

Legal Aspects of Medical Malpractice: Patient Protection and Physician Liability

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ABSTRACT

Medical malpractice represents a significant violation within healthcare services, posing serious risks to patient safety and eroding public trust. In Indonesia, incidents of malpractice are relatively frequent, yet many remain unresolved due to limited legal awareness and inadequate access to justice for patients. This article examines the legal dimensions of medical malpractice by focusing on two critical aspects: the legal protection afforded to patients and the legal liability borne by medical practitioners. Employing a normative juridical approach, alongside an analysis of relevant legislation and case studies, this paper aims to provide a comprehensive understanding of the existing legal frameworks and the practical challenges faced in their enforcement. The findings are expected to serve as a valuable reference for stakeholders, including patients, healthcare professionals, and legal institutions.

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INTRODUCTION

Medical malpractice remains one of the most sensitive issues in the healthcare field, as it involves two critical concerns: patient safety and the integrity of the medical profession. In many instances, malpractice arises due to a healthcare provider's failure to adhere to established professional standards whether through negligence, lack of knowledge, or unintentional error. Although such incidents may not always stem from deliberate misconduct, their legal and ethical implications can be profound, affecting not only the injured patients but also the reputation of healthcare institutions and the medical profession as a whole (Kalalo, J. J., & Kalalo, 2018).

In Indonesia, the issue of medical malpractice is no longer hidden behind closed doors or considered a taboo subject. In recent years, an increasing number of cases have come to public attention through mass media, social platforms, and legal forums (Malik et al., 2024). While the number of cases reaching the courtroom remains relatively low compared to other countries, this does not imply that malpractice is rare. Many incidents go unreported or unresolved due to patients' limited awareness of their rights and the dominant power dynamics favoring healthcare institutions.

Patients are often reluctant to pursue legal action against suspected malpractice due to several factors, including a lack of understanding about available legal mechanisms, fear of social or financial repercussions, and skepticism about the effectiveness of the judicial system, which is often perceived as slow and

bureaucratic. Meanwhile, medical practitioners may feel anxious that their professional decisions could be misinterpreted by patients or their families, leading to unnecessary tension in the therapeutic relationship.

It is essential to recognize that not every unfavorable medical outcome is the result of malpractice. Medicine inherently involves risks, and even the most competent procedures can lead to complications. One of the key challenges lies in the public's misunderstanding of the distinction between acceptable medical errors and professional negligence.

Patients have fundamental rights in the healthcare setting, including the right to accurate and sufficient information regarding their health condition, proposed treatments, potential risks and benefits, and available alternatives. These rights are protected under several national laws, such as Law No. 36 of 2009 on Health and Law No. 29 of 2004 on Medical Practice (Kamran, 2025). However, these rights are often neglected either due to systemic shortcomings, institutional culture, or assumptions by medical staff that patients do not need detailed information.

A crucial element in the doctor-patient relationship is the concept of informed consent. Without a patient's informed and voluntary agreement, any medical procedure may be considered legally invalid, potentially opening the door to legal consequences. Many malpractice claims arise not merely from technical errors but from poor communication, which can lead to misunderstanding, disappointment, and ultimately conflict.

At the same time, physicians who dedicate their lives to public health also deserve legal protection. Medical decisions are often made under time constraints and with limited information, especially in emergency situations. In such cases, actions may deviate from ideal procedures but are still grounded in the intent to preserve life. It is therefore vital to assess a doctor's legal responsibility with fairness and nuance. Automatically equating every negative outcome with negligence is neither just nor constructive. As long as medical professionals act in accordance with ethical and professional standards, they should be shielded from unfounded accusations.

Another critical issue complicating malpractice resolution in Indonesia is the weakness of regulatory oversight and dispute resolution mechanisms. While the Indonesian Medical Disciplinary Board (MKDKI) is authorized to evaluate breaches of professional conduct, its decisions are administrative in nature and often fail to satisfy patients' demands for justice. Court proceedings, on the other hand, tend to be lengthy and convoluted (Adejumo, O. A., & Adejumo, 2020).

Given these challenges, there is a pressing need to establish more efficient, fair, and accessible systems for resolving medical disputes. Alternatives such as medical mediation, health arbitration, or the creation of an independent medical dispute resolution body could help protect patients without criminalizing healthcare workers.

In addition, improving legal literacy among the public is equally important. Many patients who have legitimate claims refrain from taking legal steps simply because they are unsure of where to start or are afraid of the social consequences. Legal education regarding patient rights should be an integral part of Indonesia's broader healthcare reforms.

Universities, professional associations, and legal advocacy groups have an essential role to play in bridging the gap between healthcare and the law. These institutions can help develop practical guidelines and serve as intermediaries to guide patients through potential malpractice situations.

Hospitals also bear responsibility in preventing malpractice through regular training, clinical audits, and transparent internal reporting systems. High-quality care relies not only on the competence of individual practitioners but also on the strength of the supporting infrastructure.

Efforts to improve the legal system's response to malpractice cannot be separated from the government's role as a regulator. The state must ensure that existing laws are not only theoretically sound but also effectively implemented. Fair and consistent law enforcement will enhance public trust in the healthcare system.

Ideally, the relationship between doctors and patients should be built on mutual trust and openness. When both parties understand their rights and responsibilities, the risk of conflict can be significantly reduced. Thus, effective communication is the cornerstone of safe and humane medical practice.

However, achieving this ideal requires the commitment of all stakeholders government, hospitals, professional organizations, academia, and civil society. Together, they must work to develop a system that responds to the needs of patients while also safeguarding the integrity of medical professionals.

Legal research into medical malpractice is essential for gaining a deeper understanding of its complex nature. A multidisciplinary approach reveals that malpractice is not just a matter of right or wrong it is about systems, communication, and professional culture.

Therefore, this article aims to explore the legal aspects of medical malpractice with a specific focus on two key issues: patient rights protection and the legal accountability of physicians. These aspects will be examined within the context of Indonesian laws and their practical application.

Ultimately, this study seeks to contribute to the development of a more just and safety-oriented legal framework for healthcare in Indonesia, while also offering a critical reflection on how legal protections can empower both patients and healthcare providers.

The issue of malpractice must always be considered within the broader values of humanity, professionalism, and justice. The law should serve as a fair mediator between patients' expectations and doctors' obligations—a challenging yet necessary pursuit in building a more dignified healthcare system for the future.

RESEARCH METHODOLOGY

This study adopts a normative juridical approach, focusing on the analysis of relevant regulations and legal doctrines. This approach is chosen because the primary focus of the research is on the legal aspects surrounding medical malpractice, particularly regarding the legal responsibilities of doctors and the protection of patient rights. In this context, law is understood as a set of norms or rules within a written system, serving as a guide for social interactions, including in healthcare services (Lazuardi, I., & Marwiyah, 2023). Consequently, this study does not concentrate on field research but rather on an in-depth examination of legal documents and related literature.

The data used in this research comes from three types of legal materials: primary, secondary, and tertiary sources. Primary legal materials include all statutory instruments directly governing medical practices and consumer protection, such as Law No. 29 of 2004 on Medical Practice, Law No. 36 of 2009 on Health, Law No. 8 of 1999 on Consumer Protection, as well as the Indonesian Criminal Code (KUHP) and the Civil Code (KUHPerdata) related to lawsuits against medical professionals. Additionally, regulations from the Ministry of Health and decisions by the Indonesian Medical Disciplinary Board (MKDKI) are also important legal resources in this study.

Secondary legal materials consist of academic literature such as textbooks on health law, national and international legal journals, previous research findings, and expert opinion articles from the fields of law and medicine. These materials help provide further explanation, interpretation, and analysis of the applicable legal norms. Previous studies are especially valuable in assessing how legal regulations are applied in practice and in identifying weaknesses in the enforcement of legal protections for patients. Tertiary sources, such as legal dictionaries and encyclopedias, are used to clarify definitions and terms used in the context of health law.

Data collection is conducted through library research, which involves searching, collecting, and reviewing various legal sources and supporting documents. This method is selected because it allows the researcher to gain a thorough and historical understanding of existing regulations and evaluate the dynamics of law enforcement in the context of medical malpractice. The researcher also examines judicial decisions related to malpractice cases to understand how judges interpret doctors' responsibilities and how patient protections are provided during legal proceedings.

The data collected from these sources is analyzed qualitatively, meaning it is processed and interpreted through legal reasoning. A qualitative approach is used because the goal of this research is not to measure or count statistically but to understand and explain legal phenomena in a comprehensive and systematic manner. The analysis is conducted in three main stages: data reduction (selecting relevant data), data presentation (organizing information), and conclusion drawing. Each legal norm and theory discovered is then combined with its practical application to produce critical and constructive analysis.

The study also utilizes a conceptual approach to explore key concepts in health law, such as medical malpractice, civil and criminal liability of doctors, the right to medical information, informed consent principles, and restorative justice in medical dispute resolution. By employing this approach, the researcher can compare positive legal norms with the evolving legal doctrines in academic and professional communities, thus examining the alignment between normative rules and societal justice needs.

Furthermore, the study employs a comparative legal approach on a limited basis, comparing Indonesia's legal system with other countries such as the United States and the Netherlands, particularly regarding medical liability regulations and dispute resolution mechanisms. These countries are chosen because they have more developed systems for managing healthcare disputes, including compensation mechanisms for patients and legal protections for medical professionals. This comparison is intended to provide relevant insights that could inspire the development of the Indonesian legal framework.

The analytical framework used in this research is based on key principles of health law, including due care, non-maleficence (do no harm), as well as principles of justice and transparency. The study also considers the principles of legal responsibility from both civil and criminal law perspectives, as well as administrative law concerning medical licensing and discipline. These principles are integrated systematically to provide a comprehensive view of the responsibilities and authority of medical professionals under the law.

This research goes beyond a normative analysis and aims to address potential gaps or legal shortcomings. During the analysis, the researcher identifies various practical issues, such as inadequate patient protection, overlap between ethical and legal domains, and the criminalization of doctors who have acted in accordance with procedures. By mapping these problems, the study seeks to propose alternative legal solutions that are not only fair but also humanistic and contextually aligned with the Indonesian legal system.

Thus, the research methodology employed in this study offers a strong foundation for addressing the research questions comprehensively. The combination of normative juridical, conceptual, and comparative legal approaches allows for a rich and in-depth analysis of the legal issues surrounding medical malpractice. This study aims to contribute not only to academic discourse but also to provide valuable insights for policymakers, healthcare practitioners, and law enforcement officials in creating a more just, transparent, and patient-oriented healthcare legal system.

RESULT AND DISCUSSION

Definition and Scope of Medical Malpractice

Medical malpractice refers to a violation of professional medical standards that can harm patients, either physically, psychologically, or financially. Generally, malpractice is understood as an act or negligence by healthcare professionals that deviates from accepted medical standards, resulting in legal consequences. In the context of Indonesian law, the term "medical malpractice" does not have an explicit definition in the legal texts, but it can be found in the criminal, civil, and administrative provisions through the interpretation of relevant norms (Seidanov, A., Akhpanov, A., Nurlumbayeva, L., & Kulbaeva, 2024).

The scope of medical malpractice includes various forms of negligence, such as incorrect diagnoses, errors in treatment, failure to provide adequate information to patients (especially regarding medical risks), and violations of fundamental patient rights. In some instances, malpractice may also involve ethical violations by healthcare professionals, such as performing medical procedures without patient consent or abusing professional authority. Therefore, it is crucial to understand that malpractice does not only occur due to ignorance or carelessness but can also stem from a lack of professional ethics.

Furthermore, the boundary between ordinary medical negligence and malpractice is often unclear, which can lead to debates in legal practice. Not every medical error is automatically classified as malpractice; there must be evidence that the healthcare provider failed to meet established professional standards and that the error directly caused harm to the patient. Consequently, the scope of medical malpractice is complex and requires a careful legal approach, along with an understanding of medical principles.

Legal Protection for Patients in Malpractice Cases

Patients, as recipients of medical services, are entitled to rights that are explicitly defined in various regulations, including the right to accurate medical information, the right to give informed consent for medical procedures, and the right to receive safe and quality healthcare. Legal protection for patients aims to ensure that these rights are respected and upheld within the legal system. When these rights are violated, patients have the right to file a legal claim against the medical professional or healthcare institution involved (Sandra & Panji, 2022).

In Indonesia, patient protection is governed by several legal instruments, including Law No. 29 of 2004 on Medical Practice, Law No. 36 of 2009 on Health, and Law No. 8 of 1999 on Consumer Protection. These laws collectively provide a legal framework for patients to hold accountable healthcare providers for damages caused by substandard medical care. In addition, complaints can be submitted to the Indonesian Medical Disciplinary Council (MKDKI) to process allegations of ethical or disciplinary violations.

However, in practice, legal protection for patients often faces challenges. One of the main issues is the difficulty in proving the claim. Patients or their families often lack access to medical records or the technical knowledge needed to demonstrate that medical standards were violated. Additionally, the hierarchical relationship between patients and healthcare providers may create power imbalances, making it difficult for patients to assert their rights. Therefore, the state must ensure that the legal process is fair and accessible to the public.

Legal Responsibility of Doctors: Criminal, Civil, and Ethical

Doctors, as primary providers of medical services, bear legal responsibilities across three main domains: criminal liability, civil liability, and ethical or professional responsibility. These responsibilities may be applicable simultaneously or separately, depending on the nature of the violation and the consequences involved. In terms of criminal liability, a doctor may be prosecuted if their actions or negligence lead to serious injury, death, or other consequences outlined in the Criminal Code (KUHP), such as in Article 359, which addresses negligence resulting in the death of another person.

Civil liability arises when patients or their families seek compensation for damages suffered due to the doctor's negligence or mistake. In this case, the plaintiff must prove the existence of fault (error), a causal

relationship (causality), and damage (damage). This principle follows a fault-based liability system, although there is ongoing debate in legal practice about whether a strict liability system should be applied for stronger patient protection (Radanović, N. M., & Vukušić, 2020).

Ethical or professional responsibility is enforced by medical professional organizations such as the Indonesian Medical Association (IDI) or MKDKI. This process is usually based on reports from the public or colleagues and is administrative in nature. Sanctions can range from warnings and temporary suspension of practice licenses to expulsion from the professional body. It is important to note that while ethical responsibility is not part of the formal judicial system, ethical decisions often influence civil and criminal legal proceedings. Therefore, doctors are expected to maintain high moral, ethical, and legal standards while practicing their profession.

Resolution of Malpractice Disputes: Legal and Mediation Approaches

In Indonesia, the resolution of medical malpractice disputes can be pursued through two main avenues: litigation (court proceedings) and non-litigation (alternative dispute resolution). Litigation involves formal legal processes, both in criminal and civil courts. While this route provides strong legal legitimacy, it often involves lengthy procedures, high costs, and psychological stress for all parties involved, including patients and medical professionals (Šago, 2023).

As an alternative, non-litigation dispute resolution methods, such as mediation and arbitration, are gaining attention within the healthcare legal system. Mediation, in this context, provides a more humane and restorative approach to resolving disputes, involving a neutral third party to help both the patient and the doctor reach a mutually acceptable agreement. Mediation can prevent both parties from facing legal stigma and help preserve their relationship, especially in cases of misunderstanding that do not involve malicious intent.

However, the implementation of mediation in practice faces several obstacles, such as the psychological readiness of the disputing parties, a lack of trust in mediation institutions, and the insufficient number of facilitators or mediators who understand both legal and medical aspects. Therefore, there is a need to strengthen the institutional framework for independent, professional, and trustworthy healthcare mediation. In some developed countries, such institutions have proven effective in reducing the number of medical disputes that end up in court and serve as an important tool in creating a fair and responsive healthcare system.

CONCLUSION

The phenomenon of medical malpractice reflects the complexity of the relationship between the medical profession, law, and patient rights within the healthcare system. In practice, malpractice involves not only technical medical errors but also violations of ethical and legal principles that should form the foundation of medical practice. Therefore, a deep understanding of the definition, scope, and forms of medical responsibility is essential to ensure justice for patients while protecting healthcare professionals from unfounded accusations. Legal protections for patients are outlined in various regulations; however, challenges remain in their implementation, including difficulties in proving claims, limited access to medical information, and the power imbalance between patients and healthcare providers.

On the other hand, resolving malpractice disputes does not always require litigation. Alternative dispute resolution mechanisms, such as mediation, can provide a more equitable, efficient, and humane solution for both parties. However, to achieve this, there is a need for legal system reforms and institutional strengthening, including the establishment of professional and independent healthcare mediation bodies. Moving forward, the legal approach to medical malpractice must strike a balance prioritizing principles of caution, transparency, and justice for both patients and medical professionals to create a healthcare environment that is respectful, accountable, and oriented toward human welfare.

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