

Medical errors

Shaykh Aboo `Abd-al-Mu`iz `Alee Farkous al-Qoobee

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

Question: Allaah (*Mighty and Majestic is He*) says:

(فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ)

[So ask the people of the message if you do not know]¹

I am one of your sisters in Allaah. I am a nurse at the hospital, in paediatrics. Once, I faced a case where a boy was hospitalised in the aforementioned service. I was put in charge of giving him the first aid. Therefore, I went to him, I took the prescription that was hanged on his bed and asked him if it belonged to him. The boy said yes. So, I gave him the prescribed medicine. However, after few minutes, his health got worse, and in spite of the doctor's intervention, the boy could not hold on and died.

After that the medical test was made, we found out that the boy was suffering from heart disease, and that the medicine which was given to him did not fit him. Also, when we re-read the prescription, it turned out that the medicine was prescribed for another boy. Therefore, I felt that it was me who caused his death.

The question: is this case considered as manslaughter? And according to the Sharee'ah, what are the consequences linked to this case (fasting or what...)?

Deliver me a fatwa that corresponds to my question. May Allaah reward you with good and grant you more knowledge and piety.

Shaykh Aboo `Abd-al-Mu`iz `Alee Farkous al-Qoobee (*May Allaah the Most High preserve him*):

All praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon whom Allaah sent as a mercy to the Worlds, upon his Family, his Companions and his Brothers till the Day of Resurrection.

Know that the scholars declare unanimously that the doctor or who substitute him, i.e. those who assist him, do not assume anything if the treatment that they gave causes harmful effects to the patient's health, as long as they had the intention to benefit the

¹ [Soorah an-Nahl (The Bees) [16:43]

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patient with their treatment and they followed the agreed medical rules, and they took the permission from the patient or who substitute him as the guardian. All this is established if the error was not serious and flagrant. We mean by a serious and flagrant error the one that is not approved of, neither in medical science nor by those who are experts in this domain.

This can appear by contradicting the sound medical means in a clear way denoting ignorance and an obvious and excessive carelessness that cannot be accepted from him, such as: making a diagnosis with eagerness, and afterward, prescribing the remedy with frivolity or negligence without leaning on the necessary medical methods to constitute the right point of view.

Hereupon, I consider that the nurse does not assume anything since she found the prescription that was hanged on the patient's bed, which indicates logically that it was his. In addition, she made sure when the patient confirmed that the prescription was his, even if in reality it was not. In fact, there is no guaranty in such case, because what is permissible by the Sharee'ah contradicts the guaranty, as it is established in jurisprudential rules; the rule is that: "Everything placed with good reason, then somebody is injured because of it, the one who placed it does not guarantee anything".

Hereupon, requiring a responsibility and a guaranty is not religiously established only if she commits a serious error, which is not the case here. And since it is generally obligatory to take care of one's health, the jurisprudential rule says that, "Which is obligatory should not be restricted by the condition of security"

The perfect knowledge belongs to Allaah (*Mighty and Majestic is He*). Our last prayer is all praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon our Prophet, his Family, his Companions and Brothers till the Day of Resurrection.

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