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مجمع فقهاء الشريعة بأمريكا



The Assembly of Muslim Jurists Of America

Recommendations of the Nineteenth Imam's Conference:

Rulings on Contemporary Medical Issues in Islamic Law

Parameters for Issuing Fatwas on Contemporary Issues

The fiqh of contemporary issues is of great significance, and the need for it in our contemporary reality is urgent, due to the emergence of new events and cases. Those who issue fatwas are representatives on behalf of Allah, the Almighty, and the position of issuing fatwas is one of the most elevated and serious positions. Like all other duties of morally responsible humans, it must fulfill the two pillars of sincerity and adherence [to the prophetic example].

There are Shareeah guidelines for looking into current issues and practicing ijihad. It is incumbent upon the mujtahid to abide by these guidelines while examining new contemporary issues. In addition, the mujtahid must adhere to a balanced approach, distant from anomalous opinions and strange views. These guidelines include:

- First: A precise understanding of the issue at hand, and a deep comprehension of the circumstances surrounding it .
- Second: The issue must be one that is permissible to delve into .
- Third: Exertion of all efforts and a thorough researching of the issue .
- Fourth: Avoiding hypothetical scenarios that have not occurred or are unlikely to occur .
- Fifth: Verification and consulting with specialists .
- Sixth: Taking into account the objectives of Shariah .
- Seventh: Considering customs and social norms .
- Eighth: Clarity and explanation in issuing fatwas .
- Ninth: Saying, "I do not know," when lacking knowledge .
- Tenth: Turning to Allah, the Almighty, and asking for His help and success.

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Topic One: The Fiqh of Medical Treatments and Practice

Medical Treatment with Prohibited Substances: Alcohol, Narcotics, and Drugs Causing Psychological and Mood Changes

1. The default principle is to avoid prohibited substances in medical treatment and otherwise, including narcotics. However, their use may be permitted when there is a verified therapeutic necessity and no alternatives are available, with consideration given to minimizing side effects on the mind and body as much as possible, and that this is under the full supervision of a trustworthy physician.
2. It is not permissible to use pure alcohol for medical treatment, and it is inconceivable that it would be a necessity in our contemporary reality.
3. Narcotics, despite being unanimously prohibited due to their mind-altering effects, drowsiness, and harm, may be used for medical treatment in their pure form, as they do not possess all the rulings associated with alcohol, being free from the excitement and rowdiness that alcohol can lead to. However, it is obligatory to mix them with other painkillers when possible and appropriate, to minimize the amount consumed, as necessity should be assessed according to its extent.
4. It is advisable to avoid alcohol as much as possible in the manufacturing of medicines and in prescribing them to patients. However, the use of medicines that contain small, diluted proportions of alcohol, which do not affect the color, taste, or smell, and do not cause intoxication to the consumer, is permitted. At the same time, though, emphasis is placed on the importance of avoiding this as much as possible.
5. The use of sedative (anesthetic) and toxic (nerve-damaging) substances is permitted for medical purposes when the benefits outweigh the harms, no alternatives are available, and there is consideration for minimizing side effects on the mind and body as much as possible, provided that this is under the full supervision of a trustworthy physician.
6. The use of hallucinogenic drugs is permitted if their benefit in treating certain diseases is proven, like other narcotics, and under the same conditions.
7. The medical use of any prohibited substance is conditioned upon it being determined with certainty or the preponderance of the evidence that such usage is a necessity, the lack of permissible alternatives, supervision by medical specialists, the benefits outweighing the harm, and consideration for minimizing side effects on the mind and body as much as possible. Additionally, it is the responsibility of the medical community to continuously search for permissible alternatives.

Rulings on Induced Coma

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8. Induced coma is a type of long-term anesthesia, often used to protect the brain in specific cases. It is permissible due to a medical necessity. For the one whose coma lasts more than a day and a night, there is no requirement to make up for the missed prayers.

Muslim Physicians Prescribing Prohibited Medications to Non-Muslims

9. Concerning any issue that has a respected difference of opinion among the scholars of Islam, it is not obligatory to make non-Muslim patients adhere to what we consider the strongest opinion. Among the treatments that have been subject to differing opinions, and which are permissible to prescribe to non-Muslims, are: impure medications (except for pure alcohol, due to the weakness of the disagreement regarding it), narcotics and marijuana (within legal and professional standards), musical instruments, cosmetic surgeries that are subject to differing opinions, abortion before the ensoulment, and the like.

10. The same ruling of permissibility applies to anything that is not absolutely prohibited in all circumstances, such as tubal ligation, preventive surgeries, and artificial insemination of an egg with sperm from someone other than the legal husband due to the inability to ascertain their circumstances and verify the legitimacy of the relationship according to their arrangements and systems, especially since there are Muslims themselves who do not register their marriage.

11. The following are forbidden: to lie to the patient and mislead them, such as encouraging them to undergo gender reassignment surgery without the presence of an organic disorder, or to continue in a prohibited relationship. It is also prohibited to alter the creation of Allah and to remove a healthy organ without cause, which includes gender reassignment surgeries for those who are physically healthy. It is prohibited to prescribe pure alcohol, as it is not considered a remedy in Shariah or medicine. Assisting in what is called "euthanasia" is also prohibited.

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Topic Two: Rulings on Surgical Specializations

Rulings on Cosmetic Surgeries and the Necessity of Performing Them

12. The fundamental principle in this matter is that all of Allah's creation is beautiful, and that the children of Adam, despite their varying shapes and colors, have been created in the best of stature. Contentment with one's creation is part of being content with the Creator.

13. Cosmetic surgeries that are necessary to restore the function of an organ or to return its form to the original proper state are permissible. This includes surgeries that correct congenital defects, such as extra fingers and cleft lip, or acquired defects, such as burns, excessive enlargement of certain body parts like breasts, hair loss, and abnormal hair growth.

14. It is permissible to remove a blemish through surgery if it causes psychological or physical harm, being real and not imagined, with consideration given to the assessment of healthy individuals.

15. Cosmetic enhancement surgeries that aim to increase beauty, alter the normal creation, imitate the immoral, or involve men resembling women and women resembling men are not permissible.

16. Permanent tattooing is not permissible according to the text, except for correcting a defect as in some surgical procedures that require it to cover a blemish or hide a deformity and the like. Temporary tattooing is disliked because it oscillates between the prohibited permanent tattooing and the permissible use of henna. The dislike intensifies and may reach the level of prohibition in cases where it is part of their (non-Muslims') symbols, and for those who do it in imitation of them.

17. Removing wrinkles that arise from aging, not from illness, is disliked because it involves something like deception and altering the creation of Allah.

18. For cosmetic surgeries to be permissible, it is required that the procedure does not result in harm equivalent to or greater than the original harm—whether physical or psychological.

Rulings on Hair Removal with Laser

19. It is permissible to remove hair using lasers. If the hair is in an area of major private parts, it is emphasized to request a doctor of the same gender as the patient.

20. There is no harm, God willing, in a woman seeking the help of a female doctor for hair removal. The Hanbali jurists have opined that if someone is unable to remove the hair of their private parts themselves, it is permissible for them to seek assistance from someone else in removing it.

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Topic Three: Fertility and Genetics Genetic Modification and Gene Therapy and Their Impact on Pregnancy and Miscarriage

21. Gene therapy is permissible, whether by transferring all or parts of genes, repairing them, or silencing them, provided that it does not lead to the mixing of lineages, and that the intention is treatment and not changing the creation, along with protecting the privacy of individuals undergoing this treatment, safeguarding all their rights, and not discriminating against them.

22. Some genetic diseases can be considered among the defects that jurists have mentioned as justifying the separation between spouses, provided that the conditions are met for these diseases to share the same rationale as their jurisprudential counterparts, in the absence of impediments. This applies when such diseases were unknown at the time of the marriage contract, there is no indication of acceptance of these diseases afterwards, there is no available treatment to alleviate the diseases, and especially when there is a likelihood of transmitting serious diseases to offspring.

23. Genetic counseling for families or those planning to marry is in line with the principles of Shariah that encourage treatment and prevention of disease. It should be encouraged without being mandatory, especially for families with members suffering from hereditary diseases, while ensuring the protection of the privacy of individuals undergoing such tests, their rights, and no discrimination against them.

24. In the treatment of genetic diseases, if it is impossible to select a sperm or egg from the couple that does not carry the diseased gene, then replacing one of them with what is called a "donor cell" is absolutely prohibited due to the resulting mixing of lineages.

25. It is encourage for decision-making bodies in countries to enact laws that assist individuals with genetic diseases and those with special needs, and to provide support for them in various fields, including efforts to integrate them into society and create suitable conditions for this purpose.

Selecting the Sex of the Fetus

26. We affirm what was stated in the decision of the Fiqh Council affiliated with the Muslim World League in its nineteenth session held in Mecca, which is that "any medical intervention to select the gender of the fetus is not permissible, except in cases of therapeutic necessity for hereditary diseases that affect males without females, or vice versa. In such cases, intervention is permissible, subject to the established Shariah guidelines".

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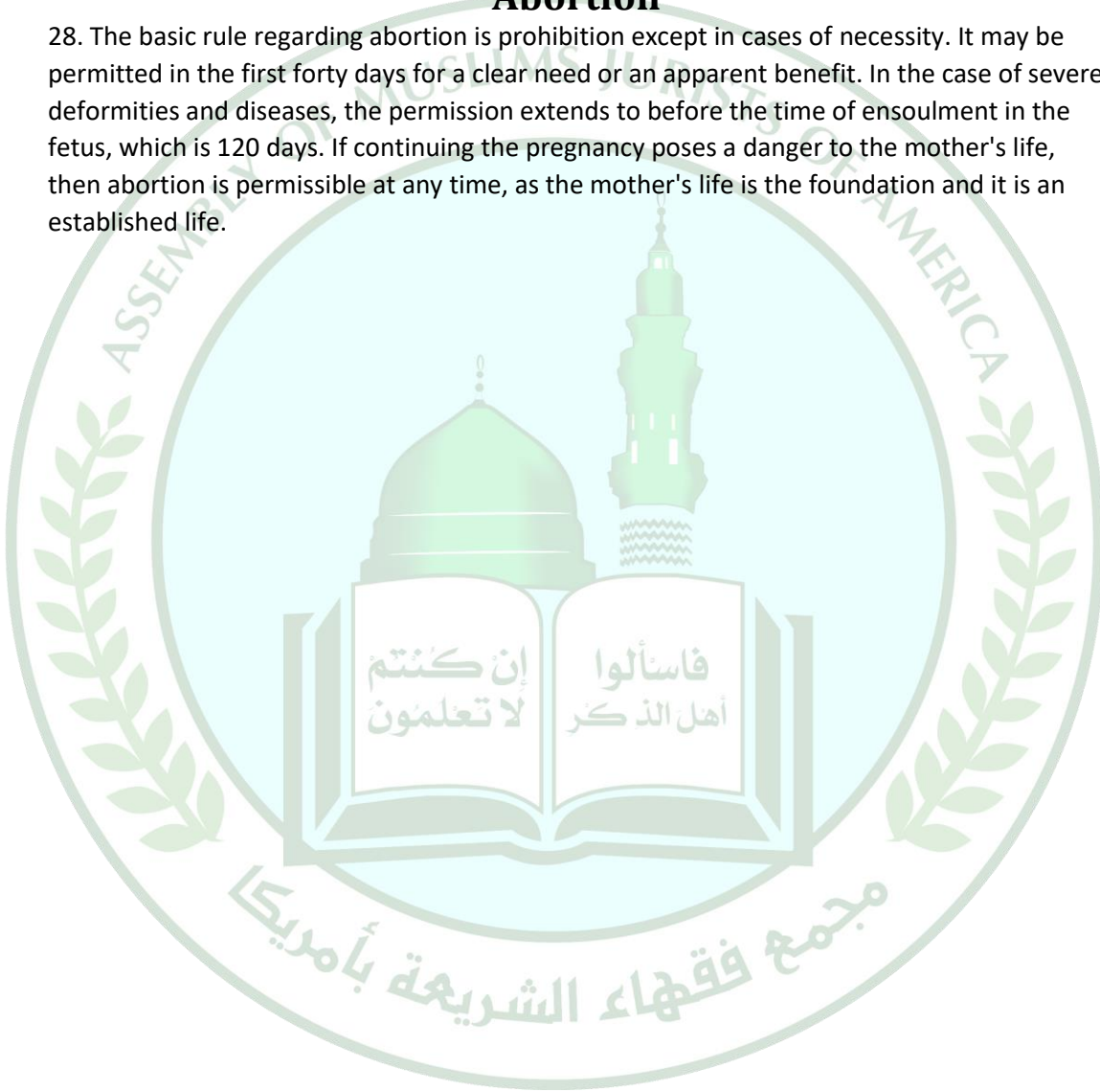


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27. An exception to this is the permissibility of choosing either gender if fertilization has occurred outside the womb due to a medical condition that necessitated it, and multiple fertilized eggs are present, necessitating the selection of one for implantation in the womb.

Abortion

28. The basic rule regarding abortion is prohibition except in cases of necessity. It may be permitted in the first forty days for a clear need or an apparent benefit. In the case of severe deformities and diseases, the permission extends to before the time of ensoulment in the fetus, which is 120 days. If continuing the pregnancy poses a danger to the mother's life, then abortion is permissible at any time, as the mother's life is the foundation and it is an established life.



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Topic Four: Issues Related to Sex (Gender) and Sex Reassignment and Gender Reassignment Surgeries

29. Sex correction for intersex individuals and those with disorders between the genetic, endocrine, and anatomical levels of sex—both internal and external—is permissible, as it is considered a form of legitimate medical treatment, whether through surgical procedures or other means.

Sex correction back to the original biological sex is obligatory for someone who deliberately and unjustifiably changed their sex, provided it can be done without overriding harm.

The rulings of the newly assigned sex will only apply to those who underwent an Islamically legitimate corrective procedure due to a biological disturbance.

30. It is prohibited to change the sex of healthy individuals, as it is a change to the creation of Allah. Since sex change is prohibited, it is invalid, and it has no effect in matters of prayer, inheritance, marriage, custody, alimony, and most rulings. A male who has transitioned to female will receive the share of inheritance designated for males, and is not permitted for this person to marry a man. However, it may be permissible for him to marry a woman who has transitioned to a man, considering their original sex.

31. An individual who has transitioned from one sex to another is to be treated like an intersex person and those who are not of full sexual capacity in matters of mixing, aligning rows in prayer, and similar issues.

32. Since surgical operations and treatments related to sex reassignment are prohibited, it is not permissible for a Muslim doctor to perform them or prescribe them. Carrying them out on children would be an even greater offense.

33. It is permissible for a Muslim doctor to provide medical care to a transgender individual in matters other than transition-related treatments. For example, it is permissible to treat the artificial male genitalia of a female-to-male transgender individual, and the artificial vagina of a male-to-female transgender individual.

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Topic Five: Mental Illness and Legal Responsibility

34. Psychiatry is a type of medical practice, and the general rules of medical treatment and therapy apply to it, whether those are related to the doctor's obligations or the professional guidelines for practicing medicine.

35. The concept of mental health in Islam is linked to the concept of spiritual health and the purification of the soul. They overlap but do not coincide. Pious individuals may suffer from some mental illnesses such as depression and the like as a form of trial and purification, while others may suffer from it due to weak faith, making it closer to spiritual diseases than to mental illnesses. Thus, those affected may need both purification and strengthening of faith. Sometimes, the spiritual and psychological aspects intertwine, necessitating an approach that addresses both.

36. There is a distinction between physiological and psychological diseases, and there is scientific debate about the reality of psychological illnesses. Some conditions considered psychological diseases from the commonly accepted medical perspective among most doctors may not actually be considered diseases from the Shareeah perspective.

37. The foundation of accountability is based on the soundness of the mind. Mental capability can be affected by accidents and traumas, thus varying the capacity for accountability accordingly. The psychological illness that affects capacity is one that causes a disturbance in the soundness of perception and judgment of things, which then is not exclusive to insanity alone.

38. Insanity is one of the conditions that affects the capacity to perform duties, removing it entirely, and with it, the legal capacity is completely nullified. No legal effect arises from the actions of an insane person, except for responsibility for the value of destroyed items.

39. Mental illnesses, in the medical sense, are divided according to their impact on capacity into the following categories:

a. Mental illnesses that completely prevent capacity, which fully affect mental capabilities and render the person incapable of understanding, discernment, and sound judgment. This includes, among others, advanced stages of dementia, severe mania, mental retardation, or acute schizophrenia. These diseases are treated like insanity, and the rulings of insanity apply to those who have them. If these conditions occur in temporary episodes, the rulings of insanity apply during those times, and they are considered sane otherwise.

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b. Psychological diseases that partially reduce capacity, such as dementia, severe depression, intense fear (phobia), and obsessive-compulsive disorder (OCD). Some individuals suffering from these conditions realize that their obsessions are irrational but cannot resist them, so their capacity is diminished during the dominance of these obsessions, and they are treated as if under duress, with all the related jurisprudential effects. Beyond that, they are considered healthy.

c. Psychological diseases that do not affect capacity, such as personality disorders, sexual disorders, and mild depression and anxiety.

40. The default ruling is the absence of impediments to capacity. The legal impacts effects of people's actions are based on this principle, so as not to disrupt the order of society. However, prescribed legal punishments may be averted when there is doubt about the completeness of capacity, though discretionary punishment may still apply. The responsibility of compensation for damages always exists.

41. The rights of Allah are based on forgiveness, and illness is a presumption of alleviation. Therefore, it is appropriate for jurists to be gentle with those who have mental illnesses, not to burden them with what is not obligatory upon them, and to make things easy and grant concessions for them.

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The Sixth Topic: End-of-Life Issues Using a Hospice for Palliative Care of Terminal Illness (by Muslim Doctors and Patients)

42. Palliative care is permissible in Islam, in fact, it is recommended, because it aligns with its principles of mercy, compassion, and alleviating suffering. Its purpose is to provide comfort and support during advanced illness, not to hasten death.

43. It is permissible for Muslim patients to take medications prescribed by the palliative care team to relieve pain and other symptoms, even if they contain some narcotic and sedative substances, as long as it is within the bounds of therapeutic necessity.

44. Spiritual care must be provided to Muslim patients, such as encouraging prayer, remembrance (*dhikr*), recitation and listening to the Qur'an, and facing the *Qiblah*. Muslims should strive to provide the necessary knowledge concerning this to the palliative care teams involved in the care of Muslim patients. Additionally, communication between hospice facilities and Islamic centers should be enhanced.

45. Suicide and euthanasia are prohibited in Islam; it is not permissible for patients to engage in any act with the intention of ending life, nor is it permissible for doctors to assist in such acts.

The withdrawal of life support and nutrition from patients suffering from incurable diseases with no hope of recovery

46. The default ruling regarding seeking medical treatment is that it is recommended or permissible according to the majority of Muslim scholars, including the jurists of the four Sunni schools of thought and others. Some have said it is obligatory, and contemporary scholars have applied this to cases where the illness is harmful, the medicine is safe, and recovery is hoped for, which is a sound position.

47. It is permissible, with the consent of the patient or their guardians, to withdraw life-sustaining treatment if the doctors see that the therapeutic procedures are futile in achieving recovery or maintaining a dignified life, and that they only serve to prolong the suffering of the patients and their families.

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48. The patient or their guardians are permitted to choose not to resuscitate the heart and lungs (DNR) in cases of terminal illnesses with no hope of recovery. They may choose to give permission for this, and to delegate the doctor to choose what is best for their condition in light of weighing the benefits and harms based on the patient's health status.

49. Artificial nutrition and hydration (fluid hydration) are forms of treatment, and their ruling should not be considered in isolation from the patient's overall condition. The Islamic legal rulings on treatment apply to them; this includes the permissibility of refraining from them when they are deemed futile.

50. If the patient's condition reaches a stage where recovery of life is despaired of according to medical standards, there is no harm in removing life support devices or in keeping. The decision in this regard should be left to the patient's heirs, in consultation with their medical team, if the patient has not left any instructions regarding this matter. They should act according to what is most compassionate for the patient. It may be disliked to keep the devices if it is expected to cause pain to the patient or waste money and resources without benefit. The dislike may increase, and it may even reach the level of prohibition, if there is another patient in need of the intensive care unit or life support devices (such as a ventilator) while it is highly probable that this other patient will benefit from them.

51. It is recommended as a condition to have the testimony of three experts to judge a medical condition as being incurable, and likewise for making a judgment on anything that would justify the permissibility of stopping life-sustaining treatment procedures.

52. If some treatments, such as resuscitation devices and the like, have been initiated and then it is decided that they are futile, and there is no prior permission from the patient to stop them, or their agent or guardian refuses to issue permission, then it is necessary to resort to dispute resolution mechanisms such as referring to a neutral third party like the hospital's ethics committee or the judiciary. If the patient's guardians insist on continuing the treatment while bearing the financial consequences, the doctor then has the option to continue the treatment or to refrain from it if another doctor is available to undertake it.

Healthcare Proxy, Advance Directives, and Living Will

53. The practices of advance directives, living will, and medical power of attorney, which are common in the West, are in harmony with Islamic law, and their use is permissible and legitimate.

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54. The patient has the right to appoint someone to act on their behalf in medical consent matters. In the event of the patient's incapacity and the absence of the proxy, guardianship transfers to the blood relatives, who are the heirs, both women and men, according to the majority view. If the secular laws grant guardianship to those other than the legal guardians, the legal guardian can request a proxy from the legal heirs or enforce their consultation.

55. If the patient's condition and the nature of their illness are unknown, it is obligatory to initiate resuscitation to avert danger from them and as a precaution to preserve life. This is a communal obligation (fard kifayah), and it becomes a specific duty for the doctor and medical team, who bear the legal responsibility.

Medical Autopsy

56. It is permitted to do an autopsy or dissect the bodies of the deceased for security, research, or educational purposes.

57. For the permissibility, the following is required: the consent of the deceased, their guardian, or the authorities (in the case of criminal investigations and epidemic diseases), the presence of a need, the absence of an alternative, respect for the body during the autopsy, and the burial of its remains afterward.

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The Seventh Topic: Alternative and Complementary Medicine

58. Complementary treatments such as yoga, energy healing, reiki, and the like have two dimensions: spiritual and physical. If it is possible to extract the physical aspect alone and to separate it from its pagan backgrounds and if its independent benefit in treating some physical ailments is proven, then there is no harm in it. This is a common matter among many medical practices that our scholars have accepted, provided that the treatment does not retain any pagan influences, and the patient does not hold beliefs contrary to the correct faith. In such cases, it would be considered permissible as a customary practice. However, any meditations and spiritual immersions with pagan origins are not permissible, as they revolve between polytheism (*shirk*) and innovation (*bidah*). Shareeah remembrances (*dhikr*) and general physical exercises could be more than sufficient.



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The Eighth Topic: Rulings on Acts of Worship Pertaining to the Ill Contemporary Issues of the Sick in the Chapter of Purification

59. The default rule is that the sick person is obligated to perform purification and prayer just as a healthy person is, except for what they are incapable of doing, in which case they should move to its alternative.

60. The default rule is the obligation of purification with water from both minor and major impurities. If one is unable to do so, they should move to its alternative, which is *tayammum* (dry ablution). If one is unable to perform *tayammum* by themselves, someone else may perform the *wudu* (ablution) or *tayammum* on them, and this suffices.

61. Women are counterparts of men, meaning they are equal to them in rulings. Thus, what is legislated for men in terms of purification is also legislated for women, in both the chapters of the default acts of purification and its alternative.

62. *Tayammum* is sanctioned on anything pure that has dust, even if it is not on the ground, such as when dust settles on a wall or the like. It is also legislated on anything that is of the same kind as the earth or is produced from it, even if it does not have dust.

63. If a sick person is unable to wash a limb due to a valid reason, it is legislated for them to wipe over it instead of washing it with water. If wiping over a cast or bandage is not possible, they should wash the healthy parts of their limbs for ablution, and perform *tayammum* for the rest, after completing the ablution.

Wiping Over Casts and Bandages

64. Casts are placed on fractures while bandages are applied to wounds. The conditions for the legitimacy of wiping over them include harm from washing and that it is due to necessity.

65. Harm occurs by increasing the impact of something or in delaying its healing, even if that does not cause an increase in the illness or effect.

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The Difference Between Wiping Over Headbands and Splints and Wiping Over Leather Socks

66. Wiping over bandages and splints is legislated in both minor and major purification. It is not required to have put them on in a state of prior purity in cases of inability or forgetfulness, nor is it required for them to be on the feet. The duration for wiping over them is not limited except by recovery. Thus, they differ from leather socks in all these aspects: wiping over leather socks is only legislated in minor purification, it is limited to three days with their nights for the traveler and one day and night for the resident, it is confined to the feet, and it is required to have put them on in a state of purity.

Wiping Over Prosthetic Limbs and Disability Devices

67. Prosthetic limbs and artificial substitutes for amputated body parts do not need to be washed or wiped if they completely cover the place of the amputated limb.

68. If a part of the limb remains, it is obligatory to wash it, unless it is difficult to remove these substitutes, in which case they then take the ruling of a splint.

The Discharge of Blood and Pus and Its Effect on Purity

69. The discharge of a small amount of blood does not nullify the ablution (*wudu*), but if it is excessive, it is safer for the ill person to renew their ablution to avoid the difference of opinion.

70. A small amount of blood on the body or clothing is excused, but a large amount should be cleansed to the extent possible.

71. The discharge of pus and purulent matter from other than the two excretory passages is excused and does not nullify the ablution (*wudu*).

Dentures and Their Effect on Purity

72. Dentures are permissible when there is a need for them, and dentures do not affect the validity of ablution (*wudu*) or *ghusl* (full-body ritual purification), nor is it necessary to remove them for their validity.

Artificial Insemination and Its Effect on Purity

73. The implantation of semen into a woman's private part without intercourse does not necessitate *ghusl* (full-body ritual purification) unless she experiences an orgasm.

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Kidney Dialysis and Its Effect on Purity

74. Hemodialysis, which involves the extraction of blood, its purification, and then its return, does not nullify the ablution (*wudu*). Peritoneal dialysis is a matter that requires further consideration, although the prevailing opinion is that it also does not nullify the ablution.

Carrying Impurities in Medical Bags and Its Effect on the Validity of Prayer

75. The patient who, due to medical treatment, is required to use medical bags to contain discharge from the front or rear private parts must remove them before prayer, undo them, and cleanse the outlet if able. The obligation to do so is lifted in cases of inability or hardship.

Removing Impurity with a Liquid Other Than Water

76. The removal of impurity after relieving oneself from the place of exit of the two passages, from urine and feces, is done by *istinjaa* with water or by *istijmaar* with a dry, pure substance, such as toilet paper. If *istinjaa* with water is difficult, then it can be done with other pure liquids that remove filth.

77. The default rule for purifying impurities from clothing or the body is to use pure water. However, there is no harm in removing them with any pure liquid that can achieve this, such as vinegar, rose water, and the like, as long as it is pure in itself and removes the essence of the impurity. It is preferable to use water to avoid any difference of opinion.

78. One should not remove impurities with something edible or to wash the hand with it unless there is a need, meaning that there is nothing else available, or it is stronger or faster in effect for removal than other substances.