

## STUDYING THE EFFECTS OF CIVIL LIABILITY OF LOSSES CAUSED BY THE CURRENT HEALTH CENTERS

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### **Abstract**

Health centers are medical centers and by offering health services today have different features in the process of recovery and achieving the goal of health care. However sometimes, actions or ignorance of the health center staff leads to damage that if this negligence is consistent with of any of the principles of responsibility including fault and risk, and the terms of the pillars of responsibility are provided will bring about the civil liability of health centers for the affected patients. By granting consent, the health center tries to reduce their responsibility. Although this consent shall not be a civil liability of health centers, it exempts them from criminal responsibility. However, only few health centers get consent from the patients or the patient's legal representatives before treatment or during the treatment and if heavy errors are committed, this might be the health center's exemption from civil liability.

**Keywords: civil liability, Iran's law, health centers, damage.**

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## Introduction

People of every community that live together within certain territory and scope inevitably find relationships with each other one of which is the equality of health centers health centers' behavior as a legal-treatment entity with its clients, and if this relationship depends on no certain principles, individuals' rights gets subject to the interests of this institution and insecurity and mistrust will prevail. Therefore, civil liability of health centers, which is one of the most important legal issues and problems of society as a law enforcement, plays an important role in vindication of patients' rights and thus regulating the relations between the client and health centers.

Losses that may be imposed on the patient from health center or employees under its control can be divided into three categories. The first category is material losses incurred to property caused by harmful act to the patient, or deny benefits from him. The second category is spiritual losses related to the patient's emotions and the third is physical damage related to injury or impairment or disability incurred to the patient's body.

**Patient material losses:** reduction of private property of a person and prevention of its increase in any case is harm to him, in other words, when what is missing is measurable in money and financial rights cause damage to the material of patient is material loss, material losses of a patient refers to damage to the body and soul, and health and property of the patient and to compensate it has to spend and bear the costs.

**Spiritual loss of the patient:** defining the spiritual loss is harder than the material losses, so for offering correct concept of it can be said that: it is the damage to the emotional and non-financial benefits such as feeling physical pain and emotional suffering, that in a general statement is known as non-financial damage.

**Mixed losses:** the issue that we divided the loss from the health centers to the patient into material and spiritual losses does not mean that the patient cannot have both claims. Mixed loss is actually very common and is related to the loser that can demand for material and moral damage done. Because when damage is to the physical health of the patient, the patient suffers

both physical and spiritual harm, harmful material in the sense that physical damage caused by physical injury such as the cost of treatment and disability and the suffering and spiritual harm to the soul that is called spiritual loss. It is difficult to assess the damage caused to the physique because most of these losses will be realized in the future, and the likelihood of speculation and conjecture in it is effective. The compensation of mixed losses does not follow a special directive, but is considered as a certain type of compensation and is entirely subject to the rules related to material losses for the most common type of loss is the loss of material.

The French Supreme Court has accepted the loss of someone whose wife has died, and has been deprived of participation costs of his dead husband should be compensated. However, in cases when people abandon their career to help sick people and choose to leave their job, if other people had the ability to help the patient, they are not counted as indirect loser, so one cannot make compensation claims.

But the second assumption where the third parties can demand material compensation for damage to another party is in cases where third parties affected are related to that person by business and professional relationships, and by his death and disability, as they are deprived of his service, so partners and creditors are directly affected, the patient in our discussion, can claim for compensation.

### **The effects of civil liability of health centers**

When all the conditions and elements of responsibility are present and the fault, damage and causal relationship are arisen, civil liability is formed and by its effects the suffered is entitled to ask for the compensation of his loss and compensating it the responsibility of the health care center. In general, civil liability, including contract or enforced is the compensation means. However, to the extent that the damage is incurred so that it does not become a tool to earn a profit.

### **Civil liability claims:**

Claims for civil liability is a litigation based on general rules of law, which in this paper with regard to our subject that is related to the medical center has its own characteristics.

In a civil liability lawsuit the plaintiff, who is a person who is usually immediately and directly affected by the harmful act, is a patient or third parties in relation to the contract between the patient and the medical center explained in the discussion of the loss from the act of the health care center, but who can sue and ask them to replace their losses.

**Compensation:** After the pillars of civil liability were formed and the injured claimed damage, the court shall sentence with eligibility and liability elements to give compensation as the cause of damage should bear the result of his unlawful act and compensate for the damage. At the time of compensation, the principle from which civil liability stems should be taken into account and it is the principle of full compensation. Because the issue of civil liability is to put the injured in the position before the damage as far as possible the lost balance due to compensation is met.

### Background research

The issue, as outlined in the law books, articles, theses, academic and dealt with, but the effect of independent "civil liability of health centers" to exhaustively examined it is not.

1-doctor Hedayatollah Soltani Nejad (2001) in his book "The Principles of civil liability moral damage" to the conditions and principles of responsibility in moral damages, as well as a variety of spiritual damage dealt and it is discussed in detail in this book just to check one's own spiritual harm.

2-in "principles of civil responsibility" by Patrice Zhvrdn translation by Majid (2006) in a general classification in terms of the ability to offset losses in various types such as a loss, economic, indirect, physical, and spiritual. . divided the book is not only very briefly, but only to divide the losses in terms of potential civil liability compensation is limited and only a split view criteria put civil liability.

3. B. Ghafari Farsani (2008) in a book entitled "Civil Responsibility of leaving save others' lives another and leave to discuss its compensation practices in this case in that case left to save the lives of that need to be completed and paid for other limited-is not complete.

4-M Ghasemzadeh (2007) in his book without a contract commitment to the principles of civil liability and civil liability in Iran's rights That what has been expressed in general without mentioning the problem is vast and complex health care system.

### Research Methodology

This research is common front on these issues with the library and taking notes. The review and careful study of available literature, both domestic and foreign books and articles and theses on this responsibility and is a reflection of the end. In line with "civil liability of health centers" of the primary sources and the works of prominent legal experts will examine the concept of civil liability from a legal perspective as well as reviews of books and articles and theses in this field and its reflection in the thesis is.

### Research Results

Civil liability of health centers has tremendous importance is Commitment to health centers to compensate for the loss incurred by the patient or third parties to the contract between the client and the health center found and placed in the position of compensation. Compulsory civil liability is considered to be established. This responsibility can be caused by their actions legal person who is the director of care is relevant to the tasks or by the actions of those under his command, such as doctors, nurses, midwives, technicians, environmental health, health education officer, curator statistics etc.

So as other members of the health center in the framework of a work activity and benefit from these activities should also assume the risks of their actions, of course, health center only takes responsibility for its employees That staff should have acted under orders and direct supervision and without being removed from their duties and responsibilities. It is justified by many theories. The first theory is the theory of employer liability by arguing that health centers as the employer responsible for the actions of its staff.

That is a legal entity separate from the employers' duty of reasonable care should know that this sort of indirect responsibility that is caused by failure to monitor health centers But despite the explicit command center if health workers are still suffering from neglect their case should take

responsibility for their actions and the actions of their employees benefits such as health centers must also take responsibility of their actions, and the second theory is also captain of the theory with the notion that health center staff must report any acts while under his supervision take the third theory of legal liability and in general it can be said that under civil liability arising from the actions of employees discussing the health center does not mean that health centers entitled to lost members, but it remains entitled to.

The purpose of civil liability of health centers compensation he is from the area of the damaged thereby fix damage We should be trying to sick or injured to the extent that the compensation for indirect damage is to the advantage of civil liability is not And compensation to be made to the injured party in the position that had been previously damaged. And the balance is lost by damage to gain entry, so the degree of fault compensation is to be counted, but the damage is not considered to be So as to achieve the goal of full compensation to be the best way to restore the previous situation is affected by the elimination of losses suffered in that state to restore the losses before the harm so that it is not over. But the most common way of compensation, offset by payment of a sum of money equivalent is in this way that the so-called compensation to the victims of the patient or indirect loss compensation that the estimate of the losses in different is.

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