

# Patient's Right to Accept or Refuse of Treatment from Jordan law Prospective

By

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## Abstract

*Physician shouldn't exercise any medical intervention on any patients only after verifying the patient acceptance of get medical treatment, as it requires from physician s to do all necessary intervention like tests, medical examinations for continuance insurance of patients verifying accepting physician s decision regards to treatment procedures. It is thus the responsibility of physicians to get further obligation to view value to enlightening patients in his health conditions and other requisite therapies procedures which will be provide to him, this means that physician s shall always respects the will of patients even if they decides that patient dismiss to refrain from treatment due to any personal reasons without evoking their privacy. Despite patient refusal; physician s must maintain a continuous contact with patient regards to his general state of health as what can happen that entail it effects and complications to him in case of refusing of therapeutic intervention must be dealt with enough felicity? The foregoing provisions legislator did not say much of it directly dilemma, but it was possible through this research work deduced mediated miscellaneous texts relevant, were also referred on the need for Legal Legislative Authority Intervene or in other cases even with absence with any descriptive legal text in this issue. The foregoing provisions legislator and law makers didn't or have any pinch mark on this issue, but it could be possible clarify from debate in this research deducing from relevant mediated texts sporadic, as we also referred the importance intervention need from law makers in these cases for patients benefits.*

**Keywords:** Law Makers, Medical works, Enlighten, Patients, Physician (Physicians).

## 1. Introduction

Medical works acquires of great importance in lives of all people. Treatments requires confrontation of illnesses & suffering for some people that afflict their own periodically, while for others needed some other treatment to coexisted with chronic disease or serious disease to be confront through continuing treatment for long periods without disruption, as it has been noted there was no difference among all individual for both human existence sex (Male or a Female).

The need for treatment require always allowing physician to do their medical diagnoses to all patients to meet there needs by addressing and evaluate their health condition faces them , this kind of interaction are subjected is called “**A contract**” or ” **Medical Treatment Contract** “on certain occasions, while it would be subjected to directe provisions of law in cases absence of any contract between both parties “Physician s versus Patients relationship”, both cases turn patients are - often – chooses to refers to physician voluntarily.

As for physicians do their vital role rather than or shall obligate consideration to other ethical issues carrying out his legal obligation its located upon himself valuable address to persons who referred himself to him, the questions may be raised about the amount of physicians freedom doing medical consideration as it may appropriate to all patients? Or the extents of patients wills enjoy their total dignity and freedom or privacy? then only patient can estimated the variety of what medical procedures does suits him or wither if wasn't suitable for them according to many considerations like the amount of data he receives ?

To other it relates to his personal condition and his family affairs, socially, impacts of his religious believe.

However, despite these considerations all may not estimated to be necessities for treatment to patients critical health conditions, this issue can be taken into confusion like what to do especially in cases like rejecting of patients treatment will invoke the will of patient and appreciation to his own circumstances?, or would it be of high priority maintaining their health and save their life? Is it enough to do therapeutic intervention on patient's body tacit acceptance therapy or explicit acceptance should be available? Also another rising questions the adequacy of patient's acceptance when physician s can continue treatment and medical care to him? or would it requires accepting of patient knowledge on specific issues relating to each stage of his treatment on how can it effects his general condition or complications? Finally, the amount of when patient willingness are not respecting, as he is being treated without his consent approval?

By answering these and other questions associated by multiple legal norms & legislation, such as Public health Law, Act of Medical Syndicate legislation , Jordanian Medical constitution as it represents a guide lines to physicians medical code of ethics, requires search for rules that can be applied on each issue and be impose not only that issue but one may applying thereto more than one a legal text, yet there are a lot of many issues that may be available to answer explicit in texts of previous legislation, which calls for further research and scrutiny to devise the most appropriate provision.

Accordingly, this present study will be subjected to be a carried out according to patient's right of accepting or rejecting treatment through following division:

**The first arguments:** the right of patient to accept treatment.

**The second arguments:** the patient's right to refuse treatment.

#### **First Arguments:**

##### ***Patient's right to accept treatment***

The Jordanian medical constitution exposure the position regards to " **will of patient**" on medical business contract as it follows by article No.17 stated that, (All medical activities should be directed to benefit of absolute to patient behalf , patients needs is be justified to his endorsements and patient guardian endorsements wither he was a minor or unconscious consciousness).

To shed more light on this article we can learns from this text that main foundation that ought to be built should be utilize upon the relationship between patient and physicians must be based on consent, of both users, that it is inconceivable left to decide treatment or not to physician alone, still different laws recognize individual right of a firm on his body prevents treated forcibly.( **Attia Salih ,2011**), not to mention that the relationship between physician and patient is based on trust and the interest of the patient, which is often based on the idea of hiring or contracting (**Hussein Wad & others,2006** ), as both entered into two parties so-called medical treatment contract, which is expressed that both are capable willingness and acceptances to incur obligations and certain rights, then it cannot deliver possibility to make any work without available medical acceptance, acceptance of patients are a prerequisite and necessary before starting any medical procedures , and must be obtained before starting any treatment, as it sits in accordance with the general rules to be explicit or implicit acceptance (**Belhadj Arab,2012**).

However, for some (**Raho Saeed, 2004**) it seems to be highly and critically importance to differentiate on some major issue relating to the amount of endorsements on the basis of explicit and implicit among medical interventions whom are familiar with those major medical interventions, but for some it need to express endorsements on major of physicians medical interventions, and its importance to understand the physicians patient's consent to do some certain medical intervention that could lead rescuing his life.

For some others it seems hard to realize difficulties and differentiate between familiar medical interventions and major medical interventions, it also mean that medical interventions to major surgical operations like for example giving medication containing “Drugs” with high-impact or dangerous to patient life, yet if they does not take into account the side effects of those drugs?

We believe that medical interventions including the total all of major image linked to previous images as possible in order to overcome such difficult in implementation to legal standard known as standard of normal or habitual “Man of Action” particularly when medical interventions will take place (**Muhanna, Jaber,2012**),however this practice implemented shows more often in field of medical standard as called “Normal Physician”, which mean that any of other normal average physician is idler or not very intelligent, but also bound in affiliation to medical intervention and familiar with other interventions “High & Risky Intervention” may always raises the question of what would ordinary physicians will do if they have familiarity, or would long range of common medical interventions? In other words, would physician accept the implication gratified? And would they require explicit endorsements? However, delivery of what came in the previous scenario does not seem to be often affordable, especially in lights of enforcing to provisions of law, this requires from lawmaker to intervene explicitly to further extent directly the need for explicit and importance in obtaining” Patient endorsements ”especially in cases that requires high and sensitive major medical interventions.

At any how in any case of “Acceptance of medication” the medical administration generally intended merely aren’t formulated or consecrated to appropriate condition as immediate medical work shall be put in place, also the intention for accessing the amount of patients enlightened their consent, when if physician neglects obtaining patient endorsements to treatment will violate or provoke patients privacy and makes physicians responsible for their acts and outcomes.

As with regarding to “enlightened endorsements” it has the intense to a consent on vision and insight (**Abdel Rahman, 2000**) with consequences of using medical intervention on the patients’ body, or at least to recognize the least knowledge to meager implications at any medical action or intervention that may and would take place.

Also there not need frequently to occupy patients mind with information as he is aware or doesn’t require to hear them also ,especially when he know the kind of illness, & symptoms and side effects related treatments (**Al-Kaabi Salem, 2006**).

So its not alter truthfulness to clarify that; any necessity realization of physician responsibility in situations as he should inform the patient regarding to nature or the kind of treatment impact that may effects on his body (**Abdul Karim,1994**), this obligation does not base when treatment contract are taking place when starting treatment only, but the average effects continue in the following stages also if they involve high risks, as if the risks consequent that will have its effects during course of medication or may lead to causing addiction or may causes absence of rational thinking "fainting" ,or weakness in any parts of the body functions as it may also high degree of death risk, which is why it’s worthwhile that Jordanian delegates legal & lawmaker shall expressly stated, not indeed give high priority requirement to obtain a prior written consent from patient who will be subjected to medical procedure and must involves degree of risk on his safety or life.

However, this does not necessarily mean that physician can help them to insight patient or to go into details with unnecessary scientific precision to his condition or to extent interpret effects of treatment and medication in case of patients acceptance or abstain, also physu shall suffice included clear idea about his general condition , in a simple and accessible terms, even with clear simple language of the concept without revenging technical terms; this depends on circumstances of patients and his desire to know all details of his condition, taking inconsideration his back intellectual or cultural level (**Maamoun Abdul, 1984**).

If the necessarily of civil liability supposed harming of patients injury, then the question may be raised here about amount or possibility of patient holding with physician mistake then claiming compensation even if after physician s work has leads to patient's recovery has been without obtaining his enlightened endorsements in cases where the physician shall have committed to enlighten of patient, but will patient deserves or can seeks compensation for that?.

We believe that patient has the right to claim compensation, particularly when physician keeps patient unaware on the nature of his treatment, this may regarded as "Moral damages to patient", perhaps access chances to claim compensation her may increases if will of patient opposite with his religious principles or his moral beliefs shift from without using of some medical procedures, and what will happened to some patients who are reluctant for reasons of religious conduct and believes like their refusing of blood transfusions or organ transplants(**Alfar Abdelkader ,2011**), or by using of drugs at any level of treatment (**Mohammed Nujaimi,2014** ), as may cause morale damaging which may requires and seeks greater compensation, regardless of any safety motive scratch which prompted the physician to do so.

We believe that elements of physician s enlightenment endorsements shall proceed ahead for enlightening patient to other alternatives proposed treatment if found, even though the usage of these alternatives will spontaneously will lead to eliminate patient longer stay at therapy, by providing to many patients a broader degree of freedom of choice, it is worthwhile that Jordanian law makers shall provide all needs requires directly and explicitly on behalf to them.

**Finally** as this paper indicates to the possible exceptional in cases of depicting that physician need not to or shouldn't waits to get patient consent or even his approval or even family approval, or in case when patient found to be alone **-without his family-** and unconscious cognition or cannot express their consent specially when needs urgent medical intervention, physician so must go for any necessary medical intervention would be last means of life saving (**Mansour Mohammed,2001**), then inform patient of the medical intervention conducted at him then help them to understand what needs to be followed in remainder of his early phases of treatments.

## **Second Arguments**

### ***Patient's right to refuse treatment***

Human been may faces specific diseases, and issues like recovery from any health risk factors "healing or not becomes matter of fact & reality, but nevertheless patient may refuses treatments on the bases of his beliefs or principles, he believes in or to any insult was the fear or the inability to take appropriate decision, so can in such cases he be forced to be treated by narcotic substances?.

We believe that patient has the right to refuse treatment in such cases, and that out of respect for his rights of privacy, and according to his will and freedom and belief, so it hard deliver any possible medical intervention without his consent and approval.

The decision for refuse treatments must forwarded to all in place prohibiting any to make any therapeutic interference as it will prejudice to his body and privacy.

But that is not applied to cases demonstrated of patient's refusal of treatment stems from loss of consciousness or underweight, it must then in this case decided refusing treatment or exile or proceed with a treatment to patient's guardian or guardian or his deputy or his relatives.

However, physician in all cases patients refrains from treatment in a way that would draw his attention to need for this treatment, as also taking necessary precautions to be able to deal with patient in another way if applicable, but if physician heeded quickly before patients rejection for any kind of treatment, we believe that this doesn't relieve the physician responsibility for the damage that may caused to the patient completely, as we also believe the importance of patient's physician enlighten his state of health and what

should be taken from medical intervention as well as to help them understand the implications of not doing treatment.

At any cases, by proving patients rejection of medical treatment , physicians are committed for in sighting of patients as may be replaced reportedly between physician and patient on the basis of miss authorization, even it accrued with patients family in course of disagreement among both party's it shall then can forwarded to Judicial body to prosecute between the disputing parties before courts, we believe that to move and consequences that may official lays on physician s responsibility, it shall be done in clearly and explicitly methods, through requirement for excretion of patients and willingness to reject treatment therapy procedures, despite cautioned to necessity or any further complications, as what we believe in case of Jordanian law makers shall expressly and adopted clearly, such declaration must be on behalf and interests of both party's as well to physician also, the existence of such a verdict it has to lead to sense of seriousness of the decision taken of refusal which could lead to Ivory Coast later with him, not even merely on the basis of any written approval attaining refusal of medical treatment will ultimately leads to limit the scope of many of conflicts between physician and patients if it raises in future.

The implication of above physician taking therapy initiatives despite patient rejection would be a basis for physicians legal accountability, even if it meant of medical treatment to help in cure of patients as major priorities , or even if physician s intervention will save patients from uncertain death, it is not possible then to possibly deliver force person to undergo treatment rejected, especially as it is difficult to imagine how they can be forced to go for medical treatment in such cases, will it be taken forcibly or in public and oppress, or stealth, deception and deceit?

We believe that in both are offense to human dignity to his will and eligibility and freedom and soul, human been however are supposedly always lives in very legal regulation(**Hamza Mahmoud,1996**), not to mention that the introduction of such rule is contrary to the origin principles of medicine - according to the Jordan Medical Constitution- it indicate that medical profession is a career of a moral & scientifically socially humanitarian needs, it makes imperative for those who practice it to respects human personality in all circumstances , example in his behavior and his dealing out, as straight man forward at work, preserving of lives of people and must safeguard the honor & merciful of human lives, yet his willingness must be direct to pay his utmost efforts in service(**Mustafa Mahmoud,2007**).

It's worthwhile to mention her that reference is made as there is a trend need in jurisprudence arguing about capability of physician practicing of treatment without any consent of patients which makes physician guilty of unintentional crime of negligence or lack of reserve (**Hamid's Mustafa.N-A**). However, it is difficult to deliver including going to previous trend, and we believe it is that physician who considers responsibility in case of intentional treatment in case of direct treatment even without patients approval, since his work goes out to medical of circle permissibility.

As of Civil destination, we believe that relationship between patient and physician would be subjected to provisions of contract to illegal act " harmful act " (**Mohammed Jassim, 2011**), as of patients worth compensation for each material or moral damage don or touched him if medical intervention has been in these cases establishing by law or in cases where law allows to bypass the will of patient.

As regarding to physician s accountability of what's called criminal offense or civilians offence do not prevent disciplinary accountability, so as to impair his professional duties and remiss in doing them in most complete picture (**Almassaroh Haitham, 2000**).

If patient refuses compromising to his body to treatment, it may be then be considered to exception compulsory medical intervention on patient's body in spite of his refusal, the following exceptional cases which permit physician s fast intervention as follows:

- A. Suspicion or injury to one of serious epidemics disease by the Minister of Health should be addressed through isolating infected, or suspected of having one of epidemic disease and prevent their movement and give serums, vaccines and treatment (**Almassaroh Haitham, 2013**).
- B. If there mental illness or drug addiction, as permissible for a physician and consent of hospital Director admit of sick person or an addict to also admit to hospital for treatment to him despite his refusal, as if the patient's condition requires it as he may cause harm to himself or others or property outside.

What should not be overlooked here is that it is incumbent on physician after the completion of treatment in previous cases informs patient and to help them understand what needs to be followed on next stages of treatment necessary.

## 2. Conclusion and Results:

It's worth saying that after we go through the patient's right of refusing treatments or acceptance, worthier to view most important findings as following:

### 3. Results:

**First:** Physician consent to patient's implicit sufficiency from medical interventions simplicity and familiarity, unlike major medical interventions that was available of work consent on any medical explicit, as it can differentiate between two types of interventions, depending on what paths that physician s will head in normal and similar circumstances.

**Secondly:** It must respect the will of patient's subjected to treatment, so it is not enough to get patient endorsements when treatment begins only, but it requires access to his endorsements also when making physician decision to move from one phase to another of treatment, it is assumed that endorsements of patient should be presented, so as to enlighten patient with different stages of treatment, its impacts, complications, alternatives if any.

**Third:** In some cases while waiting for patient accepting of treatments, major intervention has to move even without his consent approval in any set of any necessity therapeutic treatment, even if it may be against his wishes especially when patient facing high risk of malty critical situations and complication that threaten the life of the community or when to be treated of drug addicts or any mental ailments.

**Fourth:** Patient has the right of refusing treatment based on any reason he sees it, as the physician who considers and respect patients will in such a case, it's important to enlighten patient about his state of health and any implications of his rejection effecting him undergoing or refusing treatment.

**Fifth:** Patient deserves compensation for any complication which my results due to lack of physician access in treatment endorsements , this ultimately also applies in the case of exceeding physician to patient's decision to refuse of treatment, based on provisions of fault liability or Streptococcus - depending on the circumstances, may also entail besides physician 's responsibility to criminal and disciplinary effects.

## 4. Recommendations:

**First:** It should be expressly by Jordanian lawmaker the account of physician s to obtained patient endorsements explicit in cases of major medical interventions.

**Second:** Its valuable that Jordanian lawmaker shall provide clear statute of the special needs physician s in order to help them understanding patients needs whenever he require it, in other words to explain to patients what treatment will be taken at earlier stages and what kind of materials that may him in long term, as well the complications and alternatives available on his behalf.

**Third:** It should be stated the importance of Jordanian lawmaker shall delegated approve the patient refuses to his treatment in written manners and shall be state explicitly any rejection from patient side to medical treatment in certain way.

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