Al-Wajeez in Medical Liability

In Accordance With The Federal Law No. 4 Of 2016
Regarding The Medical Liability

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The first duty of a citizen is to work day and night to raise his" standard of living, and consequently to raise the level of his nation, and this citizen shall not be convinced that he has obtained his ."academic degree and assumed his position, then he does nothing
The Late to be forgiven, Allah willing
Sheikh Zayed Al Nahyan

The late
Sheikh Zayed bin Sultan Al Nahyan

Introduction

The provision of health and medical services involves many professional and legal risks and challenges, due to what the world witnesses of continuous and rapid development in many developed countries, so for encountering these challenges, the UAE legislator found that he needed to enact health legislation to keep pace with these rapid transformations in the methods of providing the medical and health services, and to set the controls that govern them to regulate the methods of providing the health services and develop the performance of the health system within the State, with a view to reach the best international practices.

In view of the controversy raised by the professional medical liability on both the legal and jurisprudential levels, the legislator has been interested in developing the legal frameworks for the practice of health professions within the State to ensure that the rights and duties of the patient and those practicing the medical professions are designated, through which he set precise and clear rules and controls

and determined the responsibilities and procedures that shall be followed in the event of a dispute between the provider of health service and the patient, which made the UAE one of the few countries that developed independent legislation on the medical liability, as it issued the Federal Decree Law No. 4 of 2016 regarding the medical liability in order to organize and define the framework of doctors' liability as a result of the seriousness of the consequences of tort that may occur during their work, and this law included several important points as follows:

The law obligated the doctors to record the patient's health condition and his personal and family medical history, before proceeding with the diagnosis and treatment, and to use the necessary diagnostic and treatment modalities and the required medical tools, with full vigilance in diagnosing and treating the patient, as well as informing the patient of the available treatment options and allowing the patient or his family to be acquainted with the nature of his disease and the degree of its risk, then describe the treatment and its doses and the method of use in writing. In addition to the necessity to inform the patient or his family of any complications that may arise as a result of treatment or surgical intervention before starting any of them, and to cooperate with other doctors and practitioners if necessary.

The law also stipulates that the patient shall not be discharged from the health facility unless his health condition is allowed to do so, or to transfer him to another facility to complete his treatment, provided that the requirements for proper health transport are available and the patient shall not be harmed in the transfer process, or at the patient's request if he is fully competent despite letting him be familiar with the consequences of that and taking a written acknowledgment of his responsibility towards such procedure.

If the patient is incompetent or incapable, a written approval shall be required to be obtained from one of the doctors within the facility and an acknowledgment shall be obtained from the guardian or trustee of his responsibility for transporting the patient to another health facility.

The law also prohibits doctors from treating the patient without his consent, except for cases that require emergency medical intervention in which it is impossible to obtain consent for any reason whatsoever, or whose disease is infectious and threatens the public health or safety, the incompetent patient's consent shall be taken into account with regard to the examination, diagnosis and administration of the first dose of treatment, provided that any of his relatives shall be informed of the treatment plan.

As well as refraining from treating the patient in emergency cases or discontinuing his treatment in all cases, unless he violates the instructions specified by the doctor, or the refrainment or discontinuation is due to reasons beyond the control of the doctor.

Likewise, refraining from treating a patient or stabilizing an injured person unless his condition is beyond his competence, the necessary first aid shall be carried out, and then referring the patient or the injured to the specialist doctor or to the nearest health facility if he so desires.

It shall also be prohibited by law to use unauthorized or illegal modalities in administration of the patient's health condition, or prescribing any treatment before conducting a clinical examination on the patient, and the health authorities may establish a system for providing the remote health services. It is also prohibited to disclose the patient’s secrets the doctor got acquainted with during or because of the practice of the profession, with the exception of that if it is based on the patient’s request or consent, or if it is for the medical interest of the husband or wife, provided that this shall done personally for either of them, or if the purpose of disclosing the secret is to prevent the occurrence of a crime or reporting it, and the disclosure in this case shall be to the official competent authority only, or according to an assignment by a judicial authority or an official investigative authority within the State as an expert and if the expert is summoned as a witness,

or if the doctor is assigned to conduct the examination from one of the insurer companies or from the employer provided that this shall not exceed the purpose of assignment. Also, if it was at the request of the health authority and the aim is to protect the public health, and finally if the purpose of the disclosure is to allow the doctor to defend himself before an investigation authority or any judicial authority, as required by the need for defense. The law also criminalized sex reassignment operations, unless the person's sexual affiliation is vague and suspected of being male or female, and he has sexual physical features that contradict his physiological, biological, and genetic characteristics, and this shall be confirmed by medical reports and the approval of a specialized medical committee constituted by the health authority to determine the patient's sex, and to obtain approval of the correction process, and that committee shall refer the matter to the psychiatrist to conduct the necessary psychological preparation, and it is not permissible to end the patient's life for any reason whatsoever, even at his request or the request of his guardian or trustee, as well as removing the resuscitation devices from the patient unless the heart and breathing stopped completely and eventually, or all brain functions have completely and eventually stopped in accordance with the accurate medical standards, and conducting human cloning operations shall also be forbidden, or any research, experiments and applications with this intent, and it shall also be forbidden to conduct research or medical experiments on a person except after obtaining his/her written consent to do so.

The law also prohibits the use of assisted reproductive technology for a woman or the implantation of an embryo in her womb except from the spouses and in accordance with their written consent to do so, provided that this shall be conducted during the legal marriage between both of them, and it is not permissible to perform any work or intervention with the aim of regulating reproduction except at the request or by virtue of the consent of the two spouses. Also, it is not permissible to carry out any work or intervention with the intention of interrupting the reproduction of a woman except on the basis of the opinion of a specialized medical committee that shall be constituted of not less than three doctors, which decides that pregnancy or delivery poses a definite danger to the life of the mother, after obtaining a written consent of the wife and notifying the husband of such. It is not permissible to conduct any abortion, unless the continuation of the pregnancy poses a threat to the life of the pregnant woman and there is no other way to save the life of the pregnant woman other than abortion, and the abortion shall be performed under the knowledge of a specialized doctor and as per the approval of the attending physician who is responsible for treating the medical condition that justifies the abortion, provided that a report shall be executed to explain the impossibility of natural birth along with stating the justifying reason for conducting the abortion under the knowledge of the concerned doctors, provided that the pregnant woman and her husband or her guardian shall sign this report in the event that it is not possible to obtain her consent indicating the approval to perform the abortion, and each of the concerned parties shall keep a copy of that report, and the approval of any of them shall not be required in emergency cases that entail the immediate surgical intervention.

Proof of fetal deformity shall also be excluded from the legal prohibition of abortion, provided that the abortion shall be based on a written request from the spouses and that the pregnancy has not passed one hundred and twenty days, and the deformity shall be proven by a report of a medical

committee that includes consultants specializing in gynecology and obstetrics, pediatrics and radiology, and the report of the committee shall be based on the medical examinations and the use of scientifically recognized techniques, and the fetus has a serious deformity that cannot be cured.

According to the foregoing, the law considered that the medical tort is what the practitioner commits as a result of his ignorance of the technical matters that are supposed to be known by everyone who practices the profession of same degree and specialization, or that practitioner's failure to follow the recognized professional and medical principles, or his/her failure to exert the necessary care, or negligence and failure to follow caution, the matter which entails imposing the sanction of imprisonment or penalty, or both.

Pursuant to the above, we will present in this research the concept of medical tort and then review the provisions of liability for the tort and compensation for this tort, in the light of Federal Decree Law No. 4 of 2016 regarding the medical liability, hoping that this research will be an addition to the legal library for everyone to benefit therefrom.

First Theme

The Medical Tort

In this research, we will discuss:

(1) Nature of Medical Tort

(2) The difference between Medical Tort and Medical Complications

(3) The Medical Tort Standard

First: Nature of Medical Tort

The medical tort shall mean the tort or faults committed by the health professionals that lead to harm to the patient. They include the faults in diagnosis, faults in dispensing the medications, faults in performing surgeries and other medical faults. The medical faults shall be distinguished from the malpractice in that the former shall be deemed unintentional faults or accidents, while the latter shall be deemed the result of negligence, hateful malice or criminal intent (mens rea).

Accordingly, the medical tort is one of the adverse effects that can be preventive through the medical care, whether it is obvious or harmful to the patient. Among the problems that commonly occur during providing the healthcare, the adverse drug events, improper transports misdiagnosis, etc.

The tort is also defined as a defect taints the human behavior, that can't be committed by a man with sane and insight, which was surrounded by external circumstances similar to the circumstances that surrounded the responsible person, so the liability is based on the idea of the tort that caused harm to others, and this entails the legal accountability, and some have defined the tort as a the person's deviation from the usual behavior so required by law while this person is aware of the implications of such behavior.

Given the nature of doctors' work in terms of privacy, and the development the world witnesses at the present time in the medical field, the UAE legislator has adopted special rules in regulating the medical liability by enacting special legislation without completely relying on the rules set forth in the Civil Transactions Law, as this is in accordance with Federal Decree Law No. 4 of 2016 regarding the medical liability, which defines the concept of medical tort in Article 6 as: "the tort that is due to ignorance of technical matters that everyone who practices the profession is supposed to know about, or that is due to negligence or failure to exert the due care".

Accordingly, the medical tort, according to the concept of Article 6 mentioned above, is what the practitioner commits as a result of any of the following reasons:

1- Ignorance of the technical matters that are supposed to be known by everyone who practices the profession of the same degree and specialization.

2- Failure to follow the generally accepted medical and health professional principles and rules.

3- Failure to exert the due care.

4- Negligence and failure to follow the caution.

Consequently, the medical torts are faults committed by the medical service provider, which resulting from his poor experience and competence in providing care, and lead to physical and moral harm to the recipient of the service, such as disability, paralysis, amputation, disease complications, brain death, or permanent disability and bodily harm.

Pursuant to the foregoing, The medical liability occurs when the doctor fails to exert the due care that is supposed to be exerted towards his patient throughout the period of the doctor's relationship with his patient, so any fault on the part of the doctor that leads to harm to the patient shall be compensated under remedying compensation to the latter for those damages.

The Difference between the Medical Torts and the Medical Complications

Many do not differentiate between the medical tort and what is called (the medical complications), although there is a difference between the two terms. The medical complications are what occur to the patient during or after his treatment, and this may lead to death, damage to the patient's organs, or lead to a delay in the patient's recovery, and the doctor has no relation to the occurrence of these complications and he has no ability to prevent them, meaning that the complications afflicted the patient have nothing to do with the doctor's work. It happens that the doctor and the medical staff with him have adopted the correct measures, but the patient's body did not respond completely to

the treatment, and in this case the doctor and his staff shall not be medically liable for that in accordance with what is prescribed in Article (111/) of Federal Law No. (1) of 2015 that provided for "the medical liability shall not be established if known or unexpected medical effects and complications occur in the field of medical practice that are not caused by the medical tort".

As for the medical tort, it is the result of fault in the procedures that were adopted towards the patient, as a result of a miscalculation, negligence or tort by the doctor towards the patient during his receiving of treatment or at the phase of diagnosis, and this negligence and failure led to harm to the patient, i.e. the harm occurred to the patient was a direct result of the doctor's negligence or failure and in this case the doctor shall endure the medical liability resulted from his negligence or tort, as the medical tort is something that can be preventable and avoidable.

Third: Criterion of Medical Error

Identification of the medical error criterion is of particular importance because it provides basis for establishing whether the act is a medical error or not. Determination of whether the doctor's act constitutes an error or not shall be based on an evident criterion. Therefore, the Emirati legislator defined the medical error in Article 6 of the Federal Law No. 4 of 2016 as follows:

"The error resulted from ignorance of technical matters that are supposed to be known by any profession practitioner, or the one occurred due to negligence and not paying attention and exercising diligence as necessary".

Whenever a doctor deviates from the familiar conduct of doctors at the same professional level and whenever he fails to pay due caution and care; this should be deemed a medical error.

Diligence refers to what a prudent doctor having average level knowledge and know how provides under the surrounding conditions while exercising his work duties,

with due consideration to the established professional traditions and scientific principles, regardless of the issues disputed by the profession practitioners, in respect of which there is a room for thinking and giving opinions. A doctor's deviation from performing such duty is considered as an error that entails accountability for the damage occurred to the patient and results in missing the treatment opportunity, as long as such error is related to the damage in a causal relationship.

Based on the foregoing, determination of the medical error is an essential element with regard to the medical liability in particular. This is because it plays a prominent role in proving medical errors and since assessment of such medical error demonstrates whether the medical staff's act is wrong and liability arises out accordingly or not wrong and no liability is borne in return. Committing error by the medical practitioner can be asserted only through adopting a fixed criterion showing the medical practitioner's act and whether he committed an error or not. This matter is of major important because it is essential to determine medical liability Jurists set three criteria for determining the medical error as follows:

A. Personal criterion:

Under this criterion, the doctor who committed the error himself, his own potential and extent of diligence are considered, where the prudent doctor shall be liable if he fails for provide the required care to the patient while the doctor known for his carelessness assumes no liability for his act if the same caused harm to the patient. But this rule is unjust, where such act is considered as an error for a doctor and not an error for another. Jurist\ Mazeaud is of view that "the internal conditions are the ones associated with the character of the liable person, which are related to his medical and moral qualities, and all aspects other than that are external conditions".

Hence, this criterion is based on the consideration of the character and own conditions the doer, where the error he committed is compared against his usual conduct under such circumstances. Therefore, this

approach compares between the doctor's acts in the light of his normal conduct, in terms of possibility of avoidance of harmful acts (if any) under the same conditions that surrounded the committed act, and whenever there is a possibility to avoid harm by the doctor and he fails to do so; this failure shall be considered as error.

Upon the foregoing, a doctor has to exercise due diligence towards the patient according to the medical principles, without being responsible for achieving results. But for applying the personal criterion, the conduct of the person causing harm and his own conditions and circumstances shall be considered to determine whether he committed an error or not, taking into account the surrounding circumstances. For example, if the personal criterion is applied a doctor who resulted in his patient's death due to the inability of the primitive means with limited capabilities that he uses to save patient's life, this doctor shall assume no liability despite the fact that other doctor can save the same patient's life. This criterion is criticized for its inaccuracy and difficult application due to dependency on monitoring the conduct of the person in question to determine whether his conduct constitutes an error or not. Therefore, the application of this criterion does not achieves justice, where it is unfair to held a prudent, attentive person accountable for a tiny mistake while the person known for his carelessness receives no blame.

B. Objective Criterion:

The objective criterion or the normal man criterion does not consider the internal conditions of the doctor, such as his own potentials, extent of vigilance, his conditions, age and health status, but it considers the external circumstances surrounding the doctor in question, such as the patient's status and the required prompt medical care and special potentials, which may be unavailable to doctors in the country, unlike the ones in the cities. Another example is in case of

having a surgery in a place where the medical equipment is not as abundant as the one available in another place, such as the radiological and lab examinations and tests required for urgent situation of a patient. In fact, a doctor has to follow the best methods to avoid the risks that the patient may face. The criterion of medical error is considered through the approach followed by the doctor and his estimation of the possibility of occurrence of error that results in or contributes to causing harm, where if he firmly believes that his act caused harm, then his error shall be a gross one. But if his act could possibly cause harm, then his error shall be a minor one. In all cases, the normal doctor shall be the benchmark, and the extent of gross, minor and estimated error is limited to the element of possibility of harm occurrence.

Upon the foregoing, the doer's conduct, according to this criterion, shall match that of a supposed person. Therefore, the objective criterion used for measuring the error in the obligation of excise diligence depends on the comparison against the conduct of an average, ordinary person, who is perceptive without being highly careful and attentive nor very careless and ignorant. This criterion applies to the liability, whether it is contractual or tort liability, where the doctor's conduct is compared to that of an attentive, prudent doctor under the same conditions surrounding the former, without considering the internal and character's related factors, and if the doctor deviates from this conduct; error arises out, giving rise to liability of the harm occurred to the damaged patient. The objective criterion comprises two elements: first one is the usual conduct of a doctor at the same professional level, and this includes the established principles of the science of medicine, where the doctor shall not be considered as at fault if he applies the applicable medical standards of the science of medicine to the patient he treats, and the second one is consideration of the external circumstances that are not related to the doctor's character.

C. Mixed Criterion:

This criterion combines both of the objective and personal criteria. The medical work is of two types: the therapeutic medicine aiming at treating the patient, helping him to get rid of pain and saving his life and the aesthetic medicine that aims remove specific deformities or defects in the body rather that treating patients.

Section Two

Provisions of Liability for Medical Error

It is established that the doctor's relation with his patient is of dual nature, where it is a legal relationship governed by the Law and a relationship governed by the ethical and human rules. This keeps the doctor under obligation to exercise due diligence and care and to follow the sound procedures for his patient's health and integrity. However, this does not preclude the occurrence of medical errors causing harm to the patient. This necessitates setting evident, unambiguous rules regulating the provisions of the doctor's liability for medical error and estimation of the proper compensation for the damage occurred due to that error.

Therefore, the Emirati legislator addressed the provisions of the medical liability and the set the regulatory legal rules thereof through the texts and article of the Federal Law No.10 of 2008 and its Executive Regulation issued under the Cabinet's resolution No. 33\200. In 2016, the Emirati legislator enacted the Decree-Law No.4 of 2016, in respect of medical liability, providing expressly for the revocation the Federal Law No.10 of 2008, in respect of medical liability with keeping the Executive Regulation thereof valid and effective as an executive regulation of the Decree-Law referred to above until a new executive regulation is issued according to the provisions of Article 42 of the Decree.

Article 1 of this Decree-Law defines the medical and associated profession as follows:

"A medical profession or associated professions thereto as defined by a decision of the Minister of Health and Prevention".

The practitioner of the profession is also defined as follows:
"A practitioner of a medical profession or the professions associated thereto as defined under a decision issued by the Minister of Health and Prevention".
H. E. the Minister of Health issued the Ministerial Resolution No. 188 of 2009 regarding the medical professions and identification of the associated professions thereto as stipulated in Article (1) of the resolution referred to above. There are examples of the medical professions: "the profession of medicine, the profession of dentistry and the profession of pharmacy". For the professions associated with the medical profession, these are some examples on the same: "nursing- anaesthesia- optics- mental health- physical therapy- medical aid".
The legislator addressed the definition of medial error as aforementioned to avoid repetition. The Law forbids the practitioner of the profession to terminate the patient's life for any reason whatsoever, even if this is requested by the patient himself or his guardian. The Law also prohibits removal of the resuscitation equipment supporting the patient's case unless it is assured that the heart and breathing completely and permanently stopped or all functions of the brain completely and permanently stopped in accordance with strict medical standards issued by the Minister of Health and Prevention. However, this Law permits to allow the occurrence of natural death by not performing cardiopulmonary resuscitation for the patient in case of dying, provided that the conditions prescribed by
the legislator in Article 11 of the above-mentioned Decree-Law are met.

Moreover, the law prohibits human cloning, doing researches and experiments with the aim of reproducing a human being and using the assisted reproductive technology that is performed on a woman or planting an embryo in her womb, except for the married couple, provided that this shall be done with their written consent and during the term of their lawful marriage.

The legislator also prohibited the doctor from performing any abortions or prescribing anything that may induce abortion, except in the following two cases only as an exception from the rule:

1. If the continuity of pregnancy poses a risk to a pregnant woman's life.
2. If it is proven that the fetus is malformed.

For application of either of the two cases, the legislator stipulated a set of conditions in Article 16 of the Decree-Law that shall be met. The legislator assures that all conditions shall be fulfilled in the case that a doctor may perform surgery or prescribe anything that may induce abortion of a woman.

Then, in Article (17) of the Decree-Law, the legislator addressed the cases where no medical liability arises out against the practitioner, which are limited to the following:

1. If the harm occurred to the patient is not caused by any of the reasons set out in Article 6 of the Decree-Law this Decree and the Executive Regulation thereof.
2. If the harm is caused by the patient's action or due to his refusal of treatment or his failure to follow the medical instructions given to him by those in charge of his treatment, or if the harm is caused by an external reason.

3. If the doctor adopts a certain medical method in treatment that is different from those of others in the same specialization, as long as such method is in line with the generally accepted medical principles.
4. In case of occurrence of medical effects and complications that are generally accepted or unexpected in the field of medical practice, which are not caused by medical error.

Therefore, we address in this section the provisions of liability for medical error through discussing the following:

First: Obligations of the Medical Liability.

Second: Aspects of the Medical Liability of the Doctor.

Third: Nature of the Medical Liability.

Fourth: The Medical Liability Committees.

First: Obligations of the Medical Liability.

Liability is the accountability and affording the consequences of the malpractice, the Civil Liability is one of the pillars of legal and social system, every sane person is responsible for his actions, i.e., he is obliged towards the other with certain obligations, the most important of these obligations is not cause damage to him, if he breached these obligations, he should repair the damage and compensate the aggrieved.

Article No. (3) of the Federal Medical Liability Law No. (4) of 2016 states: "Every one practice a medical profession in the State shall perform his work obligations upon the requirements of work interest whereas accuracy, honesty, in accordance with the scientific and technical recognized principles, and that achieve the necessary care for the patient, without taking advantage of his need to achieve illegal benefit for himself or to others, and without discrimination between the patients, also he shall abide by the applicable legislations in the State.

Article No. (6) of the Federal Medical Liability Law No. (4) of 2016 states:

The medical malpractice is the act committed by a practitioner of a medical profession as a result of the following reasons:

1- Ignorance in the technical matters that are supposed to be known by any practitioner of the same degree and specialization.

2- Non-compliance with the recognized professional and medical principles.

3- Non-exercising the due diligence.

4- Negligence, not follow the precaution and caution.

According to the aforementioned, the doctor liability shall be held whenever he breached any of his obligations toward his patient. However, the medical liability consists of two sections, one is behavioral and moral, the other is professional and practical, the obligations of malpractice in each of these sections are various and different, and obligations of each are as follows:

(a) Obligations of the Medical Moral Liability:

The doctor shall be responsible for damage occurred to the patient from the behavioral aspect, if he breached the moral obligations with the patient provided in the contract. These obligations include honesty, fulfillment of the contract, advice, confidentiality, private parts keeping, therefore, the obligations of the moral liability as follows:

1. Lying: If appeared that the doctor lied to his patient, this caused damage to the patient, then the doctor shall be responsible for that damage, and the accountability image clarifies as follows: if the doctor lied to his patient and told him that his disease requires a defined surgery and misled him that this is emergency case, and the patient gave up, abided by, and permitted to the doctor to do the surgery, which caused damage of that organ. If the doctor acknowledged his hying or the patient introduced evidence on his lying, then the lying of the doctor impose the liability, this is the worst.

Also, lying is including non-informing the patient of the truth of his disease, here, arise up a problem, if the doctor was afraid any psychological damage affects his patient if knew his disease, in this case, the doctor may resort to tell the patient's guardians about the truth to be able to kind in informing him. As for hiding the matter completely is not right. The doctor should note that the patient rent him to discover his disease, thus, the doctor shall not be abided by the contract until tell the patient the truth of his case, or transfer him to who has the experience to diagnose his disease and informing him the truth Therefore, the obligation of informing was a must on the doctor burden, whereas the Article No. (4) clauses, 5, 6, 7, 8 of the Emirates Federal Medical Liability Law No. 4 of 2016 states: "Without prejudice to the stipulated obligations in the applicable legislations, the doctor shall particularly abide by the following:

5- Informing the patient with the available treatment options.

6- Describing the medicines, determining its quantities, method of use in writing and clearly, in addition to writing his name, signature, and the date of the medical prescription. And pay the attention of the patient's and his family, as the case may be, to the necessity of the treatment way he defined.

7- Informing the patient the nature of his disease and its severity degree, unless the patient's interest required otherwise, or his psychological condition did not allow him to be informed. Any of the patient's family, relatives, companions, shall be informed in the following two conditions:

a. If the patient is completely or partially incompetent.

b. If his health condition did not allow him to be informed in person, and he did not determine a defined person to inform him.

8- Informing the patient or his family the complications, that may arise out of the diagnosis, medical treatment, or surgical intervention before starting, observing the same and initiative to treat it when possible".

According to the aforementioned, in all cases, the doctor is obliged to informing the patient as a pillar of the medical contract. However, the obligation of informing is related to the proper implementation of this obligation.

If the medical contract was among the named contracts that organized by the legislator on the model of the rest of the other civil contracts, It would be possible to determine the obligations of both parties, in addition to protecting the patient from the doctor's malpractices, but due to non-naming definitely this contract in a legal way so far, thus the court shall determine these obligations based on the basis that the contract does not only bind the two parties to what is stated therein, but also bind to all matters that are considered of the contract' requirements, so generally shall differentiate between the consent by which the medical contract is concluded by the two parties and the necessity of obtaining the clear consent by the patient himself to practice the medical actions in all of the treatment' stages as a natural and legal result, without mixing between concluding the contract and enforcement of the contract including the mutual obligations between the two parties as mentioned in the contract.

2. Fraud and failure to advise: Advice is the sincerity of the doctor in making efforts to detect the disease and draw up and implement a treatment course, while doing everything necessary to achieve that. Then, when the patient consults his doctor, he entrusts his secrets to him. Violation of this commitment includes cheating in violation of the law, and the issue is illustrated by the example: If the doctor diagnosed a patient with a cancer case that, according to the profession, requires both surgical and drug treatment to achieve the best chances of recovery, and the doctor limited himself to informing his patient about the drug treatment and did not inform him of the necessity of combining it with surgical treatment while he knew that,

then he did not advise his patient but rather deceived and cheated him. If that damage resulted in the cancer recurring or not being cured at all, this would necessitate liability and the consequences of this liability would follow.

3. Breach of Contract: If the doctor and the patient contracted for medical treatment, if it was a lease, then it is one of the necessary contracts, and either party may not terminate the contract without the consent of the other. This commitment has a moral behavioral aspect on the part of the doctor, because he has embarked on diagnosis and treatment, and his breach of the contract is based on the assumption that he will harm the patient. If such breach results in damage and such breach is proved, it shall be liable. This is what the contemporary medical systems adopted. In the regulations of medical ethics issued by the American Medical Association, it is stated that: "A doctor who has been bound by a prior contract, has no right to refuse to treat patients included in the provisions of this contract." Many systems of contemporary medical practice stipulate that the doctor is responsible for securing an alternative for his patient, if something occurs that imposes a kind of defect in the fulfillment of the contract, such as referring his patient to another doctor, or appointing someone to provide treatment to his patient temporarily until this emergency is over, and the like. It should be noted that if the principle is that the doctor's obligation is an obligation to exercise care, except that there are cases where the doctor or medical worker is obligated to achieve a result, as is the case in medical analyzes in which, as a result of scientific development, the element of possibility is rendered non-existent, unless negligence or failure of the person conducting the analysis. The same applies to the use of medical tools and devices, and the doctor who uses these devices is responsible for any misuse or deviation in these devices that may lead to harm to the patient.

With regard to blood transfusions, the doctor shall undertake towards his patient with his obligation to provide appropriate and healthy blood, and that the transfused blood is not contaminated with any infection, and if it is contaminated or infected, the doctor is responsible towards the patient for the diseases and infections that afflict the latter as a result of the contaminated blood transfusion, unless the doctor proves that what afflicted the patient was the result of an external cause beyond the doctor's control. With regard to immunizations and vaccinations, the doctor is responsible for achieving a result, which is not to transmit an infection or disease to the recipient of the immunization or vaccination, as it is not acceptable that the vaccination or immunization is a carrier of disease or infection, and the doctor who performs the vaccination or immunization process is under his obligation to achieve a result, which is the safety of the immunized person.

4. Disclosure: The nature of the relationship between the doctor and the patient allows the former to know the privacy and secrets of his patient, which the latter does not reveal except under compulsion.

It is worth noting that there is no specific definition of professional secret, but in general it means non-disclosure and not making any statement about the tasks of the job or profession, and not disclosing the matters that he is aware of by virtue of his position if they are naturally confidential, or they are so according to instructions. The obligation to maintain professional secrecy is binding on employees, even after their final termination of their jobs.

The medical secret is one of the concepts that is difficult to be given a specific definition in view of its differences according to the place, time and people.

Among the jurisprudential definitions given to medical secrets is that: “Everything that comes to the knowledge of the person entrusted with information, whatever its nature is, whether it is related to the patient’s condition and treatment, and whether he obtained it from the patient himself or discovered it himself, and he is required to remain silent regarding everything related to this secret, except in cases in which he is authorized to disclose it”. It does not only include what the patient conveyed to his doctor, but also what the latter saw, heard, or understood. It is not required that the owner of the secret be the one who deposited it with the doctor, but that may be the action of another person such as a husband or a relative. It was also defined as: Every matter that came to the knowledge of the trustee even if no one indicated it to him, such as if it reached him by chance, or through technical expertise, and for example the woman who authorized the doctor to examine her genitals, it cannot be said that she did not entrust him with anything, because by submitting herself to the doctor from In order to examine it, you have entrusted him with all the information he can obtain as a result of the research he is carrying out.

Whether the secret is related to the same disease or to other specifics that the doctor has learned by virtue of his profession, this secret is a trust that he is not permitted to reveal without permission or necessity. The medical ethics regulations of the American Medical Association stipulate the following: "The information that the doctor comes to know in the course of the professional relationship between him and the patient is considered confidential to the greatest extent possible.” It also states that: “A doctor may not disclose confidential information without the patient’s permission unless he is required to do so by virtue of the

Consequently,
the practice of the medical profession is the origin of the emergence of medical secrets, so that it is impossible to practice this profession in light of the lack of trust between the patient and the doctor. There is no trust without a medical secret. If it is established that the diagnosis is made through the doctor's knowledge of the symptoms of the disease through acquired scientific data, then the patient's disclosure of the development of symptoms and pathological antecedents in his genetic origins to the doctor is of great importance in diagnosing the disease, and this disclosure that is made by the patient to the doctor cannot take place if the patient was afraid of the doctor disclosing the secret, and the development of society and the progress of medicine contributed to the development of the concept of medical secret through the emergence of new concepts such as the shared secret between members of the medical team, and the patient's consent to disclose the secret to people he specified in advance. Disclosure was achieved even without the intention of causing harm, and the need to keep the secret even after the death of the patient,
Given that the disclosure of a medical secret falls under criminal and disciplinary penalties in accordance with the ethics of the medical profession, its nature raises many problems in application in cases where the law orders or authorizes disclosure.
The doctor's duty to adhere to medical confidentiality is linked to the concept of the right to privacy, as it is a subjective right that gives rise to a duty to refrainment from the doctor's right, and according to this duty the doctor refrains from disclosing the secrets of his patients, as a result of the relationship that arises between him and them, and by virtue of this relationship, the doctor is required not to disclose the secret, Also, this relationship requires him to be careful to comply with his assistants.

Preserving the patient's secret is considered one of the most important moral and human obligations of the doctor towards his patient, and it is a commitment that finds justification from reality. The doctor discloses his patient's secrets, as Article No. 56/ of the Federal Medical Liability Law No. 4 of 2016 stipulates:

"The doctor is prohibited from disclosing the patient's secrets that he comes to know during or because of practicing the profession, whether the patient has entrusted him with this secret, entrusted him with it, or the doctor had seen it himself, and this prohibition does not apply in any of the following cases: a- If the disclosure of the secret is based on the patient's request or consent.

b- If the disclosure of the secret is in the interest of the husband or wife and he personally informs either of them.

c- If the purpose of disclosing the secret is to prevent or report the occurrence of a crime, and in this case disclosure is to the competent official authority only.

d- If the doctor is commissioned by a judicial authority or an official investigative authority in the country as an expert, if one of them summons him as a witness in the investigation of a criminal case.

e- If the doctor is assigned to conduct the examination by an insurance company or by the employer, provided that it does not exceed the purpose of the assignment.

f- If it is at the request of the health authority and the purpose of disclosing the secret is to protect public health in accordance with the conditions and controls specified by the executive regulations of this Decree-Law. g- If the purpose of disclosing the secret is to defend the doctor himself before an investigative body or any judicial body and as required by the need for the defense.

5- Violation of the private parts: Preserving the private parts is a legal right and a personal right, and for the doctor to see the patient's private parts out of necessity or need is dependent on achieving a greater interest, which is treatment and hospitalization. Therefore, the doctor has a moral obligation to limit access to the private parts to the extent necessary to achieve this interest, and to observe the legal controls for this. Seeing is avoiding being alone, the causes of sedition and suspicion, and concealing what the doctor is looking at, and that the legal basis in this is more knowledgeable than being known. Indeed, contemporary professional and ethical regulations are now paying attention and importance to this matter due to the spread of immoral practices resulting from the lack of observance of these matters. The Medical Ethics Regulations of the American Medical Association state: "It is

ethical and prudent to recommend that a patient attendant be present regularly while examining a patient.

The doctor must respect his patient, and strive to ensure the patient's comfort in terms of observing privacy, including securing appropriate clothing for the examination, taking into account the covering of the patient and explaining the details of the medical examination.

(b) Obligations of professional Medical Liability:

The obligations of responsibility in this section relate to the same medical profession, and revolve around three axes: ignorance, error, and transgression. These obligations need a lot of control and detail, and this is what we refer to in this place.

1- Not following the scientific principles of the profession:

The principles of the medical profession have two aspects. Scientific theoretical, practical and applied, and each side has two types of science:

- Fixed medical sciences: These are the axioms of medical science, such as the science of anatomy and physiology of organs, and the knowledge that the body needs a continuous supply of oxygen, and that uncontrolled bleeding leads to death. From constants such as how to operate the scalpel in the body and how to control bleeding during surgery, these do not change with the change in the type of surgery and do not change with the change of era.

- Emerging medical sciences: They are what medical scientific research yields on a daily basis, such as a discovery, theory, or new treatment, and the like.

(1) These sciences must be issued by a recognized scientific authority.

(2) That the people of experience certify that it is valid for application and practice.

If these two descriptions meet, the doctor is required to do a third thing on his part, which is his qualification to apply these emerging sciences, such as if it is a new surgical technique, so he does not hasten to apply it without supervision or attending a training course that qualifies him to do it, and all of this is decided by medical people. If the doctor pays attention to these matters, and the work he performs is considered by the people of art and he is qualified for it and adheres to the principles followed in it, then he is out of custody.

The summary of the matter in proving the obligation of responsibility here relates to one of the following two matters, or both:

1- Violation of the considered scientific origin.

2- Violation of the considered practical application.

And the control of these two matters in our contemporary reality is what is called in English “Standard of care” and some define it as: “the diagnostic or therapeutic procedure that the doctor must follow in the case of a patient, disease or a specific clinical condition”, and from a legal point of view it is This definition refers to the arbitration of “private custom.” The concept of “evidence-based medicine” has recently emerged, and it is called in English “evidence-

- Imprisonment and a fine of not less than one hundred thousand dirhams and not more than one million dirhams.
- Or any of these two penalties (i.e., imprisonment or a fine) in accordance with Article 24 of the Anti-Money Laundering and Combating the Financing of Terrorism Law.

Identification of Suspicious Transactions:

(1) Role of the First Line of Defense:

Employees within the first line of defense (e.g., Relationship Managers, Business Managers, Back Office Operations functions) must understand the risks of countering money laundering and combating the financing of terrorism associated with the businesses in which they work. Employees within the first line of defense are essential to managing customer and third-party risks and the timely escalation of potential suspicious activity. Licensed financial institutions should not rely solely on transaction monitoring systems to identify suspicious activities, as employees within the first line of defense play a critical role in detecting and preventing patterns of money laundering, combating the financing of terrorism and the financing of illegal organizations. It must be ensured that employees are appropriately trained to identify suspicious transactions and to assess that information that was reasonable - gathered through dealings with customers - now appears suspicious. Therefore, they should be trained regarding the potential risks and the risk mitigation and reporting mechanism in their field of work. Employees should understand the regulatory requirements within their scope of work; warnings relating to their customers, products, services, delivery channels and geographic regions; and the appropriate escalation procedures for each of their administration and the second line of defense without prejudice to their responsibility in reporting suspicious transactions.

(2) Role of the Second Line of Defense:

The second line of defense (e.g., Compliance Officer - Compliance Specialist - Compliance Employee - Anti-Money Laundering Officer) provides policy advice,

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The second line of defense (e.g., Compliance Officer - Compliance Specialist - Compliance Employee - Anti-Money Laundering Officer) provides policy advice,

guidance, assurance, oversight and challenge to the first line of defense. Whereas, employees in financial crime operations units (perhaps in the first line of defense) may investigate suspicious transactions and document the resulting investigation, provided that the final filing of the Suspicious Transaction Report or the Suspicious Activity Report is made by the Compliance Officer or Money Laundering Reporting Officer (in the second line of defense). To this end, the second line of defense is tasked with overseeing the investigations program consisting of automated and manual monitoring processes.

As for the second line of defense, it is also charged with monitoring the risks facing licensed financial institutions, such as non-compliance with laws and regulations issued in the country, and submitting direct reports to senior management on the exposure of licensed financial institutions to risks, including through measures related to financial crimes.

Specifically, the second line of defense and first line of defense (as applicable) should generate standards relevant to financial crime (such as suspicious transaction reports or suspicious activity reports) to provide senior management with an adequate overview of the compliance program of licensed financial institutions, including the timeliness and quality of licensed financial institutions' handling of transaction monitoring alerts and resolution, and the suspicious transaction report or suspicious activity reporting process.

The second line of defense should keep records of all information related to monitoring transactions and reporting suspicious activities for a period of not less than five (5) years as stipulated in Article 24 of the decision related to combating money laundering and combating the financing of terrorism.

Role of Compliance Officer - Money Laundering Reporting Officer:

According to Article 21 of the decision related to combating money laundering and combating the financing of terrorism, licensed financial institutions are required to appoint a

compliance officer with the appropriate competencies and expertise to perform the following tasks:

- Control of transactions related to any crime as specified in Article 1 of the decision related to combating money laundering and combating the financing of terrorism.
- Reviewing, examining and studying records, receiving data on suspicious transactions, and making a decision to notify the Financial Information Unit or to keep it with a statement of the reasons, in strict confidentiality.
- Reviewing the internal regulations and procedures for combating money laundering, combating the financing of terrorism and financing illegal organizations, and their compatibility with the relevant laws and regulations, and assessing the extent to which licensed financial institutions are committed to applying these rules and procedures.

Suggesting what is required to update and develop these rules and procedures; Preparing and submitting semi-annual reports on these points to senior management; and sending a copy of this report to the relevant supervisory authority (the Central Bank) with the observations and decisions of senior management.

- Developing, implementing and documenting continuous programs and training and qualification plans for the employees working at the institution regarding everything related to money laundering, combating the financing of terrorism and financing illegal organizations and ways to confront them.
- Cooperating with the regulatory authority and the Financial Information Unit, providing them with all the required data, and enabling the employees approved by it to review the necessary records and documents that allow them to perform their duties.

According to the guidelines issued by the Central Bank, the compliance officer is responsible for reporting cases of money laundering in licensed financial institutions and is tasked with reviewing, examining and reporting suspicious transaction reports and other reports related to the detection of suspicious activity transactions. In this capacity, the Compliance Officer or the Money Laundering Reporting Officer related to money laundering and combating the financing of terrorism and the financing of illegal organizations; report any suspicions to the Financial Information Unit; implement appropriate procedures after sending suspicious transaction reports, suspicious activity reports, or other reports by ensuring that the suspicious transaction report or the subject of the suspicious activity report is entered into the relevant micro-watch list or internal watch lists / blacklists; change the client's risk rating; etc.; and cooperate with the competent authorities in cases of countering money laundering and terrorist financing. The Compliance Officer or Money Laundering Reporting Officer has the ultimate responsibility for ensuring that an appropriate program is in place in the licensed financial institutions and that the licensed financial institutions effectively apply a risk-based approach to detecting and reporting suspicious activity.

The Compliance Officer or Money Laundering Reporting Officer should also serve as the main point of contact with law enforcement agencies regarding their requests and investigations. The compliance officer or the money laundering reporting officer must also communicate with the supervisory authorities and external bodies regarding financial crime issues in order to exchange knowledge, report cases, develop best practices and, where possible, to improve coordination between the concerned authorities in the financial sector.

(3) Role of the Third Line of Defense:

The independent auditor is responsible for evaluating the design and effectiveness of the compliance program for licensed financial institutions, including technical compliance with anti-money laundering and terrorist financing policies and procedures. This function serves as a "third line of defense" to identify gaps, shortcomings and weaknesses in the operational controls owned or supervised by the licensed financial institutions business, operations and compliance functions. The independent examination should be conducted by the internal audit department, external auditors, consultants, and/or other qualified and independent third parties. At a minimum, there shall not be any employment relationship that could threaten independence between employees responsible for conducting an independent examination and the position being tested or in other positions related to anti-money laundering and combating the financing of terrorism.

A risk-based audit assists the board of directors of authorized financial institutions and senior management in identifying weaknesses, prioritizing areas for remediation, ensuring adequate resources, supervision and control, and training of affected personnel.

Purpose of Continuous Monitoring of Transactions:

The purpose of continuous retrospective monitoring of the transactions or activity of customers and potential customers is to identify activity that is anomaly from normal behavior and that, upon further investigation, may generate knowledge or reasonable suspicion of a financial crime, and therefore requires reporting to the appropriate law enforcement and/or regulatory authority as a suspicious transaction report, suspicious activity report, or equivalent local report in line with the regulations of Anti-Money Laundering / Combating the Financing of Terrorism and/or the reporting requirements of the UAE Financial Intelligence Unit.

Licensed financial institutions may choose to use a combination of automated transaction monitoring scenarios and (manual) exception-based transaction reports to monitor for potential suspicious activities.

The goal of the alert review process is to identify potential indicators of money laundering, associated predicate crimes, financing of terrorism and illegal organizations, financing of proliferation, and any possible unusual activity that is inconsistent with a customer profile or account, including through the deployment of a risk-based approach.

The systems for monitoring transactions and manual operations of licensed financial institutions must be reviewed, evaluated and reviewed periodically - at least annually - and otherwise as necessary, and justified by the required circumstances. In addition, this review must include an assessment of the elements and requirements of the Transaction Control System and careful control of the Transaction Control System of the licensed financial institutions, in addition to evaluating its effectiveness. The individuals responsible for the audit must have a sound understanding of the framework of the licensed financial institutions - including the licensed financial institutions' business and customer base - to create meaningful deliverables.

Internal Organization:

In order for a licensed financial institution's transaction monitoring and suspicious activity reporting program to be effective, it must be built on sound foundations.

The internal regulation of authorized financial institutions is important to appropriately identify unusual or potentially suspicious activity.

The internal regulation consists of the policies, procedures and processes of licensed financial institutions designed to supervise and manage risks and achieve compliance with

the laws and regulations of anti-money laundering and combating the financing of terrorism in the United Arab Emirates. In particular, the internal organization of authorized financial institutions addresses the basic organizational elements of its compliance program: governance and management oversight; policies and procedures; clear lines of responsibility and reporting; and continuous training to take into account changes in the legislative and regulatory frameworks of the United Arab Emirates.

- **Governance and Management Oversight**: Governance and management oversight help ensure that the compliance program of licensed financial institutions is appropriately funded, staffed, and equipped with the required technology, including identifying and reporting suspicious activity.

The Board of Directors of Authorized Financial Institutions ensures that the compliance program is prominent within the organization and is operationally independent. In this capacity, senior management under the compliance program, including the compliance officer, should have appropriate government; independence; immediate access to personnel and information within the organization; and appropriate resources to carry out their activities - including identifying and reporting suspicious activity - effectively.

The compliance program must have access to the board or designated board committee to bring any issues or risks to their attention; notify continuous reports on the status of compliance; and escalate any other relevant information related to combating money laundering and terrorist financing. - As part of the framework of risk management for licensed financial institutions, senior management and the board of directors of licensed financial institutions must supervise the design, implementation and updating of a program to monitor transactions and report suspicious activities based on risk measures to combat money laundering and combat terrorist financing for licensed financial institutions and in accordance with all applicable

laws and regulations. Senior management should also supervise the vendor selection process (as applicable) if a third-party service provider is used to obtain, install, implement, or test transaction monitoring software, or any aspect of identifying and reporting suspicious activity, among other responsibilities.

The Compliance Officer (or Money Laundering Reporting Officer) must report to the Board (or Board Committee) periodically on the overall framework of capabilities (which includes the technology and process aspects of identifying, investigating and reporting suspicious activity).

- Policies and Procedures :

Licensed financial institutions must have policies and procedures governing changes in their transaction monitoring program that ensure changes are identified, managed, monitored, reported and reviewed. Specifically, licensed financial institutions must have governance laws surrounding the design and implementation of new disclosure scenarios, the periodic evaluation and validation of existing disclosure scenarios, and the termination of disclosure scenarios. In addition, licensed financial institutions should establish a procedure for investigating and processing transaction monitoring alerts in order to file a suspicious transaction report, suspicious activity report, or any other type of report promptly and with high quality.

These policies and procedures shall include the basic processes for drafting and filing a suspicious transaction report, suspicious activity report, or other type of regulatory report. On a larger scale, the policies and procedures manage the main risks to combat money laundering and combat the financing of terrorism and establish compliance processes through licensed financial institutions.

- Clear rules for responsibility and reporting: Regarding suspicious transactions, licensed financial institutions must have clear roles, responsibilities and reporting lines, including reporting and escalation to the board of directors and senior management. These roles, responsibilities and reporting lines should be clearly

documented across the three lines of defense. Clear lines of responsibility help identify suspicious activities and report them effectively and in a timely manner, while ensuring that there is appropriate and effective oversight over employees who are involved in activities that may pose greater risks to Anti-Money Laundering / Combating the Financing of Terrorism.

Licensed financial institutions should also have a mechanism for reporting to senior management and the board of directors (or board committee) compliance initiatives, compliance shortcomings, suspicious transaction and activity reports (or other reports) submitted, and corrective actions taken.

- Continuous Training: Training should be provided on an ongoing basis to the employees of licensed financial institutions, and the training should include changes in the legislative and regulatory frameworks in the United Arab Emirates; and internal policies and procedures; understanding of the evolving risk issues in relation to the Transaction Monitoring and Suspicious Activity Reporting Program for licensed financial institutions.

Training topics could include, for example, objective analysis of suspicious transaction reports or suspicious activity reports; regulatory requirements and best practices for reporting suspicious transactions or activity; the noteworthy suspicious transaction reports or suspicious activity reports (or other reports) submitted during the previous quarter; and controls related to emerging financial crime risks.

The training should be designed to include any other internal data that would be useful to both the first line of defense and the second line of defense.

Third: Procedures for Detecting Money Laundering Operations

Given the fact that financial institutions play a major role in the field of money laundering, and some may exploit them to commit these crimes, the law has set several obligations for financial institutions to comply with, to which we have previously referred, and therefore was important to review

Some procedures aimed at controlling the movement of funds to detect suspicious operations by money launderers, will be dealt with through four procedures, as follows:

1- Control of financial operations.

2- control of cash and transfer operations.

3- control of international banking and financial transactions.

(1) Control of financial operations:

Control of unusual financial operations:

Unusual banking operations represent deposit, withdrawal, or incoming or outgoing transfers, which are not commensurate with the historical context of the movement, or may not be commensurate with the nature of the customer's activity, or have no economic justification, or that exceed a certain limit set by the competent authority. Examples of operations that require more care and examination. To identify the extent of a suspicion of money laundering:

When its elements are indicative of an illegitimate purpose:

- Like ambiguity, which characterizes its economic purpose or if it seems completely unreasonable.
- If the funds are withdrawn after a short period has elapsed since they were deposited (transient account), especially when there is no justification for this withdrawal in the customer's activity in the first place.
- If the required or conducted operations go beyond the normal scope, discover the reasons that prompted the customer to choose this bank or this branch to settle his business.

- If one of the accounts has been inactive for a while (sleeping account) and then becomes very mobile without reasonable reasons.

Controlling financial transactions that take place with correspondent banks, shell banks. Countries that do not care about combating money laundering operations:

Some countries grant the authority to establish banks, but do not allow them to carry out their banking activities or deal with the citizens of the country , This type of banks is characterized by weak oversight, as they are not subject to a supervisory and regulatory authority such as the authority of the Central Bank of the state, and the danger lies in the ability of this type of banks to easily open branches anywhere in the world.

Establishing relationships with international banks by virtue of having a license to conduct business.

Therefore, the Central Bank has demanded the application of due diligence procedures when dealing with banks with correspondent banks across borders , This is done by collecting complete information about them, verifying the nature of their clients, and evaluating the financial controls used in the institution to combat money laundering.

Then approval is obtained from the senior management of the bank before starting to establish business relations with correspondent banks and documenting the responsibility of each institution, with the need to ensure the procedures followed by the correspondent bank regarding customer verification, and the application of the principle of "know your customer" and the extent of their commitment to it,

It must also ensure that the bank is able to access the customer's accounts with the correspondent bank when necessary.

Therefore, field visits are advised from time to time to check on the health and safety of the correspondent bank's presence, operations, and financial position.

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(2) Control of cash and transfer operations

- Control of cash operations:

The cash deposit process represents the first stage of money laundering, which may take several forms:

- Unusually large cash deposits that are not commensurate with the client's activity.
- A clear and significant increase in the deposits of an individual or institution that are made in cash without clear reasons or explained later.
- Customers make several cash deposits to make up the total
- Opening several accounts in one or more names and depositing cash less than the limit to be reported.
- Carrying out unusual cash withdrawals and deposits using automated teller machines, in an attempt to avoid direct contact with bank employees. - Exchanging large quantities of small coins for larger pieces of the same coin or other currencies.
- Carrying out large operations in several branches of the bank on the same day.
- Transferring amounts to foreign countries that have no economic justification.

In this context, the UAE Central Bank (2000) obligated the customer to fill out a special form that includes identification of his identity, address, and the amount exchanged. The purpose of the exchange is to keep it in its own file in the bank when it is requested to exchange large amounts of cash from small denominations to large denominations without clear justifications. So that the exchange amount is (40) thousand dirhams or the equivalent in other currencies.

Thus, it can be said that banks should consider putting the service of accepting cash deposits under appropriate control, given the possibility of greatly exploiting it. Accordingly, it must be ensured that the deposits are compatible with the nature and size of the client's activity,

his financial capabilities and within the reasonable limits of the activity, and pay attention to the partial deposits of cash, which are made deliberately and repeatedly.

Control over transfers:

Transfers are issued or received from and to (the customer's account), which requires banks to complete all necessary supporting data and documents on the sender and beneficiary, and the reason for the transfer, and the transfer must be sound and justified in order to be approved.

The outgoing or incoming transfers are made to and from (the customer's account), which requires banks to complete all the necessary supporting data and documents on the sender and the beneficiary, and the reason for the transfer, and the transfer must be sound and justified in order to be approved by the competent persons,

Some banks resort to global databases to check both sides of the transfer, and the base includes the names of people who world-check represent a high risk to some politicians, terrorists, criminals, and suspects.

The names of their family members and relatives... And the completion of the process is refused in the event that the

name of the sender or the beneficiary is found on the list in an attempt to prevent the transfer of funds by exploiting the global banking system.

- The suspicious conversion process takes several forms, including:
- Transfers of huge sums to countries known for applying bank secrecy or as tax havens.
- The client makes frequent transfers abroad and claims that they are international profits.
- Accounts opened in the names of an exchange company and receiving wire transfers or cash deposits in amounts less than the limit to be reported.

- The customer who receives several incoming wire transfers of small amounts and immediately transfers them with an outgoing wire transfer of large amounts to another country.
- The customer's use of his account as an intermediary account for the transfer of funds between parties or other accounts, and according to the recommendations of the Financial Action Task Force, countries should ensure that financial institutions obtain the required complete and accurate information about the originator and beneficiary of the transfer, in relation to wire transfers and related messages, and that they remain The information accompanies the wire transfer or related message throughout the payment chain.

They should ensure that financial institutions monitor wire transfers for the purpose of detecting transfers that do not contain information on the originator, beneficiary, or both, and that they take appropriate measures. and to ensure, in the course of processing wire transfers, that financial institutions take appropriate action

Freezing procedures, and it should prohibit transactions with specific persons and entities in accordance with the obligations stipulated in United Nations Security Council resolutions.

The Central Bank of the Emirates (2000) called on banks to verify the validity of the transfer, especially electronic ones, which do not include the name of the transferor and exceed a specific amount, or which are made for transactions outside the ordinary, with the need to report suspicious transfers.

(3) Oversight of international banking and financial transactions

There are many international banking transactions that money launderers can resort to. One of the most famous is traveler's cheques, where large numbers of them are purchased, transferred, cashed, and deposited in banks around the world. Therefore, these transactions shall be justified and logical and not exceed the possibilities and capabilities of the customer. Moreover, official cheques are considered one of the transactions that raises suspicion and the banks shall take the necessary

care to complete the process, as this service allows the possibility of issuing guaranteed cheques for large amounts that are deducted from the customer's account with the bank, and then these cheques are cashed anywhere in the world. The Central Bank of the Emirates (2000) has emphasized the need to pay attention to successive deposits and requests for the issuance of travelers' cheques and remittances in foreign currencies or to any negotiable instruments in amounts exceeding the limit adopted as an indicator without clear justification. Thus, it can be said that banks shall adhere to the procedures for the oversight of transactions that raise suspicion and doubt in order to ensure the safety of the banking system and society and to protect it from the repercussions of the widespread phenomenon of money laundering.

These tasks are carried out according to the functions and tasks entrusted to the Central Bank, banks and other financial institutions, in particular those related to the regulatory and supervisory side, as follows:

- Pay attention, take care, and caution regarding the electronic transfers of funds, the use of credit cards, frequent deposits in accounts or through ATMs, and residents' transfers for not being used to pass money laundering.
- Not to be lenient in granting attorneys or authorizations to manage accounts by others so that they are not exploited to commit money laundering crimes through bank accounts.
- Provide complete and accurate information (name, address and account number) about the funds transferred and the correspondence used. This information shall be kept with the transfer or related message through the payment system. All banks also focus and monitor the money transfer activities for which the information (name, address and account number) is incomplete.

- Additional identity verification: when the financial institution doubts the customer's identity or the beneficial owner's identity, the banks are working on additional procedures for additional identity verification.
- Additional verification of the purpose and nature of transactions, and prompt reporting to the Money Laundering Intelligence Office or the Central Bank's financial unit of any suspicious transaction in the event that the assets of the transaction in question are suspected to be proceeds of crime or used to finance the crime or terrorists.
- The obligation to create and maintain records: The financial institution shall be obligated to prepare records of the various dealings with it according to the law.
- Record-keeping requirements: the bank shall put terms and requirements for record-keeping of all documents related to anti-money-laundering and the documents shall be kept for 5 years as a minimum.
- The obligation to report data: the financial institution shall report and provide data on any suspicious transaction, and the need to notify the Money Laundering Intelligence Office of such transaction and all the facts and circumstances surrounding it.

Findings

1. There is a tangible government effort to eliminate money laundering, although more effort and continuous work are needed in light of the development of this crime with the development of technology.
2. Money laundering crimes affect the economic and security situation in the countries, and they also expose banks and financial institutions to bankruptcy.
3. Banks and financial institutions are considered the main channel used for money laundering, especially in light of the bank secrecy laws.
4. Suspicious funds are mixed with the legitimate funds at the stage of merger, so that it is difficult to separate them.

5. Money launderers make use of progress and technological development in their criminal activity by volunteering to facilitate money laundering operations.

6. The establishment of the national committee to face money laundering and combat the financing of terrorism, which was one of its most important functions: facilitate the exchange of information and coordinate between the entities: propose the regulations, procedures and policies related to face money laundering and to identify and evaluate the risks of money laundering.

Recommendations

In order to face the phenomenon of money laundering, many banking procedures and means shall be completed, the most important of which are:

1. The inability of a person to justify the source of his wealth is considered as evidence of the crime of money laundering whenever there is conclusive and firm evidence that the money in question is derived from a crime criminalized by law.

2. The scope of criminal crimes, the source of illegal funds, shall be expanded to include all crimes from which illegal funds may be generated, without specifying a specific type of crime.

3. The term of funds shall be amended to include new forms of funds, such as documentary credits and electronic funds, so that all those operations in their various forms that have evolved directly with technological development are surrounded.

4. The regulator shall permit a seizure of any other person's funds where there is sufficient evidence of his involvement in helping the accused to smuggle money or obstruct the provisional measures against him by any means whatsoever.

5. The anti-money laundering unit shall be established within each Emirate in order to expedite the exchange of information on suspected transactions and also contribute to the conduct and facilitation of the function of the Public Prosecutor's Office in investigating facts involving money laundering.

6. We recommend the establishment of a global intelligence unit composed of specialized experts from all countries of the world on financial and legal matters, which would be mandated to receive notifications of money laundering operations that are characterized by an international nature; thus, the country's difficulties could be overcome when the crime occurred in another country.

7. The need for a specialized department to follow up the suspicious banking operations and lift bank secrecy in this case. 8. The need to train and educate the staff in the banks and financial institutions to follow up on developments in these crimes. This is done through periodic publications containing updates from relevant legislation and holding training courses in this regard.

9. All bank employees at all levels and occupational positions in the centers of responsibility shall be obligated to the basic principles associated with the methods of combating money laundering in terms of preventing the occurrence of such operations from the beginning and then detecting them if they occur.

10. The need to develop information systems in which banking transactions that exceed a certain limit are tracked and reported, with the public interest in combating this crime prevailing over the interest in maintaining the suspect's bank secrecy of the suspect.

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