

# The Criminal Liability for the Medical Reports that Contradict Reality under the Qatari and Jordanian Laws: A comparative study

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## Abstract

The study deals with a very important topic, which is “the criminal liability arising from medical reports contrary to reality in Jordanian law (a comparative study).” The importance of this study is followed by the fact that it deals with an important and sensitive topic related to achieving justice. Medical reports contrary to reality have become a phenomenon witnessed by society, and it has become resorted to. Some have the right to curse and plot against others, or in order to accuse them of accusing another person, or other improper intentions that these false and counter-factual reports seek to achieve, and despite its importance, it has not received sufficient and thorough study in Jordanian law. The study concluded that the medical report is considered an official document, meaning it enjoys legal protection. Therefore, we find that the Jordanian legislator has colored its legal protection and set a penalty for those who issue a medical report in contradiction or issued by a person not authorized to do so because it limits the parties entitled to issue reports. They are the official public authorities, and accordingly, in order for the medical report to be valid, fulfilling the conditions and having legal value, it must be issued by an official authority after examining the case requesting the report. The researcher wishes for the Jordanian legislator to reformulate the texts governing the crime of giving false certificates and forgery in official documents, in order to make the elements of the crime of forgery in medical reports and to give false medical certificates sufficiently clear and specific.

**Key words:** medical reports, false medical certifications, medical criminal liability.

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## Introduction:

The issuance of medical reports of various types, images, forms and purposes is one of the most important responsibilities that lie with the doctor, as the medical report is a medical certificate regarding the description or diagnosis of a case of injury, wound, disease, disability, pregnancy or death, or estimating the age of a person or exploring the impact of an act A person in his body, or an indication of the extent of his health fitness for a specific work, return to work, or his need for convalescence, or to refrain from exerting a certain effort, or to indicate the cause of illness, injury, cause of death, or failure of an organ or organ of the human body, or a certificate of complete vaccination of a person with taste Preventively against a specific disease, or if it is free from an infectious disease, or by analyzing a sample taken from a human body for laboratory medical diagnosis ... and so on, whether or not, so the doctor may not write a medical report far from his specialty or contrary to the reality that he reached from During his personal examination of the patient.

Medical reports, like any document or evidence, are subject to scrutiny and discussion, because it may be safe from every defect, fulfilling all the required conditions and data, and it may be falsified, false, and tainted by the defect of corruption and invalidity. False medical reports have become harassing justice and threatening innocent people, and some have resorted to healing and maliciousness against others, or in order to attach his interests to another person, or other improper intentions that these false reports seek to achieve, and contradict the real facts. The judge has an excuse to take it, because he is obliged to take it whenever I am assured of her safety, and as we indicated in view of the huge amount of these reports, the judicial authority faces a problem of verifying its safety, or making sure of the validity of the information contained in it, because it may be the victim of the victim He harmed himself and obtained a medical report, and the doctor may have issued a false medical report that is inconsistent with the truth for some reason, and from here it was necessary to clarify the criminal responsibility arising from the issuance of medical reports that are contrary to reality, and before the search in the form of the criminal responsibility involved, it is necessary to study medical reports from Where it looks and conditions for

editing it and who is editing it, and the data that it needs to include, and this will be done through this research.

### **Research problem:**

The research problem is that reports that are inconsistent with reality interfere with the balance of justice, equal between the perpetrator and the victim before the judicial and investigative bodies, and that the spread of reports contrary to reality will cause great penalties to innocent people, because in some cases, the report is considered evidence of condemnation, whether in civil rights or punishment Penalties, which will lead to changes in judgments and judicial decisions, and affect their health, and accordingly, he will try to answer the main question that revolves around knowing "What is the criminal responsibility of medical reports contrary to reality?", And this sub-question is divided into several sub-questions represented as follows:

- 1- What is the nature of the medical reports that are against reality (false reports and false or fake reports)?
- 2- What is the extent of the impact of medical reports inconsistent with the judicial decisions?
- 3- What are the methods that can verify the authenticity of medical reports that are inconsistent with reality?

### **Research objectives:**

The research aims to achieve the following goals:

Explain the concept of false medical reports and their types.

- Explaining the doctor's criminal responsibility for false medical reports and their implications.
- Explaining the criminal penalty prescribed for the crime of falsifying medical reports.

### **Research importance:**

The importance of this research lies in the fact that it deals with the topic of "the criminal responsibility of false medical reports that are contrary to reality in the Qatari law and its comparison with the Jordanian law", in that it is related to achieving justice, threatens the innocent, and some have resorted to healing and maliciousness against others, or in order to attach his accusations to a person Another, or other improper intentions that these false reports and contradicting the real facts seek to achieve, and despite its importance, it was not adequately and thoroughly studied in Jordanian law.

## **The First Topic**

### **What is a medical report?**

The medical report is generally considered to be a description of the patient's condition by the specialist doctor, in which the doctor mentions the type of disease that the patient suffers by relying on the nature of the causes and symptoms appearing on him, so it is considered an official document to document the patient's condition, the stages of his treatment during a period of time Specific so-called (therapeutic period) (Al Harbi,2005).

Medical reports differ according to the author and the time of their writing, as they are in terms of the author, the report editor may be the receptionist or the specialist doctor, and this is called a medical report, or radiological images to verify the body of the injured, and it may be a final medical report, which is the report written by a specialist doctor in the department. In which the patient was treated and a complete description of the patient's condition was written from the moment he entered the hospital and the diagnostic tests and treatment procedures followed and the patient's condition was followed upon discharge from the hospital (Obaid, 2001).

Therefore, the legal profession defined the medical report with several definitions, but some of them are incomplete definitions, as they are limited to medical reports that focus on one of the cases that require a medical report, such as criminal cases, or medical cases, including non-preventive definitions, including definitions that lengthen and detail not Needed (Al Harbi,2005).

Through this topic, extremism will be detailed in order to discuss the nature of medical reports, their definition and their types, according to the following division:

### **The first requirement**

#### **Definition of medical reports**

Defining scientific concepts is necessary in scientific research, and the concept is the symbolic means by which a person uses to express different meanings and ideas in order to communicate them to other people, and some concepts are easy to define because they express concrete things that can be referred to or expressed in movement, and some others It is difficult to define clearly and precisely because it expresses intangible things and requires a high level of abstraction. Accordingly, and through this requirement, the concept of medical reports will be defined in several aspects, in terms of language, law and convention, as follows: (Al Zayat et al 1985).

### **The first branch: Definition of medical reports in the language**

A medical report is a comprehensive report that covers a person's clinical history. A medical report is a vital piece of evidence that can validate and support your claim for Social Security Disability benefits.

Ideally, your medical report should be completed by a doctor or medical professional who is familiar with your condition and who has treated you for a significant period of time.

#### ***What is Included in a Medical Report?***

Your medical report should prove that you have a specific condition that is severe enough to keep you from working and earning a living. The medical report may include, but is not limited to the following items:

- Laboratory test results
- Medical images
- A history of your treatments
- Your response to treatments
- Documentation of any medications you take or have taken since becoming disabled
- Documentation of your diagnosis
- An overview of your medical history
- A history of hospitalizations
- Findings of physical and mental examinations
- Statements confirming your limitations and abilities

The report is defined as a brief presentation of a set of information and data related to a specific issue, or a statement in which an issue, case, details of an accident or study results are explained by a forensic report, and it is also defined as an official administrative document dealing with new information or analyzes of known facts. The report is the official means of all administrative communications (Al Atyah,2012).

And the source of the report in the language was decided, and the report in the sense of established and fixed, and collected reports, and it is said: decided something in the place approved; That is, it is proven, and from it the decision, which is settled from the ground, and also from it: acknowledgment, which is the affirmation of the truth and recognition of it, and acknowledged the place: resided in it, lived, and reassured (Al Jarjani, 1992).

### **The second branch: Definition of medical reports in the convention**

The report is defined in the terminology as: "confirmation of speech, and fixing it beyond the possibility" (Al Zayat et al 1985), and multiple definitions of the term medical report have been received, but we can choose a definition of the medical report that is considered somewhat comprehensive definition because it contains the elements that must be available in the case of the medical report, and indicates This definition indicates that the nature reports are: "an official editor, from a specialist doctor, who has examined a case, in which specific matters are established, concerning that case, and is issued by request" (Al Adli,2007).

Through the previous definition, we find that this definition contains several elements that any medical report must contain and any definition that must be addressed, and these elements are:

First: The medical report is an official editor (an official document): the editor defines that: every written ruler contains letters or signs, which reads the thought to a specific meaning (Al Zayat et al 1985), and the edited official paper (the official document) was defined as: A public employee, or a person in charge of a public service, what was done on his hands within the limits of his jurisdiction, and there is no doubt that the medical report that meets the requirements meets the elements of the official editor, so he acquires his strength, and becomes one of the tools of evidence or exile trusted by the judiciary, but rather by the community In all its institutions and departments, and even individuals, and in the medical report it must be an editor in order to perform his legal and social functions as required (Al Tamimi,2011).

The Qatari legislator, as well as the Jordanian legislator, considered the medical report an official document, according to what was stipulated in Article (205) of the Qatari Penal Code in which it says: "The official editor is the one who, in accordance with his position, is responsible for editing him, or interfering with his editing in any way, or giving him Official capacity. "

Therefore, we find that the Qatari Penal Code punishes anyone who organizes a medical report that is incorrect or contrary to reality, as Article (207) of the Qatari Penal Code states that: "Every doctor, or midwife, is punished with imprisonment for a period not exceeding five years, A false statement regarding pregnancy, childbirth, illness, disability, death, or other things related to his profession. And this is matched by the text of Article (266) of the Jordanian Penal Code.

Second: The medical report must be issued by a specialized doctor: The person who edits the medical report must be a "professional graduate from one of the officially approved medical colleges, and must be licensed to practice the medical profession, and this is what".

Third: Inspecting a case: The medical report must be based on some examination, because this is a condition for the validity of the medical report, as it is not correct for the doctor to rule, nor to issue a medical report on a condition that he has not examined, and that he has not undergone the required tests such as clinical exams, or examinations Laboratory or radiological examination is carried out, because the subject of the medical report varies according to the case being examined, so the medical report may be for a patient to prove his illness, or for a natural death to prove it, or a victim to indicate injuries and causes, and the inspector may not be sick or dead, and the medical report is intended to prove an order Offer a disability, pregnancy, childbirth, or other situations that need confirmation and examination (Al Harbi,2005).

Fourth: The medical report is issued on the basis of a request: the request may be from one side, such as the judicial authorities represented in the Sharia courts, or the administrative authorities, and the latter varies; Some of them are: educational, health, military, and other governmental and private institutions.

And through the foregoing, the researcher believes that the medical report is considered an official document, that is, it enjoys legal protection. Therefore, we find that the Qatari legislator and the Jordanian legislator have dubbed legal protection for them and put a penalty for those who issue a medical report that is contrary to or issued by a person who is not authorized to do so because it limits the authorities that are entitled to It has the right to issue medical reports and it is the official public bodies, and for that to be true the medical report fulfills the conditions and has a legal value must be issued by an official authority after examining the case that requires the report.

### **The second requirement**

#### **Types of medical reports**

The number of types of medical reports varies according to the purpose of their preparation, the nature of the report, and the data included in the report. It may be a judicial medical report, i.e. in criminal cases, and it may be a medical report in normal cases, and both of these types consist of a preliminary medical report or what is called a primary report, which It is without resorting to laboratory and radiological examinations, a definitive medical report or a final medical report that describes the pathological condition after its recovery or its incapacity to categorically recover, and through this requirement the types of medical reports will be addressed according to their nature and subject matter, as follows:

#### **The first branch: Judicial medical reports**

Judicial medical reports are medical reports that are organized by doctors and whose purpose is to serve the goals of the judicial authorities through the medical data they provide and the medical facts coupled with different diagnostic procedures. The judicial medical report relates to a medical case or a judicial accident, and the medical case is every case stipulated Judicial laws shall expressly or implicitly require the use of medical evidence regarding them, or the judicial authorities needed such assistance in this regard.

Judicial medical reports are distinguished by their content that serves the goals of the judiciary and litigation, and the medical report cannot be considered a judicial medical report unless it serves the goals of the judiciary and litigation and even if it was organized by a forensic specialist, and even if it was written on the form of a judicial medical report, the judicial medical report is considered as (Evidence) or the medical evidence in judicial medical cases to which the judiciary is based in convicting or acquitting the accused, adapting the judicial incident, or determining rights or compensation and many others. (Al Adli,2007).

Judicial medical reports are divided into two parts, namely the initial medical report or what is called the primary report, and the second section the final medical report and will be explained as follows:

##### **First: the preliminary judicial medical report**

The preliminary judicial medical report is the report that is organized by any doctor licensed to work in the medical profession after examining, injured or treating the injured person, and it is issued by all health facilities that receive or deal with any judicial medical condition, as well as issued by doctors of private hospitals or security

Government hospital doctors, which is of legal importance as it is considered or a technical opinion is placed in the judicial medical case or in the injury or in the case of the injured person, which builds important legal and judicial consequences before reaching the stage of the final or final medical report. The preliminary judicial medical report is considered the most dangerous and most important medical report, for the following reasons (Salim,1988):

1. It represents the initial sighting of injuries to the body of the injured person in nature and represents the actual reality of the injuries in their initial condition.
2. The backbone on which the pathologist builds his opinion on injuries, because the pathologist organizes the segmental report of the injured person after the wound has completely healed and after all the medical and surgical interventions that the injured person may need to save life. Thus, if the information provided in the primary medical report is wrong or incomplete, the opinion the pathologist will reach will be wrong or incomplete based on that wrong information.
3. About 95% of the injured are presented to the court in accordance with the initial medical report without consulting the forensic doctor on this, and thus this report is the only technical document before the judge, hence its seriousness and importance.

### **Second: deterministic medical reports**

These reports are issued after the injured person has been finally discharged from the hospital, and from the data provided in his treatment file. The final report must be after the final examination using all diagnostic methods, and it must include the statement of injuries and the final diagnosis.

Therefore, deterministic medical reports are not regulated until after the final examination of the condition of the injured, so if the doctor is able to treat the patient and exceeds the stage of danger or exclude his permanent disability, he estimates the duration of the disruption within one of the three categories defined by the Qatari Penal Code (207, 208, 209), and writes A definite medical report without waiting until the injured person has fully recovered, but if the doctor is unable to do so, he must wait until the reason for which the medical report cannot be given has passed, and the instructions for writing medical judicial reports have emphasized adherence to the way that these instructions set out to regulate medical reports, whether Preliminary and deterministic.

The principles for issuing these reports are required in order to be legally correct, they must be organized as follows:

- 1- The injured person must be brought to the doctor in the hospital for examination, in order to be examined and take the necessary measures.
- 2- The person must be verified, his identity and the information contained therein must be recorded through the identity document.
- 3- The sensory observation must be proven by the hospital doctor in light of the actual examination.
- 4- The reference in the judicial report to the authority that sent the injured person, or whether the person had carried out the audit on his own initiative and filled in all the items mentioned in the judicial medical report in the Arabic language.
- 5- Explain the medical procedures that were taken upon examination and diagnosis, and write them down. The doctor is obligated to describe the injuries, determine their location in the body, the symptoms that accompanied the injury, and write them down in the judicial medical report.
- 6- Signing the medical report and stamping it by the organizers, and stamping and approving the department head or administrative alternate on it and stamping the hospital.

In Jordan, there are instructions for writing medical reports issued to regulate the topic of writing these reports and stating the conditions and principles that must be followed for writing judicial medical reports or regular medical reports. If written in a way that is not true.

### **Third: Judicial medical reports related to deaths**

In addition to the primary and deterministic medical reports, there are so-called judicial medical reports related to deaths that carry a criminal suspicion, therefore a distinction must be made between this type of death and the so-called judicial deaths, and these judicial reports are aimed at reaching the true cause of death, and when the case is considered a judicial death The corpse will be the property of the judicial authority until the completion of the procedures prescribed in it, such as a medical examination and anatomy of it, and then the decision to hand the body over to its relatives and allow it to be buried duly (Abu Al Ragheb,2015).

through the foregoing, the researcher believes that the initial medical reports are among the most important and most dangerous medical reports, because they are considered the first technical opinion in the judicial situation that results in legal and judicial consequences. Therefore, these initial judicial reports form the core of the problem of judicial medical reports that revolve around the phenomenon of incorrect medical reports. Or exaggerated or forged medical reports for that they are serious reports must be taken into account the conditions that must be followed in accordance with the instructions and laws, given the legal implications and social challenges that these reports carry.

#### The second branch: Non-judicial medical reports

These medical reports are in satisfactory cases, which are issued only on the basis of an official letter from a competent authority or at the request of the person concerned by a letter signed by him and directed to the hospital director, so this type of report is intended: it is the official documents issued for administrative purposes, and issued for the interest of the owner. The report is mostly general, and issued at his request, or the request of the body that follows him, whether he is an employee or a student (Makhlouf,2015).

These reports depend on them in matters and civil matters in particular, such as proving health fitness, freedom from diseases, highlighting justifications and reasons for entitlement to leave, exemptions, compensation, retirement, travel for treatment, insurance, and others.

#### **The second topic** **Unrealistic medical reports**

The medical report is a modern legal term, and it is treated as a document or a means of proof, and the work has been settled in line with developments in legal systems, which tend to write in most of what is related to it, and the medical report, and if it is not present since ancient times in its current form, it exists in its meaning and content (Al Adli,2007).

However, despite the presence of medical and judicial legislation that governs the subject of medical reports and clarifies the basis and rules for writing medical reports in general, the phenomenon of incorrect or false medical reports that do not reflect the reality of the judicial medical case or the condition of the injured or alleged person with the injury is still spreading clearly from what it is a problem that worries the relevant authorities, given the seriousness of this phenomenon, which may turn into a threat to the social security of the country. Therefore, the definition of false or incorrect medical reports will be discussed through this topic, according to the following division:

The first requirement: the definition of reports contrary to reality

The second requirement: types of medical reports contrary to reality

#### **The first requirement** **Definition of medical reports contrary to reality**

One of the most important responsibilities of the doctor is the issuance of medical reports of various types, pictures, forms and purposes. A medical report that defies reality is defined as: an incorrect or factual statement or medical certificate regarding the description or diagnosis of a case of injury, wound, disease, disability, pregnancy, or death, an estimate of a person's age, or an exploration of the effect of a particular act on his body, or an indication of his health fitness for work. A certain, return to work, or the extent of his need for convalescence or to refrain from exerting a certain effort, or to indicate the cause of illness, injury, cause of death, or failure of an organ and organ of the human body, or a certificate of the completion of a human vaccination as a preventive taste against a specific disease or free of contagious disease, or By analyzing a sample taken from a human body for laboratory medical diagnostics, and so on, all evidence or exile in a way that contradicts reality (Al Tamimi,2011)

it also defined the medical report contrary to reality as: "an official editor, which included unrealistic data, contrary to the truth, with the intention of presenting it to the judicial or administrative authorities, and it was a consequence of the damage". Through the previous definition, we find that this definition included the elements that make it a crime punishable by law.

some of them knew the false medical report on the grounds that the medical report was a form of independent news or testimony considered by itself, and accordingly they considered that the false medical report as a matter of false testimony or false speech, and accordingly they knew it from this section as: The witness (the doctor) is before a judicial or military or administrative judiciary, so he can confirm the invalidity, deny the right, or conceal some of his medical facts related to the case he is being asked about.

As for the forged medical report, it is considered as the report that is manipulated after its editing by the doctor, and for the medical report to be described as a valid medical report and not false or inconsistent with the reality, and in order for it to be suitable for arranging legal effects, it must not be without any medical report from the following formal data ( Mounth,2010):

1- The name of the doctor or surgeon, the report editor or the triple medical examination site, his registration number in the Medical Syndicate, his scientific surnames, the address and appointments of his clinic, his telephone number, the name of the hospital, the report editor, his address, and the hospital seal, especially in reports with serious content.

2- The name of the person signing the statement or the owner of the case and the data specified for his identity.

3- Statement of the intended case by editing the report, which is the core of the report and is required to have accurate expression and truthfulness in proving the case and the secretariat of the transfer from the reality in a way that is consistent with the established scientific facts.

4- The signature of the doctor or the surgeon, and if the report is issued by a medical committee, all of its members must sign it.

5- The date the report was issued and the date of the medical examination, if they differ.

It must be available in any medical report issued by the competent authorities prior formalities in order to reflect the correct and honest picture of the medical or judicial incident, and for the legal effects resulting from the medical reports to be real results compatible with reality.

There is also a tendency to see that false medical reports are considered as a matter of changing the truth, and the change of the truth is intended to create a different reality or distort the existing reality, and this requires the presence of two facts, which are false from them and are the ones represented in the editor, and then the essence of changing the truth then, which is false or false (Abu Amer,2009).

In other words, changing the truth means showing a certain matter without the image that it should be, and the lesson of the existence of the change or not is by comparing the image that the person's activity ended with the image that was taking place if this behavior did not happen, if this image is different to it and the change of truth was found, But if it is identical, then there is no change, and therefore there is no forgery. This is based on the reality of the case regardless of what is included in the person's belief, and on this basis if the person changed a statement in an editor with the intention of cheating the stakeholder in it and then it became clear that what he performed was identical to reality, there is no crime (Al Marsfawi,1970).

And because the change of the truth is by replacing the incorrect thing with the correct real command, the expression in this way is considered the essence of forgery, and accordingly, the forgery of medical reports does not envisage its occurrence unless it includes a change of the truth by replacing it with something that contradicts it. If this change does not occur then there is no permission for forgery even And if the actor is ill-intentioned, he thinks that what he has proven in the editor of data contradicts the truth while he is in reality otherwise, because what he has proven of data matches the truth (Al Shathli,2009).

And when the forgery occurred in the official documents (medical reports), it is not required after that that the change of the truth is mastered in all aspects so that it is fooled by all, so changing the truth that is considered falsification is enough that it applies to a man from the middle of the people in terms of his intelligence, experience and keenness, but if The change of the truth was apparent, and it is not difficult for the common man to discover it, because it is not considered a punishment against him (Abu Amer,2009).

And changing the truth is the same fabricated misrepresentation of the truth as expressed by the Qatari legislator, which is the correct and most common term, although the distortion and change are multiple expressions with one meaning, and the change is criminal activity. For truth, do not falsify, because the lesson is what the will of the editor is attributed to, the general rule indicates that forgery is any official document or editor that requires changing the truth or replacing it with something else (Al Saeed,2008).

And changing the truth in medical reports does not mean that all the data mentioned in the report are false, so the name, personal information and other data are correct, but the diagnosis of the disease is a change in the intended truth in falsifying medical reports, so the law suffices with the lowest share of changing the truth, and it is not required The material pillar of the forgery was realized that the change of the truth included all the data of the medical report, but that it is sufficient that the change responds to one of them even if all the other data are identical to the truth, because this forgery and the change in the truth even if it is contained on a small amount except that it would waste Confidence in medical reports (Al Shathli,2009).

Based on the foregoing, the researcher believes that the basic rule in medical reports that contradict reality requires a change in the reality that reflects the actual reality of the patient's condition, therefore medical reports are contrary to reality even if there is a change in part of the truth and the other part is identical to reality, for example. For example, if the diagnosis of the judicial medical case is correct, but the change of the truth occurred on the duration of the delay by giving the largest period of the delay until the requestor of the report gets more compensation, so the magnitude of the change of the truth has no significance.

Hence, we can distinguish between a false medical report and a false medical report. The first is a report that violates reality through an organization, and therefore it is considered false authentication. As for the false medical report, it is the report that violates the reality through adding, deleting or changing it after editing it.

## **The second requirement**

### **Types of false medical reports**

In order to be in front of false medical reports and medical reports contrary to reality, there must be a change to the pathological fact and reality, and the change of the truth may be in different ways and by different people, it may happen by the doctor himself, and it may occur from the person (the patient), so through this requirement It will be mentioned to mention the types of medical reports that are inconsistent with the reality according to its perpetrator, and then explain its punishment, as follows:

The first branch: Types of false medical reports according to topic

There are different types of medical reports that are contrary to the truth and reality (false and false), and these

types of medical reports are contrary to reality according to its subject, and the party to which these reports are submitted, and this type is divided into two forms, namely:

The first form: a judicial medical report contrary to reality

Generally, the judicial medical report is defined as the technical expertise provided by the forensic doctor to the judiciary at the request of his representative, and this type of official document only serves the judiciary, and he was famous for the term (forensic or judicial medical report), and that is that the judge is not surrounded by all the sciences of the world, Rather, it must refer to the people of jurisdiction in some disputed issues in order to be able to reach the right, and the people of jurisdiction, and in my research this are doctors, and his return to doctors be in various issues; Including criminal matters; Such as proving crimes, their causes, and determining their type, amount, and effects thereof, or which they may have at a later time, and what is suspected of being crimes (Al Jundi,2000).

The medical judicial report is described as a medical report inconsistent with reality when there is falsification or lies, or both in these reports, such as diagnosing the case of death by changing the reality it is about. This is called a judicial medical report contrary to reality.

The second form: a medical administrative report contrary to reality

These medical reports are in satisfactory cases, which are issued only on the basis of an official letter from a competent authority or at the request of the person concerned by a letter signed by him and directed to the hospital director, so this type of report is intended: it is the official documents issued for administrative purposes, and issued for the interest of the owner The report is mostly in public, and issued at his request, or the request of the agency that follows him, whether he is an employee or a student (Makhlouf,2015).

These reports depend on them in matters and civil matters in particular, such as proof of health fitness, freedom from diseases, and highlighting justifications and reasons for entitlement to leave, exemptions, compensation, retirement, travel for treatment, insurance, and others. In the event that a medical report for these purposes was prepared in a manner inconsistent with the reality, such as preparing a medical report for a person suffering from heart disease who wants to register in the police, this is considered a medical report contrary to reality because it entered into this report counterfeiting or lying and a change in the truth and reality, then it results in the appearance of what is known as the administrative medical report False (Al Jundi,2000).

The second branch: Medical reports contrary to reality, according to the perpetrator

As we have indicated previously, medical reports that are contrary to reality may be prepared by the doctor himself, and it is false and considered false. It may also be prepared by another person who does not have the first status and is forged, so the medical report that differs from reality according to the subject is divided into three forms, and they are as follows:

The first form: a false medical report issued by a doctor

We have previously indicated that the instructions for issuing judicial medical reports in Jordan have specified the persons who are entitled to prepare and which indicated that: "The report is written by an ambulance and emergency doctor and a specialist and / or resident of the specialists with regard to his specialty and the approval of the department head and / or the specialist doctor "(Makhlouf,2015).

Likewise, by referring to Article (207) of the Qatari Penal Code, which stipulates that: "Every doctor, or midwife, shall be punished by imprisonment for a period not exceeding five years, by issuing a forged certificate or statement in the matter of pregnancy, childbirth, illness, or impairment." Or death or other matters related to his profession. Therefore, the medical report in Qatar is issued by the doctor or midwife.

A medical report from a doctor is not an acceptable legal means unless it is true news from the doctor and by the people identified in the law and the instructions issued in this regard, and the medical report issued by the doctor must contain certain matters that are a reflection of the reality of the medical reality, such as identity details Personality of the inspector, as well as describing the examination condition, symptoms and signs appearing on the patient, trauma and injuries to the deceased, and the results of examinations in various forms and other real procedures that were taken and then endorsing the report with the signature of the specialist doctor, the director of the medical center, and the official seal of the medical institution. This type of false medical reports issued by the doctor is divided into two parts, namely:

The first: A false medical report from a doctor unwittingly: as if the doctor edited the report without investigation and did not prove, or the information written by him was incorrect, and contrary to the truth, about ignorance, neglect or recklessness, since in some cases the report may be formulated by a doctor who neglected Carrying out clinical or laboratory examination of the inspector, with the need for this.



The second: An intentional medical report that is false, which is more dangerous, as if the doctor intended to misrepresent the data, distort the truth, with the intention of bringing an unlawful benefit, or causing harm and harm to someone, motivated by various motives, including the emotional motivation, including the financial, since it is often What is related to the crime of bribery is the crime of falsifying reports or issuing false reports, or to bring about a non-financial interest, or for the benefit of the reporter as a friend or relative, and the motive may be preventive; As fear of the evil of his student, and perhaps for other reasons (abu Seda,1955).

The second figure: The false medical report issued by an administrative employee in health facilities

The manipulation of medical reports may not only be from the doctor and the like, but may also be committed by administrators and employees unrelated to the medical profession in health centers and facilities; As the hospital director, or responsible for seals, or one of the employees of the administrative body for issuing medical reports, or other employees, so that the report includes false and forged data and details, then the report is put in the name of a doctor who is not real with his signature, and the doctor's name may be real, and it happens Forgery in signing or stamping, and in some cases the report may be appended in the name of the employee who issued the false report as the examining physician, then the official stamp will be done on him, and his applicant will be given.

The third form: a forged medical report from an ordinary person

The medical report may issue a true, true and true fact from a medical doctor or a medical committee, then the person who edited the report in his name or others will tamper with and change the written data, distort it, or suppress it, and the ordinary person may create a medical report form that simulates the required forms, and imitates the doctor's signature and stamp Formal to him or the hospital( Mounth,2010).

Based on the foregoing, the researcher believes that the types of medical reports that are contrary to reality do not include a specific and specific type, because the medical report may be issued contrary to the facts and the reality by the doctor or someone in his ruling, and also may be issued to an administrative employee in government establishments who is not a doctor or who is similar in his judgment, in addition to All of this may be issued by a private person concerned in the pathological incident, as he may have obtained a blank form for a medical report stamped with an official stamp and the name of a doctor, and the diagnosis of the case is void so that the person himself undertakes the task of writing the report data according to his desire, and what fulfills his interests.

The researcher also believes that medical reports contrary to reality can be false reports and are considered false certificates. Or be forged.

### **The third topic**

#### **Criminal responsibility for reports that are contrary to reality**

Medical business, in its broad sense, is now receiving a lot of attention from many countries of the world, given its recent legal problems that focus all of them on the topic of legal protection to deprive the physical entity of the person of the risks and attacks that may befall him as a result of misuse of modern methods, as it is a mistake that The doctor commits the issuance of false medical reports that are inconsistent with reality, and accordingly, according to medical responsibility, the doctor is partially asked about these actions and other mistakes that he may make in contradiction with the nature of the humanitarian work he is doing, given these false medical reports have negative effects that will be reflected on society. (Al Qaid, 1983).

The first requirement

The concept of medical criminal responsibility

One of the most sacred rights that God Almighty granted to the individual in this life is to be free in his actions, but all of this is offset by the duties of others, he is obligated to observe them and take care of them, but sometimes they may exceed the limits granted to them, which must establish a system of responsibility to ensure the protection of each of the rights The duties of individuals in society according to what is consistent with the principles and logic of the mind as an embodiment of justice.

Responsibility means in the language that is required to be fulfilled, as it means accountability for it, and it is generally applied to the condition or characteristic of someone who is asking about a matter upon which he is responsible, and it also morally calls for the person to adhere to what he says in terms of words or action (Abu Zahra, 1977).

As for the definition of criminal responsibility in comparative legislation, these legislations did not provide a comprehensive and preventive definition of the meaning of criminal responsibility, as most criminal legislation was satisfied with only mentioning its absence and general conditions (Al Qaid, 1983), and jurisprudence also

differed in the definition of criminal responsibility, as some have defined it as the authority of a person to bear The punishment established by law as an effect of the crime committed (Al Qaid, 1983), and others have defined it as the competence of a reasonable person to bear the penalty established by the Penal Code (abu Seda,1955).

Others considered it a legal relationship that arises between the individual and the state whereby the individual is obligated vis-à-vis the public authority to answer his action that violates the criminal rule, and to submit to the reaction resulting from that violation (Al-Ibrashi,1992).

As for medical responsibility, its legal nature indicates the relationship between the doctor and the patient, and that this relationship is a human relationship before it is a legal relationship, and therefore it was said that the doctor's moral responsibility begins before legal responsibility begins, and also the doctor's responsibility in medical work is essentially a responsibility A professional of a special nature, the doctor's prescription in it is the commitment to provide the necessary and necessary care to the patient, and not to achieve recovery because healing is with God Almighty, meaning that the doctor's commitment within medical regulations and legislation is an obligation to make care and efforts that are sincere and consistent with established scientific principles, which are the fixed medical principles And stable, and theoretically and scientifically recognized among doctors, which must be familiar with each doctor at the time of implementation of medical work "( abu Seda,1955).

The Qatari Court of Cassation affirmed the medical responsibility in one of its rulings, which states: "Medical responsibility: the doctor's commitment to give sincere care in order to heal the patient. The profession and the fixed scientific principles, regardless of the issues in which the people of this profession differed in order to open the door to diligence in it. Or disagreement about it. "( Al Qaid, 1983).

In addition, the medical profession often results in errors that may be discussed in the courts to determine the responsibility of hospitals, doctors, nurses, and pharmacists in order to find out the various aspects that control this responsibility in legislation and jurisprudence. His medical work is often based on his legal responsibility, which is divided into three sections (Al Qaid, 1983):

First: civil liability

It is achieved when the doctor breaches a contractual obligation or when he commits a harmful act that is manifested in the failure, and it results in damage to the victim, and the penalty for compensation is for the latter and the reparation for the injury.

Second: Criminal responsibility

When violating forbidding legal rule, the law regulates its violation for certain legal penalties and is evidenced in evidence by an act criminalized by the law or abstaining from an act that the law deems to be a crime and punishable (which is the subject of our study).

Third: Disciplinary responsibility

As a result of a violation of the legal obligations imposed on the doctor. There are characteristics that distinguish the doctor's criminal responsibility from others, as those characteristics are as follows (Mansour,1994):

You must make a mistake, whether intentional or not.

The mistake is made by the doctor.

It is a personal responsibility that only the perpetrator bears.

Physicians may commit intentional crimes and non-intentional crimes while practicing the medical profession, while intentional crimes are crimes based on criminal intent and criminal intent (bad intent of the perpetrator), and the legislator has stipulated in the act that it is considered intentional crime to have three pillars: a legal corner (legal ), And a physical element (positive or negative behavior) that changes in the external world by the will of the perpetrator, which includes harming a right protected by law or threatens him with the risk of

causing harm. (abu Seda,1955) In addition to all of this, it requires a causal relationship that combines behavior and the criminal result, so that the full legal existence of the physical element is complete. For a crime, without it the criminal outcome cannot be attributed to the offender's behavior of both types.

Providing false medical reports contrary to reality is considered an intentional crime, where the fact of editing by a doctor or surgeon or any person specified by law is represented in this duty reports proving an incorrect fact that the subject of which is evidence or denial of pregnancy, illness, impairment, death or any other illness on Contrary to the truth, and that the doctor has the criminal intent to prove in the report that contradicts the truth, here we find that the physical and moral corner are available in this act.

It may also occur from the doctor non-intentional crimes during the exercise of his profession as a result of his unintended medical error, but the legislation did not address the definition of non-intentional crime or even a criminal error, which made it the task of jurisprudence and the judiciary, as he considered the wrong jurisprudence in general as a deviation from the behavior that must be taken to achieve The intended result, and the medical error in particular, is limited to the doctor not abiding by the special obligations imposed on him by his profession, which is every voluntary or negative activity that does not comply with the scientific rules related to the practice of his profession, and it is all voluntary or negative activity that does not conform to the scientific rules related to the practice of the medical profession (abu Seda,1955 ).

If the medical error is achieved through the doctor's failure to abide by the technical and special medical obligations, rules and principles imposed on him by his profession, if the doctor deviates from the normal behavior by exercising vigilance, insight and caution, and it is harmful to others, he must be held partially accountable, so the criterion of the doctor's error is an objective criterion that measures the act based on a specific behavior It is the behavior of the average person (Al Shathli,2009).

The second requirement: the penalty prescribed for issuing false medical reports

The physician responsible for preparing the reports must be competent. The doctor, when preparing the medical reports, so that they are not false and contrary to reality, has many duties that he must perform in order not to have criminal responsibility. The first duty of the doctor when writing the medical report is to be precise in Medical description and analysis. For example, in the medical report the tools used in the commission of the crime should be identified and accurately described. For example, white weapons, which are sharp weapons, such as the penknife, knife, sword, dagger and cleaver, and these weapons cause cut wounds when passing on the skin, and stab wounds occur when they penetrate inside the body, and these weapons create sharp cuts to the edges of the clothes, so the medical report must include the name of the exact weapon, and whether He is the one used in the crime, and is he the accused (Mansour,1994).

The importance of this is that determining the data related to the description of the weapon and the effects it left on the body of the victim represents an undeniable importance in saying that the charge is properly attributed to the defendant or not (Mansour,1994), through the medical report it is found that the weapon as the determinant, is either a valid tool to cause Such injuries or not, and the matter is not limited to the doctor only, but the analyst, the person, the radiotherapist, the thermal energies, the electric waves, or similar medical and health functions must observe the accuracy, exert care and take the causes of prevention in performing the work, all according to the scientific principles until The medical report is a true report that reflects reality in all honesty and transparency (Al Shathli,2009).

As for the second duty that the doctor has in preparing medical reports, it is to diagnose pathological cases in medical reports with utmost precision and to use modern tools and methods for diagnosis (Al Shathli,2009).Jurisprudence and the judiciary have settled that the mere misdiagnosis does not raise the doctor's responsibility for medical reports inconsistent with reality unless this error involves ignorance and a violation of the fixed scientific principles that every physician must be familiar with, provided that the physician has made the sincere and attentive efforts he exerts Similar physician under existing conditions (Al Shathli,2009).

The doctor's criminal responsibility is based on the error in preparing medical reports, because it is not reasonable to leave what the doctor did from work without accountability, because it must be like other people bear the error because it violates the logic if the doctor left without accountability (), because Article (20) From the law of practicing the profession of human medicine and dental medicine and surgery, I obligated the doctor to

observe the accuracy and the nation in all his explications, as Article (20) of the aforementioned Qatari law stipulated that: "The doctor must observe accuracy and honesty in all his actions, and preserve the dignity and honor of the profession. He shall resort to unlawful means in his practice, and the relationship between him and the medical professions must be based on mutual respect and close cooperation, and he should generally abstain from all that may degrade the dignity of his colleagues and diminish their scientific or literary status or seek an unlawful path to replace Which of them is to treat a patient and avoid any work that is inconsistent with the ethics of the profession." ( Al-Ibrashi,1992)

It was further stated in the Medical and Health Liability Act No. 25 of 2018, in Article (4) that: "Medical and health responsibility shall be determined based on the extent of the service provider's commitment and the location of its service with the relevant professional rules, and its determination shall include the place of providing the service and its criteria and the factors and conditions that precede or Coincides or tracks the work of the service provider and the medical or health procedures provided to the recipient. "

But the doctor's criminal responsibility does not arise for false medical reports resulting from the error in the diagnosis, "then the doctor is not responsible for the result that the patient reaches if he is found to have taken the necessary care and sought all the means that someone in such circumstances can diagnose the disease treatment. While he is responsible If a mistake is made that results in harm to the patient, especially in the following cases (Mansour,1994):

A- If the error is a result of his ignorance of technical matters, every doctor is supposed to be familiar with it, whether in terms of diagnosing a disease or describing the appropriate treatment.

B - If the cause of harm to the patient is negligence or failure to take necessary care.

A- If the reason for the patient's harm is due to the physician performing experiments and scientific research that are not technically approved.

In general, if the doctor's mistake in the diagnosis looks at his level on the one hand and his specialization on the other hand, it is evident that the specialist's fault is more accurate in estimating from the general physician, and the specialist does not ask about his mistakes in knowing a disease that does not fall within his jurisdiction, and if this does not He is exempted from resorting to a specialist in the aforementioned field in order to be guided by his opinion as a step in the aforementioned field in order to be guided by his opinion as a first step so that he can make a diagnosis of the case within his jurisdiction (Al Shathli,2009).

The doctor asks if the error was due to the doctor using abandoned methods and methods that are no longer recognized scientifically in this field, according to what the fifth article of the Jordanian Medical and Health Liability Law of 2018 indicated to him: "The service provider must perform his work according to what is required by the ethics of the profession Its accuracy, honesty, and according to the accepted scientific principles, in a manner that achieves the necessary care for the patient and the promise of exploiting his need for the purpose of achieving an illegal benefit for himself or others without discrimination between patients and compliance with the applicable legislation.

Not only are these cases in which the doctor is asked about the misdiagnosis in the medical report, these cases have been mentioned as a mention, not exclusively, because the judiciary and jurisprudence are in a renewed state with regard to the doctor's condemnation and raising his responsibility for the misdiagnosis cases in the medical reports (Al Shathli,2009).

Upon referring to the Jordanian Medical and Health Liability Law No. (25) for the year 2018, we find that the penal penalties imposed on the physician for issuing false medical reports as a result of the doctor's commitment to the rules, standards and procedures for practicing the profession are not touched, where Article (20 / Paragraph A) states that Whoever violates the provisions of Article (7) and paragraphs (a), (c), (d), (e), (f) and (g) of Article (8) of this law shall be penalized with a fine not less than (3000) three thousand One thousand dinars and not more than (5000) five thousand dinars, and upon referring to the seventh article, we find that it mentioned some of the obligations and duties that the medical and health service provider must adhere to in order to avoid the occurrence of the mistake because in other than that he will make a mistake, including issuing false medical reports, and these duties that Article (7) indicated to her that the service provider must adhere to the rules, standards and procedures for practicing the profession according to its degree and field of specialization and document this in the file of the recipient of the service.

In addition to that, we find that the penal punishment prescribed for medical reports that are contrary to reality in the Qatari law is found in the Qatari Penal Code, where Article (207) of it stipulates that: "A penalty of imprisonment for a period not exceeding five years shall be imposed on every doctor or midwife who issued a certificate or a false statement in the matter of Pregnancy, childbirth, illness, disability, death, or something related to his profession." And the person contemplating this legal text finds that the Qatari legislator considered the crime of falsifying medical reports from felonies, and that the Qatari legislator criminalized only one form of forgery which is forgery by the public employee And he made her have one punishment, which is imprisonment for a period not exceeding five years, and he lost without any financial fines.

It is also noticed on the Qatari legislator, despite the fact that the medical report is considered an official editor, but the text of Article (206) does not include it, which states that: "Forgery in an official editor is punishable by imprisonment for a period not exceeding ten years, and if that forgery occurred by a public official while performing his job." Or because of it, he shall be punished with imprisonment for a period not exceeding fifteen years, "as the text of the article (207) referred to above has removed it from the general scope of this article, so the penalty for falsifying the medical report by the doctor or midwife was lighter than forgery in another official editor by the public employee.

This situation is contrary to what is in place in Jordan, where we find that the Jordanian legislator remedied this matter and enacted several legislations to regulate medical work, and report the responsibility of the doctor for his professional mistakes, whether in the Jordanian penal law or in the specialized medical legislation, and among the most important and most recent Jordanian medical legislation that I dealt with the topic of medical reports contrary to reality, Instructions No. (1) for the year 2017, which are the instructions for issuing judicial medical reports, as these instructions obligated to follow a set of procedures before issuing medical reports and otherwise subject to punishment, as Article (3) of the instructions indicated that no Judicial medical reports may be issued in both preliminary and final forms, unless they are organized as follows:

- 1- The injured person must be brought to the doctor in the hospital for examination, in order to be examined and to take the necessary measures.
- 2- The person must be verified, his identity and the information contained therein must be recorded in the identity document.
- 3- The sensory observation must be proven by the hospital doctor in light of the actual examination.
- 4- A reference in the judicial report to the authority that sent the injured person, or whether the person has performed the review on his own.
- 5- A statement of the medical procedures that were taken upon examination, diagnosis, and codification.
- 6- Filling in all the items mentioned in the judicial medical report in the Arabic language.

7- The doctor is obligated to describe the injuries, determine their location in the body, the symptoms that accompanied the injury, and write them down in the judicial medical report.

8- Signing the medical report and stamping it by the organizers, and stamping and approving the department head or administrative alternate for it and the hospital seal.

And in the event that the doctor does not adhere to these procedures, the doctor will most likely be a liar and not reflect the truth, such as not examining the patient personally, the patient not attending the hospital, or failing to mention the injuries accurately in the body, so these instructions are punished through Article (11) that: In the event that it was found that the judicial medical reports were given without following the procedures referred to in these instructions or with a medical diagnosis that violates the case of the injured, then the person who issued the report and approved it is referred to the competent judicial authorities and does not prevent this from taking any disciplinary action against whoever proves to be in violation of the provisions of these instructions "( Al-Ibrashi,1992).

Therefore, we wish our Qatari law to adopt the Jordanian legislator's approach by enacting detailed legislations and providing explanatory provisions for medical accountability and the report of the doctor's criminal responsibility in the event that he issued medical reports contrary to reality because of this negative impact of this work.

### **Conclusion, findings and recommendations**

At the end of this research, in which we dealt with the criminal responsibility arising from medical reports that are contrary to reality in the Qatari and Jordanian law, and the reason for choosing this topic was the increasing phenomenon of medical reports that are contrary to reality, therefore it was necessary to clarify the criminal responsibility resulting from the issuance of such reports, especially since the issuance of Medical reports of various kinds, pictures, forms and purposes are considered one of the most important responsibilities that lie with the doctor, therefore the doctor may not edit a medical report far from his specialty or contrary to the reality that he reached through his personal examination of the patient so that he does not expose himself to criminal responsibility, and accordingly reached The researcher pointed to a set of results and recommendations that can be summarized as follows:

#### **First: the results**

- 1- That the medical report is considered an official document, that is, it enjoys legal protection. Therefore, we find that the Qatari and Jordanian legislators have dubbed legal protection for them and put a penalty for anyone who issues a medical report contrary to or issued by a person who is not authorized to do so because it limits the bodies that are entitled to issue medical reports, which are Public official agencies, and in order for this medical report to be true, fulfilling the conditions and with legal value, it must be issued by an official authority after examining the case that requires the report.
- 2- The basic rule in medical reports contrary to reality necessitates a change in the reality that reflects the actual reality of the patient's condition. Therefore, medical reports are contrary to reality until there was a change in the part of the truth and the other part was identical to the reality.
- 3- The Qatari legislator did not put a disciplined definition of the idea of a doctor's professional error in the body of the Qatari Penal Code. The law of practicing the profession of human medicine and medicine of human surgery is not included.
- 4- The Jordanian legislation did not single out special provisions in the Penal Code regarding false medical certificates, but generally criminalized false certificates, including medical reports, in Article 266 of the Jordanian Penal Code.
- 5- For the crime of forgery in medical reports issued by physicians and public officials or assigned to a public medical or health service by virtue of public officials, and according to Articles (263-264) must have a special moral intent that the certificate or false statement be delivered based on the knowledge of the perpetrator And that this behavior is the result of free will.

#### **Second: Recommendations**

Based on the foregoing, the researcher wishes to the relevant official authorities to consider studying the recommendations that this research has reached and adopt what is achievable from them, and they are as follows:

- 1 - The necessity for the Qatari legislator to enact additional legislation to regulate the medical sector and medical error, in addition to setting a disciplined definition of the fault of professional error in the body of the Qatari Penal

Code and the law of practicing the professions of human medicine and human surgery medicine.

2- The researcher wishes the Qatari legislator to lay down legal texts regulating the crime of giving false medical reports and forgery in official documents, making the elements of the crime of forgery in medical reports and giving false medical reports clear and specific enough.

3 - The researcher believes that it is necessary to have an awareness program for the issuers of medical reports in order to show the importance of the reports and the consequent consequences of their counterfeiting, which have great repercussions on the individual and society.

Finally, the researcher hopes that these recommendations will be found in response to the Qatari legislator and the relevant authorities, in order to ensure the greatest real protection for medical reports from falsification or alteration that contributes to justice.

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