

SHORTCOMINGS IN MEDICAL CIVIL LIABILITY IN JORDAN AND THE ROLE OF PUBLIC ADMINISTRATION IN ADDRESSING THEM

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ABSTRACT

Medical civil liability is one of the most significant legal issues reflecting the balance between patients' rights and physicians' professional duties. It also serves as a key indicator of the effectiveness of healthcare and judicial systems in protecting society. The Jordanian legal system faces several shortcomings in this field, most notably the absence of a clear legal definition of the nature of physicians' civil liability, the insufficient recognition of psychological and moral harm suffered by patients, the weakness of professional medical insurance systems, and the lack of effective administrative and technical oversight of medical practices. This study aims to analyze these shortcomings while highlighting the role of public administration in the healthcare sector in addressing them. It focuses on strengthening preventive measures, establishing specialized technical committees, supporting continuous training and professional development programs for physicians and healthcare workers, and developing comprehensive legal frameworks regulating medical civil liability. The study adopts a descriptive-analytical approach to examine Jordanian legislation related to medical civil liability and to assess its impact on enhancing medical safety. The findings indicate those weak legal provisions, inadequate administrative oversight, and the absence of mandatory professional medical insurance increase the likelihood of medical errors and limit patients' ability to claim their legal rights. Accordingly, the study recommends enacting clear legal provisions defining physicians' civil liability, imposing mandatory professional medical insurance, strengthening administrative and technical supervision, and establishing specialized advisory committees to support the judiciary in medical cases. These measures are expected to contribute to reducing medical errors and achieving justice for affected patients.

KEYWORDS: Medical Civil Liability, Medical Errors, Public Administration, Healthcare Sector, Patient Rights, Professional Medical Insurance.

1. INTRODUCTION

Legal systems in Arab countries, including Jordan, face significant challenges in regulating medical civil liability due to the complex nature of the physician-patient relationship and the sensitivity of medical decisions, which directly affect individuals' lives (Vitrianiingsih et al., 2023). Achieving justice in this field requires a clear and coherent legal framework that defines the scope and limits of physicians' civil liability while establishing effective mechanisms for compensating affected patients without undermining the professional integrity and medical standing of healthcare providers. (Arimbi, 2025) Recent studies indicate that the absence of precise legal regulation governing the nature of physicians' liability has led to inconsistent judicial interpretations, an increase in disputes between patients and healthcare institutions, and a negative impact on the quality of healthcare services. Moreover, weak administrative and technical oversight contributes to a higher incidence of medical errors, while inadequate professional medical insurance systems fail to provide sufficient protection for both physicians and patients (Younes, 2021; Gheorghie et al., 2021).

Against this background, the present study examines the shortcomings of medical civil liability in Jordan, with a particular focus on the role of public administration in addressing these challenges. The study emphasizes the importance of preventive measures, the establishment of specialized technical committees, the implementation of continuous training and capacity-building programs, and the development of effective legal legislation. Ultimately, it seeks to propose practical recommendations aimed at enhancing the protection of patients' rights and improving the overall quality of healthcare services. (Arimbi, 2025)

2. Medical Civil Liability

The rapid development of medical sciences across all specialties has increased the complexity and risks associated with modern medical practice, particularly due to the use of advanced interventions and pharmaceuticals with potentially unpredictable side effects (Vitriarningsih et al., 2023).

In Jordan, these developments have contributed to a noticeable rise in medical errors and, consequently, an increase in litigation seeking compensation for damages resulting from medical malpractice. (Alabdallat & Alsalhi, 2025)

Within this context, medical civil liability in Jordan is governed by professional standards that distinguish it from other forms of civil liability, reflecting the unique nature of the medical profession and its direct connection to the protection of human life. This reality highlights the need for a clear and effective legal framework capable of balancing patients' rights with physicians' professional responsibilities. (Aawishe et al., 2024)

2.1 The Concept of Medical Civil Liability

Medical civil liability constitutes a specialized form of civil liability that focuses on compensating patients for damages resulting from a physician's or healthcare practitioner's breach of professional duties. Such breaches may arise from negligence, failure to comply with established scientific and medical standards, or violation of recognized treatment protocols (De Micco et al., 2024). One of the most distinctive features of medical civil liability is its technical nature, the difficulty of proving fault, and its occasional intersection with criminal and disciplinary liability (Beauchamp & Childress, 2019). Medical liability is not established solely on the basis of an unsuccessful medical outcome; rather, it requires proof that the damage suffered by the patient was caused by a professional error attributable to the physician. (De Micco et al., 2024) This error is assessed according to the standard of care expected from a specialist physician under similar circumstances, rather than the standard of an ordinary person. Such an approach seeks to maintain a fair balance between safeguarding patients' rights and protecting physicians from unjustified liability. (Al-Zubi et al., 2024)

In Jordan, the Medical and Health Liability Law No. (25) Of 2018 represents the principal legislative framework governing the handling of medical errors. (Alayaydeh et al., 2025) This law clearly defines medical error, outlines the procedures that must be followed when such errors occur, and authorizes specialized technical committees to assess medical cases and issue decisive opinions. The law distinguishes between two main categories:

Medical error: A breach of professional standards or negligence by a physician that results in harm to the patient.

Medical complications: Adverse outcomes that may occur even when proper medical procedures are correctly followed; the assessment of such cases is entrusted to specialized technical committees.

This law provides a foundational basis for analyzing the shortcomings of medical civil liability in Jordan. It also serves as a starting point for developing preventive and accountability mechanisms that protect patients' rights while ensuring safe and professional medical practice. (Arimbi, 2025)

2.2 Pillars of Medical Civil Liability

Medical civil liability is founded on three essential pillars: medical fault (error), damage, and causation. The establishment of liability requires the concurrent existence of these elements.

2.2.1 Medical Error

Medical error refers to any breach of a physician's professional duty arising from negligence, lack of due care, misjudgment, or violation of established scientific and technical medical standards. (De Micco et al., 2024) A medical error is established when a physician, in the course of practicing the profession, deviates from accepted medical rules in a manner that results in harm to the patient.

Medical errors may take various forms, the most prominent of which include:

- Diagnostic errors, such as delayed diagnosis or misdiagnosis.
- Therapeutic errors, including the prescription of inappropriate medication or incorrect dosages. (Alabdallat & Alsalhi, 2025)
- Errors in medical follow-up, such as failure to monitor the patient's condition after surgical or therapeutic intervention.

- Organizational or administrative errors, including negligence in maintaining medical records or poor coordination among healthcare staff.

Empirical studies indicate that a significant proportion of medical errors are attributable not to individual physicians but to administrative and organizational deficiencies within healthcare institutions (Wachter, 2017).

Moreover, the error need not be gross to give rise to liability; it is sufficient that the error be effective and influential in producing the harmful outcome. The assessment of medical error is conducted according to an objective standard, namely the conduct expected of a prudent and experienced physician of the same specialization under similar circumstances (O'Reilly, 2021).

2.2.2 Damage

Damage constitutes the harm suffered by the patient as a result of a medical error and may be either material or moral (psychological) in nature. (De Micco et al., 2024)

- Material (Physical) Damage

Material damage includes any injury affecting the patient's body or property, such as permanent or temporary disability, loss of a bodily organ or function, and additional medical treatment expenses (Arimbi, 2025). Jurisprudence widely recognizes this type of damage as the traditional basis for compensation in civil liability regimes.

- Moral (Psychological) Damage

Moral damage refers to psychological pain, emotional suffering, or the violation of human dignity experienced by the patient as a consequence of medical malpractice. Examples include anxiety, depression, and loss of confidence in the healthcare system, or feelings of humiliation. Comparative legislation, particularly Egyptian law, has explicitly recognized compensation for moral damage, whereas Jordanian law remains relatively restrictive in this regard, reflecting a notable legislative shortcoming (Younes, 2021).

2.2.3 Causal Relationship

The causal relationship represents the legal link between the medical error and the damage suffered by the patient and is considered one of the most complex elements of medical civil liability (Mambrasar et al., 2024). Establishing causation requires proof that the harm was a direct result of the medical error rather than an external factor, such as the patient's pre-existing medical condition or force majeure.

The difficulty of proving causation arises from several factors, including the complexity of medical conditions, the multiplicity of medical variables, and the involvement of more than one physician or healthcare institution. (Al-Khraisat & et al. 2025) Consequently, modern legal systems increasingly rely on collective medical expertise, specialized technical committees, and electronic medical records to accurately determine the cause of harm (Gheorghe et al., 2021).

2.3 Specific Characteristics of Medical Civil Liability

Medical civil liability is distinguished by several unique characteristics, the most significant of which include:

- Its specialized technical nature: Medical error is assessed according to the standard of a physician of similar specialization, experience, and circumstances, rather than that of an ordinary person.

- Its overlap with criminal and disciplinary liability: A single medical act may give rise to multiple forms of accountability, necessitating legislative clarity to distinguish between civil, criminal, and disciplinary responsibility. (Limb, 2025)

- The difficulty of proof: Patients often face challenges in proving medical malpractice due to limited technical expertise and restricted access to medical documentation. In response, modern legislation has adopted procedural mechanisms to assist claimants, such as partial reversal of the burden of proof and reliance on independent medical experts (Moore, 2020).

3. Shortcomings in the Jordanian Regulation of Medical Civil Liability

Although the Medical and Health Liability Law No: (25) of 2018 represents a significant legislative step toward regulating medical practice in Jordan, its provisions remain insufficient to comprehensively address medical civil liability. In practice, Jordanian courts continue to rely primarily on Article (256) of the Jordanian Civil Code as the general basis for civil liability, which establishes the principle that any harm obliges the perpetrator to provide compensation. (Alabdallat & Alsalhi, 2025)

However, this provision neither specifically addresses nor distinguishes medical civil liability, nor does it define the particular legal nature of a physician's responsibility (Hamza, 2019). This legislative gap has resulted in several structural shortcomings that undermine the effectiveness of medical liability regulation in Jordan.

3.1 Lack of a Clear Definition of the Nature of Physicians' Civil Liability

One of the most significant shortcomings of the Jordanian legal framework is the absence of a clear determination of the legal nature of physicians' civil liability. This ambiguity leaves broad discretion to

judicial interpretation, leading to inconsistent rulings, disparities in compensation, and uncertainty regarding the applicable standards of proof in medical malpractice cases (Alabdallat & Alsalhi, 2025). Legal scholars emphasize that clarifying whether medical liability is contractual or tortious in nature is essential for protecting patients' rights, regulating the relationship between physicians and healthcare institutions, and ensuring objective and predictable judicial outcomes (Abdel Hamid, 2007). Law No. (25) Of 2018 focuses primarily on defining medical error and establishing procedures for addressing medical complaints through specialized technical committees? However, it does not explicitly determine whether physicians' civil liability is contractual or tortious in nature. This legislative omission perpetuates judicial uncertainty and leads to inconsistent interpretations regarding the applicable rules of proof, limitation periods, and standards of compensation. (Limb, 2025)

3.2 Limitation of Compensation to Material Damages

Another notable deficiency in Jordanian legislation is the restriction of compensation to material damages, with limited or no recognition of psychological and moral harm suffered by patients as a result of medical errors (Alabdallat & Alsalhi, 2025).

This narrow approach contributes to patients' feelings of injustice and undermines public trust in the healthcare system. Comparative experiences in several Arab and European legal systems demonstrate that recognizing compensation for moral and psychological damages significantly enhances patient protection and promotes substantive justice (Häyrinen, 2020).

While Law No: (25) Of 2018 acknowledges the concept of medical error and its consequences, it does not provide explicit provisions addressing compensation for psychological and moral harm. As a result, in practice, compensation remains largely confined to material damages, leaving patients without adequate redress for emotional suffering, loss of dignity, or diminished trust in the healthcare system. (AlKhatatneh, 2023)

3.3 Weakness of Professional Medical Insurance Systems

The absence of mandatory professional medical malpractice insurance constitutes a major structural weakness within the Jordanian medical liability framework. Many physicians lack the financial capacity to satisfy substantial compensation awards, often resulting in prolonged and complex legal disputes. (Al-Khraisat & et al. 2025) Introducing compulsory professional medical insurance would ensure the availability of compensation for patients harmed by medical errors while simultaneously protecting physicians from excessive financial burdens, thereby enhancing legal stability and professional security (Gheorghe et al., 2021).

Although Law No. (25) Of 2018 establishes procedural mechanisms for investigating medical errors and assessing claims through specialized technical committees, it does not impose mandatory professional medical malpractice insurance on physicians or healthcare institutions. This legislative omission undermines the law's effectiveness in guaranteeing prompt and adequate compensation for injured patients and exposes physicians to significant financial risks.

3.4 Inadequate Administrative and Technical Oversight

Administrative and technical oversight of medical practices by public authorities remains insufficient in both public and private healthcare institutions. (Zein et al., 2024) This deficiency is manifested in inadequate documentation of medical procedures, the absence of independent specialized technical committees to assess medical errors, and the lack of systematic and continuous training programs for healthcare personnel. Furthermore, weak coordination between public administration and judicial authorities limits the effectiveness of preventive measures and contributes to a higher incidence of medical disputes (Younes, 2021).

Law No. (25) Of 2018 authorizes the establishment of specialized technical committees to evaluate medical errors and complaints. However, the practical effectiveness of these committees is constrained by limited institutional independence, insufficient administrative coordination, and the absence of standardized operational procedures. In addition, the law does not provide a comprehensive framework for continuous administrative and technical supervision of medical practices, nor does it mandate systematic professional development programs for healthcare staff.

3.5 Prevalence of Unauthorized Medical Practices

The practice of medicine outside the scope of licensed qualifications or authorized medical specialties poses a significant threat to patient safety and markedly increases the risk of medical errors. This phenomenon underscores the urgent need for stricter administrative supervision and the implementation of robust regulatory mechanisms to monitor medical licensing, verify professional competence, and ensure adherence to established medical and ethical standards (Abdel Hamid, 2007).

Although Law No. (25) Of 2018 emphasizes adherence to professional standards and the obligations of physicians, it does not provide sufficiently stringent mechanisms to prevent practitioners from operating

beyond the scope of their licensed specialties. Consequently, unauthorized medical practices continue to pose serious risks to patient safety and contribute to the incidence of medical errors. (Awaisheh et al., 2025)

4. The Role of Public Administration in Addressing Shortcomings in Medical Liability

Public health administration plays a pivotal role in mitigating medical errors and enhancing the efficiency and quality of healthcare services. Its contributions encompass a range of practical measures designed to strengthen patient safety, support physicians, and facilitate judicial oversight in cases of medical malpractice. Key measures include:

4.1 Development of Electronic Patient Documentation

The adoption of electronic health records (EHRs) ensures the accurate documentation of every stage of diagnosis, treatment, and follow-up. (Mambrasar et al., 2024) This facilitates the monitoring of medical cases, reduces the likelihood of errors, and provides judges and medical experts with precise technical data for evaluating medical liability claims (Gheorghe et al., 2021). Additionally, leveraging artificial intelligence and big data systems enables the analysis of medical error patterns, identification of high-risk practices, and the implementation of preventive measures through targeted training, procedural adjustments, and risk management strategies (Häyrinen, 2020).

4.2 Establishment of Independent Technical Committees

Public administration supports the creation of independent technical committees composed of medical experts to assess cases of alleged medical errors before referral to the judiciary. These committees provide objective, evidence-based assessments and technical reports, enhancing the fairness and accuracy of judicial decisions in medical liability cases (Wachter, 2017).

4.3 Continuous Training and Professional Development

Systematic training and professional development programs for physicians, nurses, and allied healthcare personnel are essential for maintaining adherence to modern scientific standards. (De Micco et al., 2024) Such programs improve clinical skills, update staff on the latest diagnostic and therapeutic technologies, and promote safe medical practices. Training encompasses risk management, emergency response, patient rights, and professional responsibilities, contributing to a reduction in medical errors, higher quality of care, and stronger trust between patients and healthcare providers (Häyrinen, 2020).

4.4 Prevention and Awareness Measures

Public administration implements awareness campaigns and educational programs to promote a culture of professional responsibility and patient safety. (Zein et al., 2024) These initiatives inform medical staff about patient rights, ethical standards, and adherence to proper medical procedures. Emphasis is placed on accurate medical documentation, effective communication with patients, and compliance with legal and professional obligations, thereby reducing the likelihood of negligence or errors and fostering a safe healthcare environment (Abdel Hamid, 2019).

4.5 Coordination with Judicial Authorities

Effective coordination between public health administration and judicial bodies is crucial for supporting the adjudication of medical liability cases (De Micco et al., 2024). By providing accurate medical records, technical reports, and expert consultations, public administration ensures that courts have the necessary information to render fair and informed decisions (Mambrasar et al., 2024). This collaboration strengthens medical accountability, reduces the risk of misjudgment, and guarantees the protection of both patients' and physicians' rights (Häyrinen, 2020).

4.6 Enhancing Doctor-Patient Communication

Public administration encourages the use of electronic communication platforms to clarify patients' and physicians' rights and responsibilities before and during medical service delivery. Transparent communication fosters trust, reduces misunderstandings, and minimizes potential legal disputes, thereby supporting a more collaborative and accountable healthcare environment (Greenhalgh et al., 2018).

5. Recommendations and Proposed Reforms for Developing Medical Civil Liability in Jordan

Enhancing the legal framework governing medical civil liability is essential for strengthening the protection of patients' rights, ensuring fair compensation in cases of medical malpractice, and promoting adherence to professional and ethical standards among physicians (Vitrianiingsih et al., 2023). Effective reforms also facilitate judicial procedures by clarifying responsibilities and providing technical and legal support, thereby enhancing accountability, reducing recurring medical errors, and building trust between patients and healthcare institutions (Gomes & Luz, 2024). Key recommendations include the following:

5.1 Clarifying the Nature of Physicians' Civil Liability

A major deficiency in Jordanian law is the lack of clarity regarding whether physicians' civil liability is tortuous (negligent) or contractual in nature. Clarifying this distinction is crucial for:

- Determining the type and extent of compensation, whether limited to expected damages or extending to unexpected losses. (De Micco et al., 2024)
- Establishing clear standards for proving liability and initiating legal claims, reducing inconsistent judicial interpretations.

Issuing explicit legal provisions that define the nature of physicians' civil liability according to the circumstances of the medical error would strengthen legal certainty, protect patients' rights, and ensure fair judicial outcomes (Younes, 2021).

5.2 Expanding Compensation to Include Psychological and Moral Damages

Current Jordanian legislation limits compensation to material damages, neglecting psychological and moral harm resulting from medical errors (Alabdallat & Alsalhi, 2025). Reform should include:

- Clear legal recognition of moral and psychological damages as compensable harms. (Mambrasar et al., 2024)
- Establishment of fair and standardized assessment mechanisms for such damages.

This reform would enhance patient protection, promote substantive justice, and align Jordanian law with comparative experiences in Arab and European jurisdictions (Abdel Hamid, 2007).

5.3 Mandating Professional Medical Malpractice Insurance

The absence of mandatory medical malpractice insurance constitutes a major weakness in the Jordanian system. Reforms should require all physicians, whether in public or private institutions, to hold professional liability insurance covering compensation for medical errors (Gomes & Luz, 2024). Such a measure:

- Ensures patients receive timely and adequate compensation.
- Protects physicians from excessive financial burdens.
- Enhances legal and professional stability within the healthcare sector (Gheorghe et al., 2021).

5.4 Strengthening Public Administration Oversight and Prevention

Public health administration should play a central role in reducing medical errors and improving healthcare quality through (Vitrianiingsih et al., 2023):

- Electronic patient documentation: Implementing comprehensive electronic health records to record all stages of diagnosis and treatment, facilitating case monitoring and error prevention.
- Independent technical committees: Forming specialized committees of medical experts to evaluate cases before judicial referral, ensuring objective and evidence-based assessments. (Alabdallat & Alsalhi, 2025)
- Continuous training and development: Conducting ongoing programs for all medical staff to maintain proficiency in modern medical standards, risk management, patient rights, and professional responsibilities. (Alabdallat & Alsalhi, 2025)
- Preventive and awareness measures: Promoting a culture of patient rights, adherence to ethical and medical standards, and safe clinical practices within healthcare institutions. (Zein et al., 2024)
- Coordination with judicial authorities: Providing technical expertise, accurate documentation, and legal support to ensure informed and fair adjudication of medical cases. (Abbas, & Al-Qaisi, 2025)
- Implementing these measures enhances the preventive capacity of public administration, reduces medical errors, and minimizes legal disputes related to physicians' civil liability (Häyrinen, 2020).

5.5 Establishing Judicial and Advisory Committees Specializing in Medical Errors

Experience demonstrates the value of specialized committees to evaluate medical malpractice cases prior to court referral (Mambrasar et al., 2024). Recommended reforms include forming multidisciplinary committees within the Ministry of Health comprising:

- Medical specialists in relevant fields.
- Legal experts in civil and medical liability.
- Representatives from professional medical associations to ensure compliance with standards. (Alabdallat & Alsalhi, 2025)

These committees would provide objective assessments of liability, protect patients' rights, and reduce the judicial system's burden.

5.6 Combating Unauthorized Medical Practices

Illegal or unlicensed medical practice remains a major cause of medical errors in Jordan. Reforms should include (De Micco et al., 2024):

- Strict monitoring of physicians' licenses and adherence to their authorized specialties. (Alabdallat & Alsalhi, 2025)

- Enforcement of sanctions against violations to deter unauthorized practice.

Addressing this issue protects patient safety, reduces the incidence of medical errors, and reinforces professional accountability (Gheorghe et al., 2021; Younes, 2021).

Implementing these recommendations will create a balanced framework that protects patients' rights while preserving physicians' ability to practice safely and effectively. (Zein et al., 2024) These reforms position Jordan on a path toward comprehensive development of its medical civil liability system, aligning national practice with international standards. (Awaisheh, 2025)

6. CONCLUSION AND DISCUSSION

Medical civil liability plays a fundamental role in safeguarding patients' rights and ensuring the provision of safe and effective healthcare services. However, the Jordanian legal system continues to face multiple shortcomings in this area. The most prominent deficiencies include the ambiguity in defining the nature of physicians' civil liability, the limited recognition of psychological and moral harm suffered by patients, the weakness of professional medical insurance mechanisms, and insufficient administrative and technical oversight of medical practices.

The study's findings indicate that these shortcomings are not confined to legislative gaps alone but extend to administrative and technical aspects, which collectively increase the likelihood of medical errors and limit patients' ability to claim their rights. This underscores the pivotal role of public administration in the health sector, whether through continuous training programs for healthcare personnel, the establishment of specialized technical and advisory committees, or providing expert support to the judiciary in medical cases.

The research highlights the importance of achieving a balanced approach that protects both patients and physicians. Physicians should be shielded from disproportionate legal burdens resulting from simple or unintended professional errors, while patients must receive fair compensation for damages suffered. Protecting physicians from excessive liability encourages adherence to professional standards and enhances the overall quality of healthcare, whereas safeguarding patients' rights ensures justice and builds public confidence in the healthcare system. (Alabdallat & Alsalhi, 2025)

Effective coordination between legislation and public administration is essential for creating an integrated system. This system should include clear legal provisions defining the nature of civil liability, mandatory professional medical insurance, and expanded compensation to cover both material and moral damages. Implementing these reforms strengthens the protection of both patients and physicians, improves the quality of healthcare services, reduces unlawful medical practices, and promotes justice and trust within the Jordanian health and judicial systems.

In conclusion, the adoption of the proposed legislative, administrative, and procedural reforms contributes not only to protecting the rights of all parties involved but also to enhancing the safety, efficiency, and reliability of healthcare services in Jordan. These reforms create a responsible medical environment that ensures justice, accountability, and trust for patients, physicians, and the broader society.

To address these deficiencies, several legislative proposals can be considered.

First: the legal framework should explicitly define the nature of physicians' civil liability, clarifying whether it is tortious or contractual.

Second: compensation provisions should extend beyond material damages to include moral and psychological harm, with clear assessment criteria.

Third: mandatory professional medical liability insurance should be imposed on all physicians, ensuring patient protection without placing undue financial burden on healthcare providers.

Fourth: public administration should be empowered to establish independent technical and advisory committees, supervise compliance with professional standards, and coordinate effectively with judicial authorities.

Finally: stricter regulatory mechanisms should be enforced to prevent unauthorized medical practice, thereby reducing errors and enhancing patient safety.

Implementing these measures would strengthen the balance between patient rights and physicians' professional freedom, improve the quality of healthcare, and foster trust in the Jordanian health and judicial systems.

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