surgical medical procedures can be categorized into providing care and achieving specific results. Understanding this distinction is crucial in determining their legal liability.
5. Legal cases presented in this research demonstrate real-world instances where dentists faced legal consequences for exceeding their professional boundaries. These cases emphasize the importance of

adhering to recognized standards within the dental profession.

Overall, this research underscores the significance of maintaining professional integrity and adhering to established standards within the dental field. It highlights the legal implications of deviating from these standards and provides valuable insights for both dental practitioners and the legal system.

Recommendations

Establishing guidelines for each medical and dental specialization regarding the boundaries of medical responsibility in the field of non-surgical cosmetic procedures.

Implementing disciplinary penalties on anyone who violates the ethics and professional standards of the profession.

Establishing a procedure for obtaining certificates of medical practice for non-surgical cosmetic treatments, qualifying individuals to work in this field.

Reference

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2. Judgment No. 9460 of 2021 - North Amman Criminal Reconciliation, issued on 2021-11-30.
3. Judgment No. 1108 of 2021 - Amman Court of First Instance in its appellate capacity, issued on 2021-04-28, Health Law Article 15.
4. Judgment No. 2581 of 2019 - Amman West Court of First Instance in its appellate capacity, issued on 2019-11-18.
5. Practice of the Profession of Skin Care and Hair Removal Law for the year 2017, Article 38.
6. Practice of the Profession at Specified Time and Place, Article (15):
The doctor must practice the profession at the specified time and place, and may not be relieved of this commitment except by executing it.
7. Decision of the Jordanian Court of Cassation Rights No. 2008\2119, 5\14\2009, Publications of the Center for Justice.
8. Judgment No. 13143 of 2017 - Oman Rights Reconciliation, issued on 2019-01-.

9. Judgment No. 7433 of 2017 - West Amman Criminal Reconciliation, issued on 2020-12-31.
10. Wijdan Arteema, previous reference, pages 85-86.