

Doctors' Disciplinary Responsibility for Disclosing Medical Secrets in Algerian Legislation

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Abstract

Under the provisions of the law, doctors are subject to disciplinary responsibility by competent authorities upon the disclosure of professional secrets, even if such disclosure causes no harm to others. However, this rule is not absolute; the physician may disclose patient secrets under specific circumstances. This study aims to elucidate the disciplinary system governing doctors in professional secrecy violations, identify the circumstances under which disclosure may be justified, and highlight emergencies in which liability is waived, thereby exempting the physician from accountability.

Keywords: professional secrecy, disciplinary responsibility, doctor, patient, disclosure.

Introduction:

A doctor is entrusted with human health, a person's most valuable possession; therefore, the doctor is, by extension, entrusted with patients' secrets and private affairs. Thus, a doctor must embody integrity and uphold this trust diligently and appropriately. Allah describes the believers in the Holy Qur'an: 'And they are attentive to their trusts and their covenants attentive' (Qur'an 23:8).²

Among the fundamental aspects of integrity is safeguarding patient confidentiality, encompassing private information and sensitive matters that doctors come to know through their professional practice. Medicine is essential for alleviating human suffering, rendering it inherently a profession of compassion and empathy. Consequently, a doctor must preserve patient confidentiality and avoid disclosing patients' secrets. By protecting medical confidentiality, the Algerian legislature seeks to

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² Surah Al-Mu'minin, verse 8.



safeguard two principal interests: first, the interest of the individual whose secret is involved and second, the integrity of the medical profession itself. The trust implicitly placed in medical practitioners allows them access to individuals' private affairs, thus creating a professional obligation to honour this trust. Breaching this obligation results in diminished public confidence and reluctance to seek medical services, harming individual interests and jeopardising the profession's functionality. Such impairment represents substantial damage to fundamental societal interest. Therefore, the Algerian legislature has established a robust legal framework designed to protect medical confidentiality and penalise any disclosure, except under circumstances permitted by law. Such breaches entail disciplinary, criminal, and civil liabilities. However, this article focuses specifically on clarifying disciplinary liability, as outlined in Law 18/11 concerning Health Law, and the Algerian Penal Code.

Furthermore, our research has particular importance, as it addresses a contentious issue characterised by tension between two competing imperatives: the necessity of safeguarding patients' confidential information in the context of respecting their private and personal lives and the doctor's entitlement to disclose professional secrets in the pursuit of protecting superior rights. This delicate balance poses considerable challenges, forming this study's central inquiry. Specifically, it aims to elucidate the doctor's disciplinary responsibility upon disclosing patient confidentiality, clarify the legislative framework governing such responsibilities, and identify the specific circumstances in which disciplinary responsibility arises. Moreover, the study highlights exceptional cases in which Algerian law permits the disclosure of medical secrets. Consequently, we pose the following research questions: When does a doctor's disciplinary responsibility arise, and what are the instances in which the law authorises the disclosure of medical secrets?

To address this research problem, we adopted the descriptive-analytical method by analysing provisions contained in Law 18/11 about the Health Law and specific related statutes. The issue has been examined from a legal perspective, informed by relevant provisions of the Algerian Penal Code. Accordingly, the paper is structured into two main sections: the first section discusses the concept of disciplinary responsibility for breaching professional secrecy, and the second section examines permissible disclosure cases.

Section One: Concept of Disciplinary Responsibility for Breaching Professional Secrecy

This section addresses the concept of disciplinary responsibility in cases where a doctor discloses professional secrets. This act constitutes a breach of one of the noblest professions and a violation of the oath under which the individual was granted the right to practise medicine. This section will be examined through two subsections: the first outlines the definition of disciplinary responsibility, and the second discusses the penalties resulting from the breach of professional secrecy.

Subsection One: Definition of Disciplinary Responsibility



Disciplinary responsibility represents a fundamental safeguard for ensuring that doctors adhere to their professional duties. It serves as an effective mechanism for regulating the conduct of practitioners and acts as a deterrent against breaches of the legal and ethical obligations imposed upon them. Through this type of liability, the legislature aims to preserve the profession's core values, namely, integrity, confidentiality, and respect. Thus, the legislature reinforces patient trust in healthcare institutions and ensures the quality of medical care.

In this subsection, we examine the following points:

- Paragraph One: The meaning of disciplinary responsibility.
- Paragraph Two: The nature of professional secrecy as prescribed by the ethics of the medical profession.
- Paragraph Three: The foundations of this obligation as it pertains to doctors and all healthcare professionals.

Paragraph One: Concept of Disciplinary Responsibility

Disciplinary action constitutes an aspect of administrative authority inherent to the structure of the administrative organisation. It serves as an adequate safeguard to ensure that an employee or public servant respects the duties of their position or function. Given that disciplinary measures underpin disciplinary responsibility, the latter may be broadly defined as follows:³

*"The responsibility aimed at ensuring proper order and effective operation within public institutions, implemented through the sanctioning of employees who breach their professional obligations. "*⁴

As professionals, whether they are public-sector employees or otherwise, doctors are subject to disciplinary responsibility. This responsibility seeks to guarantee the sound operation of preventive and curative medical services, whether in public hospitals, private clinics, or other healthcare settings. It is achieved by imposing sanctions on physicians who violate the honour of the profession and fail to uphold the duties entrusted to them.⁵

Paragraph Two: Concept of Professional Secrecy

Legislative texts generally do not provide a precise definition of professional secrecy. As a result, legal scholars have offered various definitions, often differing according to the profession in question, each governed by its own customs and ethical standards. For this reason, there is no single definition of

³ Achouche Karim, *"The Disciplinary Responsibility of Doctors in the Private Sector," Ma'arif Journal*, University of Algiers 1, unpublished volume, Issue 21, 2016, p. 110.

⁴ Belamouri Nadia, *"The Disciplinary Responsibility of Doctors for Issuing Fake Medical Certificates," A Look at Social Law Journal*, Volume 9, Issue 1, 2019, p. 4.

⁵ Article 221 of Executive Decree No. 92-276, dated 06/07/1992, concerning the Medical Ethics Code.

professional secrecy; instead, there are multiple forms that are specific to the nature of each profession.⁶

Professional secrecy is defined as follows:

*"Any matter that must be kept confidential, whether it concerns a natural or legal person, and which comes to the knowledge of another by virtue of their profession, and which that person is obliged by the nature of that profession to preserve and not disclose, except in circumstances defined by law. "*⁷

Professional secrecy has also been defined as:

*"Any information acquired by a professional during, on the occasion of, or as a result of practising their profession, the disclosure of which would cause harm to an individual or a company. "*⁸

Paragraph Three: Foundations of the Obligation of Professional Secrecy

Laws and legislative frameworks offer varied interpretations concerning the nature of the obligation to maintain professional secrecy. Some hold that this obligation stems from deposit contracts between the client and the professional, whereby the latter is entrusted with the client's confidential information and is thus bound to preserve it. However, this view is contested by those who argue that deposit contracts pertain to tangible objects and not to intangible matters such as confidentiality, which, unlike physical items, cannot be recovered or returned in the same manner.

Moreover, the custodian of the secret may acquire such knowledge solely through their professional role without any explicit contract with the client. Alternatively, other interpretations posit that the obligation of professional secrecy arises from broader contractual foundations beyond simple deposit agreements. These include both professional and ethical duties assumed by the practitioner.

Nevertheless, this latter view is not universally accepted across all legal systems or doctrines, particularly when sensitive matters involving persons who lack full legal capacity are addressed. Importantly, legal interpretations and statutory provisions may vary significantly from one jurisdiction to another and evolve in response to changing circumstances, social values, and legal standards.⁹

With the emergence of the theory of public order, specific perspectives regarding the obligation of professional secrecy have evolved. Rather than relying on the concept of contracts as the primary source of obligation, some legal scholars have embraced the notion of public order, which is grounded in pursuing social interest and protecting the public good. Consequently, the obligation to maintain

⁶ Saidani, Naeem. *Legal Protection of the Right to Informational Privacy [A Comparative Study]*. 1st ed. Modern Publishing House, Lebanon, 2022, pp. 460–461.

⁷ *Ibid.*, p. 461.

⁸ Al-Bayeh, Mohsen Abdel Hamid. *A Modern View on the Doctor's Error Leading to Civil Responsibility under Traditional Legal Rules*. New Al-Jalaa Library, Mansoura, 1993, p. 630.

⁹ Abdel-Zouabi, Ali Ahmed. *The Right to Privacy in Criminal Law [A Comparative Study]*, 1st ed., Modern Publishing House, Lebanon, 2006, p. 188.

professional secrecy is no longer viewed as deriving from a contractual relationship between the client and the custodian of the secret. Instead, it is now regarded as a legal obligation imposed by the statute.

Under this theory, professional secrecy is considered an absolute and ongoing duty, a general obligation incumbent upon all professionals, including their assistants and staff, without distinction. Numerous legislative frameworks, including Algerian legislation, recognise and support this approach as a legitimate foundation for safeguarding professional secrecy.

Notably, the concept of public order is inherently flexible and may be applied with a degree of elasticity through the adoption of the notion of relative public order. According to this perspective, obligations are categorised on the basis of significance and necessity. In a conflict between two obligations about public order, priority is given to the one deemed more essential and deserving of protection. This principle serves to justify exceptions to the general rule of professional confidentiality.¹⁰

The Algerian legislature, through Article 301, paragraph one of the Penal Code, stipulates the following:

*"Shall be punished with imprisonment... doctors, surgeons, pharmacists, and all persons entrusted, whether by circumstance, profession, or by virtue of a permanent or temporary position, with secrets confided to them, who disclose such secrets in cases other than those in which the law requires or permits them to do so."*¹¹

Subsection Two: Penalties Resulting from Disciplinary Responsibility for Breaching Professional Secrecy

Disciplinary penalties are generally outlined in the general statute of the Civil Service, which is based on the principle of legality: *no crime and no punishment except as prescribed by law*.¹² For all public employees. The Medical Code of Ethics details discipline sanctions specific to medical practitioners.¹³

Under Ordinance No. 03--06, the legislature classifies disciplinary penalties into four categories corresponding to the severity of the infractions. First-degree sanctions apply to first-degree violations; second-degree sanctions correspond to second-degree violations; and so forth. These penalties are arranged in ascending severity, including warning, reprimand, and closure.¹⁴

Article 106 of the same ordinance stipulates:

¹⁰ Saidani, Naeem. *Legal Protection of the Right to Informational Privacy [A Comparative Study]*, op. Cit., pp. 468–470.

¹¹ Ben Heida, Mohamed. *The Right to Private Life under Algerian Law*, unpublished edition, Homeh Publishing, Algeria, 2018, p. 267.

¹² Order No. 06-03, dated 15 July 2006, published in the Official Gazette No. 46, dated 16 July 2006, concerning the General Statute of the Civil Service.

¹³ Executive Decree No. 92-276, dated 06 July 1992, published in the Official Gazette No. 52, dated 08 July 1992, concerning the Medical Ethics Code. *Op. Cit.*

¹⁴ Habas, Abdelkader, and Chaïb, Aïda. "The Disciplinary Error of Doctors and Its Penalties in Algerian Legislation." *Journal of Research in Law and Political Science* 8, no. 2 (2023): 465.

"Any failure to perform professional duties, breach of discipline, or misconduct committed by an employee during or in connection with the performance of their duties constitutes professional misconduct and subjects the perpetrator to disciplinary action..."

In addition, Article 108 specifies:

"The following, in particular, shall be considered third-degree violations: actions committed by an employee whereby..."

- *The disclosure or attempted disclosure of professional secrets¹⁵*

This latter is considered a violation, regardless of how it occurs, whether through writing, speech, gesture, or any other form. This is affirmed in Article 301 of the Penal Code, which provides:

"Shall be punished with imprisonment... doctors, surgeons, pharmacists, midwives, and all persons entrusted, whether by circumstance, profession, or by virtue of a permanent or temporary position, with secrets confided to them, who disclose such secrets in cases other than those in which the law requires or permits them to do so."¹⁶

Moreover, Law No. 18/11 on Health explicitly reiterates this obligation in Article 417, stating that failure to observe medical and professional confidentiality subjects the individual to the penalties outlined in Article 301 of the Penal Code. It is worth noting that the provisions of Law No. 18/11 have repealed Law No. 05/85.¹⁷

Article 301 of the Penal Code further specifies the following:

"Shall be punished with imprisonment from one month to six months and a fine ranging from 500 to 5,000 Algerian dinars, any doctor, surgeon, pharmacist, midwife, or any person entrusted, by virtue of fact, profession, or permanent or temporary function, with secrets confided to them, who discloses them in circumstances not authorised or required by law."

Nonetheless, the individuals mentioned above are not subject to the penalties outlined in the previous paragraph, even if they fail to report cases of abortion that come to their attention in the course of their professional duties, provided that they do, in fact, report such cases. Should they be summoned to testify before the judiciary in an abortion case, they are required to give testimony and are not bound by the obligation of professional secrecy in this context.¹⁸

Moreover, Article 48 of Ordinance No. 06--03, which sets forth the General Statute of the Civil Service, prohibits employees from disclosing the content of any document in their possession or any event or information they have come to know or have been exposed to in the course of performing their

¹⁵ Belkhir, Wissam, and Al-Fassi, Fatima Zahra. "Disciplinary Action against Public Employees for the Mistake of Disclosing Professional Secrets in Algerian Public Service Law." *Al-Wahat Journal of Research and Studies* 14, no. 1 (2021): 979-980.

¹⁶ Ben Heida, Mohamed. *The Right to Private Life under Algerian Law*, op. Cit., p. 268.

¹⁷ Law No. 18-11, dated 02-07-2018, Official Gazette No. 46, published on 29-07-2018, concerning health.

¹⁸ Law No. 82-04, dated 13 February 1982.

duties, except where the public interest necessitates disclosure. An employee is only released from the obligation of professional secrecy upon receiving written authorisation from the competent hierarchical authority.

The law imposes a duty on every person to testify before the judiciary if duly summoned and prescribes penalties for those who fail to appear or unjustifiably refuse to testify. However, this duty may conflict with the obligation of professional secrecy. Specific legal systems have resolved this conflict by giving precedence to the duty of confidentiality over the obligation to testify.

The Algerian legislature also stipulates this in the first paragraph of Article 206 bis 2 of the law concerning the protection and promotion of health [90-17], which states that, in addition to legal authorisation, the obligation of maintaining professional secrecy is general and absolute in the absence of patient consent. The patient, in turn, is free to disclose any information related to their health. Furthermore, Article 206 bis 5 of the same law states that "a doctor, dentist, or pharmacist called to testify before the judiciary cannot disclose matters related to professional secrecy, unless the patient has exempted them from this obligation."

Furthermore, the law requires that investigative and inquiry procedures be confidential unless specified otherwise, without prejudice to the rights of the defence. This is outlined in Article 11 of the Code of Criminal Procedure, which stipulates the following:

"Investigative and inquiry procedures shall be confidential unless the law specifies otherwise, and every individual involved in these procedures is bound by the duty of professional secrecy."

Thus, individuals are prohibited from testifying on the basis of their position or role even after the termination of their professional relationship unless they are explicitly authorised by the judiciary, such as a preliminary investigation judge.¹⁹

Section Two: Permissible Disclosure of Professional Secrets

The general principle is to protect the confidentiality of patients' information, as this is an essential part of their personal and private lives. In this context, higher courts in Egypt consider that diseases must be kept confidential, even if they are accurate. Suppose such information is disclosed in public spaces or in front of an audience. In that case, it harms patients, particularly women, as it creates obstacles in their lives and disrupts their hopes and aspirations. Such improper behaviour warrants compensation.²⁰

However, certain circumstances allow the disclosure of professional secrets to be justified. These include emergencies, such as saving a patient's life; reporting diseases that pose a public threat, such as the COVID-19 pandemic; the right to self-defense; or the need to test in legal proceedings. In these

¹⁹ Ben Heida, Mohamed. *The Right to Private Life under Algerian Law*, op. Cit., pp. 268–271.

²⁰ Bahji, Essam Ahmed. *Protection of the Right to Private Life in Light of Human Rights and Civil Responsibility*, unpublished edition, New University Publishing House, Egypt, 2005, p. 200.

cases, disclosing confidential medical information is permitted and is not considered a violation of privacy rights.

This section is divided into two subsections:

- Subsection One: Saving the Patient's Life
- Subsection Two: The State of Necessity

Subsection One: Saving the Patient's Life

In emergencies and treatments related to the patient's life, sharing sensitive medical information with individuals other than the treating physician can be justified, as seen in group treatment by medical teams. This scenario necessitates the collective sharing of sensitive information within medical institutions, such as hospitals and clinics. Consequently, medical secrets may be disclosed to more people to ensure the appropriate treatment for the patient. The medical team must be fully informed of all pertinent details about the patient to ensure the safety and effectiveness of the treatment.²¹

Thus, there is no prohibition on sharing medical secrets among medical and paramedical team members, especially when such disclosure is justified and necessary for treatment. Therefore, this type of disclosure is not subject to penalties. However, the professionals to whom confidential information is disclosed must maintain the confidentiality of the patient's information or any other secret. Respecting and maintaining professional secrecy is essential to safeguarding patients' privacy and ensuring the security of medical information.²²

Algerian legislators value the physical and mental well-being of patients. Consequently, Algerian law clarifies this exception to the medical confidentiality principle in certain situations requiring preservation of the patient's health. For example, Article 7 of the Medical Ethics Code and the Law on the Protection and Promotion of Health in Algeria emphasise that doctors and dentists must defend individuals' physical and mental health, alleviating suffering while respecting the individual's life and dignity without discrimination.²³

Subsection Two: The State of Necessity

In cases of necessity, healthcare professionals may be required to defend themselves in court, and sometimes, this may involve disclosing information about a patient. The judiciary can evaluate a professional's competence and integrity. In such situations, professionals may find it necessary to disclose confidential information as part of their self-defence to confirm their good intentions or professional competence.

²¹ Nouiri, Abdelaziz. *Criminal Protection of Private Life in Algerian and French Law [A Comparative Study]*, 2nd ed., Homeh Publishing, Algeria, p. 707.

²² Ibid., pp. 708–709.

²³ Ben Heida, Mohamed. *The Right to Private Life under Algerian Law, op. Cit.*, p. 182.

Importantly, historically, the doctor's obligation to maintain professional secrecy has been not only a legal duty but also an ethical one, derived from the principles of honour and professional ethics. This obligation is applied according to the customs and traditions of the medical profession and enforced to protect the public interest.²⁴

The obligation of professional secrecy in Egypt dates back to the early pharaonic dynasties, where the concept of confidentiality and maintaining client privacy was considered an essential part of the professional ethics of artisans and practitioners. Currently, the Egyptian Penal Code prohibits doctors from disclosing medical secrets according to Article 310. Additionally, Article 20 of the Code of Ethics and Professional Conduct for the Medical Profession, issued by Minister of Health Decision No. 234 of 1974, stipulates that "A doctor may not disclose the secrets of their patient, which they have learned by their profession, except in certain cases specified by law, or based on a judicial order, or in cases where there is a potential and certain harm to others, or in other situations defined by law."

The Global Islamic Charter on Medical and Health Ethics ensures medical confidentiality in its third section, which includes a set of provisions designed to protect patient privacy. This underscores Egypt's longstanding and contemporary commitment to maintaining professional confidentiality and safeguarding patients' rights.²⁵

However, this right is not absolute; legislation and professional regulations clearly outline specific conditions and safeguards for disclosing professional secrecy. The disclosure of professional secrets is permitted only in some instances and under specific conditions, and safeguards must be in place to protect the parties' rights. For example, a person bound by professional secrecy is prohibited from disclosing such secrets merely because of rumours or media reports. Disclosure is permissible only upon a judicial order, and even then, it should occur only to the extent necessary for defending oneself.²⁶

Doctors and healthcare workers must make every possible effort to maintain the confidentiality of all medical reports and patient health information, including data stored in computer systems. Strict mechanisms and controls should be in place to regulate access to medical information and its entry into computer records. Access should be permitted only by authorised personnel responsible for handling these data. Any modifications or additions to the information should be documented, including the date and time of the action and the name of the person who modified, to preserve medical information's

²⁴ Basim Mohamed Fadel, *The Right to Privacy between Freedom and Restriction*, unpublished edition, New University Publishing House, Egypt, 2018, p. 333.

²⁵ Fadel, Basim Mohamed. *The Right to Privacy between Freedom and Restriction*, *ibid.*, pp. 333–334.

²⁶ Nouri, Abdelaziz. *Criminal Protection of Private Life in Algerian and French Law [A Comparative Study]*, *op. Cit.*, p. 712.

privacy and prevent unauthorised access. This protects patients' rights and guarantees the confidentiality of their sensitive information.²⁷

Thus, medical secrecy is considered a general obligation of confidentiality and may be disclosed only in cases of necessity, as previously mentioned. These procedures and penalties ensure society's protection and public health preservation.²⁸ The exceptions that justify the disclosure of medical secrecy serve to achieve greater public interest. In addition to the cases I have outlined, there are other circumstances where disclosing medical secrets is justified, such as when testimony is given.

In both Islamic and civil law, providing testimony is considered a duty if it is necessary to achieve justice and truth. Islamic law encourages testimony and regards it as one of the Islamic duties, as reflected in the verse:

"And do not conceal testimony. In addition, whoever conceals it, then indeed, his heart is sinful." (Qur'an 2:283) Thus, a witness must testify when needed, ensuring that truth and justice are upheld.²⁹ Algerian law regulates the cases in which testimony can be given. Doctors may be permitted to testify in some instances of felonies and misdemeanours on the basis of a request from a court or a competent legal authority. This ensures that the disclosure of medical information is aligned with legal proceedings and serves the interests of justice while maintaining the principles of confidentiality where possible.³⁰ The Algerian legislature's stance is that the disclosure of professional secrets is a legal obligation in certain specified cases, such as reporting certain crimes, including abortion. This is outlined in the second paragraph of Article 301 of the Penal Code, which states the following:

*"However, the individuals mentioned above shall not be punished, despite their failure to report cases of abortion that come to their attention in the course of their profession, with the penalties previously stated, if they have reported them. If they are called to appear before the court in an abortion case, they must testify without being bound by professional secrecy."*³¹

From this, we conclude that in these cases, the legislator requires those concerned with reporting these crimes under the law. However, legal protection is provided for these individuals, as they are not subject to penalties if they directly report such crimes. With respect to cases in court related to the aforementioned crimes, these individuals must testify without being bound by professional secrecy; as such, testimony is presumed to be necessary for the pursuit of justice without professional constraints.

²⁷ Article 37 of the Global Islamic Charter on Medical and Health Ethics, *Medical Secrecy*, Third Section, as cited by Dr. Basim Mohamed Fadel, *The Right to Privacy between Freedom and Restriction*, op. Cit., p. 338.

²⁸ Fadel, Basim Mohamed. *The Right to Privacy between Freedom and Restriction*, op. Cit., pp. 339–340.

²⁹ Surah Al-Baqarah, verse 83.

³⁰ Fadel, Basim Mohamed. *The Right to Privacy between Freedom and Restriction*, op. Cit., p. 339.

³¹ Ben Heida, Mohamed. *The Right to Private Life under Algerian Law*, op. Cit., pp. 323–324.

This legal provision highlights the importance of balancing the protection of professional secrecy with society's right to achieve justice and combat crime. It emphasises the legal necessity of disclosing professional secrets in certain defined cases stipulated by law.

Article 206, paragraph three of Algerian law, introduces another exception to the obligation of maintaining professional secrecy, which pertains to reporting the abuse of minor children and prisoners. This provision requires doctors to report any observed abuse of minors or incarcerated individuals during their practice.³²

From the above, we can conclude that this exception reflects the desire to protect vulnerable and disadvantaged groups from violations and assaults. It grants doctors the legal authority to act upon witnessing abuse, requiring immediate intervention to protect the victims and ensure justice.

Algerian law permits the release of professional secrecy in specific cases, such as reporting contagious diseases, as stipulated by Article 54 of the Law on the Protection and Promotion of Health. This legal reporting requires cooperation with health authorities and the reporting of suspected cases, whether health professionals obtain the patient's consent or make the diagnosis. Failure to report such cases is subject to criminal liability according to Article 181 of the Penal Code.

In cases where testimony is required before the judiciary, as per Article 206 of the Health Law, doctors, dentists, or pharmacists must not withhold professional secrets regarding the specific matter requested by the judge. The judge must provide all necessary details to ensure that justice is served.

The law also emphasises that doctors must disclose professional secrets to the extent required by professional discipline and obligations when confronted with questions regarding honesty and professional conduct, as confirmed by Article 100 of the Code of Ethics in Justice. In addition, Algerian civil status laws require doctors and midwives to report the birth of children in cases where parents are unable or unwilling to do so. Furthermore, the issuance of burial permits by civil status officers requires the presentation of a certificate issued by a doctor confirming the individual's death. This procedure aims to verify death and determine its cause.³³ However, it should be noted that this reporting obligation pertains to the civil and legal facts related to birth and death, not other personal details that individuals may request. Therefore, doctors or midwives are not required to report other information, such as the father's name, if the mother requests that it not be mentioned.³⁴

³² For more information, see: Law No. 90-17, dated 31 July 1990, published in the Official Gazette No. 35, dated 15 August 1990, concerning the protection and promotion of health.

³³ Ben Heida, Mohamed. *The Right to Private Life under Algerian Law*, op. Cit..., pp. 325–327.

³⁴ Rais, Mohamed. *Doctors' Responsibility for Disclosing Professional Secrets in Light of Algerian Law*, *Journal of Legal and Economic Sciences*, Volume 25, Issue 1, 2009, p. 268.

Notably, while defending a court case, the confidentiality of the investigation may be lifted for the benefit of both the defendant's lawyer and the civil party. This is justified by the provisions of Article 68 bis, added by the 1990 amendment to the Algerian Code of Criminal Procedure. This article states:

"A copy of the proceedings shall be made available to the lawyers of the parties when they are officially appointed, and they may extract copies thereof."

The amendment to the Algerian Code of Criminal Procedure grants lawyers the authority to obtain copies of documents and proceedings related to the cases they defend. This procedure enables lawyers to better prepare their defence, on the basis of their knowledge of the content of the file, including the statements of the defendants, victims, and civil parties, as well as other relevant documentation. In cases requiring investigations, the lawyer may use these documents to ensure that the proceedings are conducted fairly and equitably. The investigating judge, responsible for the case, may provide the necessary guidance to determine the necessary interrogations on the basis of what is deemed essential for the integrity of the proceedings.

On the basis of the above, the law generally seeks to strike a balance between the principle of confidentiality in investigations and the rights of the defence. By providing appropriate safeguards and procedures for increasing the confidentiality of the investigation, the law aims to reconcile the principle of secrecy as a public interest, preserving the integrity of legal procedures and ensuring the provision of justice with the rights of the defense as a private interest, allowing the accused and their lawyers to access the necessary information and evidence to defend themselves effectively. This balance upholds the principles of justice and equality before the law, ensuring fair and objective legal proceedings. Therefore, these safeguards and procedures are essential to the legal system, ensuring justice and protecting individual rights within the judicial framework.³⁵

Conclusion:

In this article, we discuss the disciplinary responsibility of doctors for disclosing professional secrets by defining the concept of disciplinary responsibility and the importance of professional secrecy, which are among the key traits that every doctor must uphold. We also outlined the penalties doctors face if they fail to adhere to these principles and values, resulting in the disclosure of confidential information. However, this rule is not absolute, as there are exceptions where the law allows a doctor to disclose confidential information within specific legal conditions, such as a court order, as discussed in the second section of this study. Through this analysis, we observed some legislative gaps and shortcomings that hinder the provision of adequate protection for patients' private information and the harm caused to them. We have attempted to provide conclusions and suggestions

³⁵ Nouiri, Abdelaziz. *Criminal Protection of Private Life in Algerian and French Law [A Comparative Study]*, op. Cit., pp. 713–715.

that may help close these gaps and reduce the risk to the confidentiality of professional secrets. In this regard, we propose the following:

1. According to the Algerian legislature, disciplinary penalties are limited to four levels. The disclosure of professional secrets is classified as a third-degree violation because it infringes on individuals' privacy and their right to keep their secrets confidential.

2. In reality, the disciplinary penalty in medical responsibility is not a punishment but a means established for reasons related to internal regulation and the principles and values imposed by medical practice.

3. There is a lack of a deterrent aspect in disciplinary penalties.

4. Introducing a deterrent nature to the penalties imposed on doctors subject to disciplinary action.

5. Tightening the disciplinary penalties for doctors and medical practitioners in general.

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