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# **Civil liability of the doctor's misdiagnosis led to the birth of deformed children**

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**Abstract** Islam true religion has always emphasized one the sanctity of human life the time of forming the sperm until death ,so abortion is illegal and it subjects to criminal responsibility in Islamic law and jurisprudence and consequently in Iranian laws. Nevertheless and considering the comprehensiveness of precepts and rules of Islam, if there is the possibility of carry rule of no harm if the child had incurable malformation and his/her birth causes to be the mother in hardship or illness and it is in this basis that legislator has issued the therapeutic abortion license under the conditions with the approval of law of Therapeutic Abortion in 2005. However therapeutic abortion cannot be considered independent right for parents because the law that it was referred to it, In fact, it is in rank of expressing the conditions that in which the criminal responsibility was lost of the perpetrators of abortion and the elements involved in abortion cannot be prosecuted under the mentioned conditions. Accordingly, the wrong diagnosis of physician in baby born with birth defects, due to not to be right the therapeutic abortion, freedom of patient in referring to each other specialist and lack of legal basis and resources on calculating the damage caused by the birth of malformed baby, will not cause the civil liability. However, deliberate misdiagnosis is considered professional misconduct and it is punishable.

**Keywords :** Key words: Therapeutic abortion - civil liability of physician - the birth of malformed baby - compensation

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