



# The Legal Responsibility of Hospitals in Medical Malpractice Cases After the Issuance of the Health Law in 2023

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**Abstract:** Medical malpractice has serious consequences for patients and creates a legal burden on hospitals as healthcare institutions. This article aims to analyze the form and limits of hospital legal responsibility in cases of medical malpractice based on a normative approach to laws and regulations in Indonesia, especially Law No. 17 of 2023 concerning Health and Government Regulation No. 28 of 2024 concerning Implementing Regulations of the Health Law. This research uses a normative qualitative method with a legislative and conceptual approach. The results of the study show that hospitals can be held held accountable civilly, criminally, and administratively, especially in the framework of vicarious liability, where the hospital is responsible for the actions of medical personnel under its authority. However, there are still weaknesses in the implementation of regulations and gaps between legal norms and field practice. Therefore, it is necessary to strengthen the supervision system, internal medical evaluation, and legal protection for patients and medical personnel.

**Keywords:** Legal liability, Hospitals, medical malpractice, vicarious liability, Health Law.

## 1. Introduction

Medical malpractice is a serious problem that not only harms patients but also creates a legal burden for hospitals and medical personnel. Based on Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024, Indonesia regulates the legal responsibilities of hospitals and medical personnel in carrying out health services. However, despite strict regulations, malpractice still occurs, which raises questions about how the hospital's legal responsibility in cases of malpractice and the protection provided to patients and medical personnel. Hospitals can be held criminally and civilly liable for negligence committed by their medical personnel. The principle of *vicarious liability* states that hospitals can be held accountable for mistakes or omissions committed by doctors, nurses, or other medical personnel while they work under the auspices of the hospital (Koto & Asmadi, 2021).

Hospitals as health facilities play an important role in providing safe and quality medical services. When there is negligence or medical error that causes losses to patients, the question of who is responsible arises, whether it is the hospital as an institution or the medical personnel on duty. Therefore, understanding the legal responsibility of hospitals in dealing with malpractice cases is very important in order to protect patients' rights and provide protection for medical personnel who practice according to standards. The principle of civil liability, such as vicarious liability, allows hospitals to be prosecuted for errors or omissions committed by doctors or other medical personnel working under the auspices of the hospital. Hospitals must ensure compliance with regulations and conduct effective risk management to reduce the likelihood of medical disputes (Mambrasar et al., 2024).

However, although existing laws and regulations have regulated in detail the obligations and rights of hospitals and medical personnel, in practice, law enforcement against malpractice cases often faces obstacles. One of the main challenges is the mis-

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match between the legal theories contained in the regulations and their implementation in the field, which is often influenced by external factors such as lack of adequate resources, unclear legal procedures, and lack of public and medical personnel understanding of their rights and obligations.

In addition, the monitoring system for the implementation of medical standards in hospitals is also not fully effective, which has the potential to lead to undetected malpractice. Therefore, there is a need to improve stricter supervision mechanisms, as well as more intensive counseling to medical personnel regarding service standards and medical ethics. Hospitals must also be responsible for providing continuous training to medical personnel to improve the quality of health services and minimize the occurrence of medical negligence or errors. The complexity of healthcare and the lack of incident reporting procedures can lead to failures in detecting and addressing medical errors. A supportive work environment free from a culture of mutual blame is essential for medical personnel to be willing to report incidents (Renkema et al., 2014).

In dealing with malpractice cases, both hospitals and medical personnel must clearly understand their legal position. Hospitals as institutions are not only responsible for the quality of services provided by medical personnel working under them, but must also be ready to provide legal protection to medical personnel who practice in accordance with existing procedures and standards. On the contrary, medical personnel must always strive to perform medical procedures as well as possible, follow professional standards, and ensure that every medical procedure is performed with the patient's valid and full consent. Medical personnel are personally responsible if they act outside professional standards, violate the code of ethics, or without the patient's valid consent (Lajar et al., 2020).

Therefore, strict law enforcement, a good understanding of laws and regulations, and a better system for monitoring medical practices are needed to prevent and handle cases of medical malpractice fairly and transparently. This is important to maintain public trust in the health system and protect the rights of patients and medical personnel in providing safe and quality health services.

In addition, preventive efforts should be an integral part of every policy taken by hospitals and other health institutions. Improving the quality of health services depends not only on medical personnel's understanding of existing regulations, but also on the patient safety culture built in every level of hospital organization. With a joint commitment between hospital management, medical personnel, and the government, the risk of malpractice can be minimized through the implementation of proper procedures, improved communication between medical personnel and patients, and the use of more sophisticated and standardized medical technology. Key challenges include lack of training, limited resources, and gaps between policy and implementation in the field (Ugrak, 2024).

The role of the government is also very important in creating clear and transparent regulations related to the handling of medical malpractice. Not only that, the government must ensure that the justice system in Indonesia is able to provide justice for both parties—both aggrieved patients and medical personnel who practice according to standards. An impartial and fair legal system will increase public trust in the legal process, as well as provide a sense of security for medical personnel in carrying out their profession without fear of unfair consequences. Diversification of surveillance approaches and the establishment of a doctor-patient information management system is also important to prevent and handle malpractice cases effectively (Song et al., 2023).

As a further step, hospitals must have clear internal policies regarding procedures for handling malpractice cases, including mediation mechanisms that can help resolve problems before reaching legal channels. Counseling patients about their rights, as well as the importance of good communication between patients and medical personnel, can prevent misunderstandings that lead to lawsuits. It is important to raise awareness about

patient safety and ensure that all service procedures follow the applicable Standard Operating Procedures (SOP) (Mahardhika et al., 2023).

With effective collaboration between hospitals, medical personnel, the government, and the community, it is hoped that the problem of medical malpractice can be significantly reduced. All parties must realize that malpractice is not only a legal issue, but also an ethical and social responsibility issue that must be addressed holistically to create a better, safe, and reliable health system for all levels of society. Collaboration between hospitals, health agencies, and the community encourages healthy behaviors and strengthens social capital, which contributes to the prevention of health problems and malpractice (Cramer et al., 2021).

In addition, it is important to realize that preventive efforts in reducing malpractice also involve ongoing education and training for medical personnel. Hospitals and medical education institutions must ensure that medical personnel are kept up to date with the latest developments in the field of medicine, both in terms of medical knowledge, technology, and ethical practices. Regular training programs and performance evaluations can help improve the competence of medical personnel, while reducing the risk of errors that can lead to malpractice. Regular education and training for medical personnel is essential to ensure they are always up-to-date with the latest developments in medical knowledge, technology, and practice ethics (Tomsic et al., 2020).

On the other hand, patients also need to be given a better understanding of the medical process they are undergoing. Counseling about medical procedures, patient rights, and the importance of providing informed consent before medical procedures are performed, is an important step in actively involving patients in their care. Thus, the patient is not only the object of medical action, but also plays the role of a partner who has understanding and oversight over the medical decisions taken.

The entire health system must support transparency in every aspect of services. Hospitals that are open about the processes and policies they implement, including in handling malpractice cases, will build public trust in the institution. Hospitals that have a clear reporting system and emergency response mechanism for patient complaints or malpractice cases will also find it easier to handle problems that arise, reduce the potential for problem escalation, and improve the overall quality of services. Hospitals' compliance with transparency policies is still low, especially in small institutions or in certain regions. In addition, the data provided is often incomplete or irrelevant to the patient (Araich et al., 2023).

Finally, in the face of potential malpractice, collaboration between relevant institutions, such as professional organizations, the government, and the community, must run in harmony. Fair and transparent law enforcement, coupled with efforts to improve the quality of health services, will create a safer and more reliable health system. Thus, not only will there be better protection for patients, but also a sense of security and trust for medical personnel in carrying out their profession, as well as improving the quality of health services in Indonesia.

## **2. Materials and Methods**

This research uses a qualitative method with a normative approach, where normative research is carried out by studying related laws and regulations, such as Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024 which regulates the implementation of health and the protection of medical personnel and patients. The steps taken in this study include documentation studies, case analysis, and interviews. In the first stage, an analysis of relevant legal texts, including the Health Law and its implementing regulations, is carried out to understand in depth the regulations that govern the responsibility of hospitals in dealing with malpractice cases. The main challenge in the implementation of legal responsibility is the lack of clear limits on malpractice in regulations, as well as the need for legal education for medical personnel (Koto &

Asmadi, 2021). Furthermore, a case analysis was carried out by identifying examples of malpractice cases that occurred in Indonesia and looking at how the regulation was applied in practice. Finally, interviews were conducted with medical personnel, lawyers, and health law experts to gain perspective on the implementation of hospital legal responsibilities in malpractice cases, as well as the challenges faced in their implementation.

### 3. Results and Discussion

*Maqashid* Based on Law Number 17 of 2023, hospitals are obliged to provide health services in accordance with the standards that have been set, including medical standards, operational procedure standards, and patient safety standards. In the event of malpractice, hospitals as health service providers have corporate responsibility. This responsibility includes the obligation to ensure that medical personnel working in hospitals comply with applicable health service standards. The principle of vicarious liability asserts that hospitals are responsible for the actions of doctors, nurses, or other medical personnel during their duty at the hospital (Havrian, 2020).

The responsibility of this corporation is not only limited to the fulfillment of service standards, but also includes continuous supervision of the performance of medical personnel. The hospital is obliged to ensure that every medical action carried out by medical personnel is in accordance with the applicable procedures, and in the event of negligence or error in such medical actions, the hospital must be responsible for resolving the problems that arise, whether it is in the form of compensation to the patient or corrective measures to prevent similar incidents in the future. The principle of vicarious liability applies, where the hospital as an employer is responsible for the actions of medical personnel who are its subordinates as long as the action is carried out in the context of hospital services (Rahardianto & Adriano, 2024).

Furthermore, hospitals are also required to have a clear complaint system, where patients or their families can report suspected malpractices directly to the hospital. With this complaint mechanism, hospitals can conduct internal evaluations and repairs in a timely manner. In addition, hospitals must provide legal protection to medical personnel who act in accordance with medical standards, as a form of support for medical professions who carry out their practice in good faith and in accordance with procedures. Hospitals are obliged to provide legal protection to medical personnel who act in accordance with medical standards and procedures, as a form of support for good professional practice (Mahardhika, 2022).

However, in practice, to ensure that hospitals and medical personnel are fully compliant with existing regulations, oversight from authorities, such as governments or professional institutions, is essential. Without proper supervision, there is a potential that service standards are not implemented optimally, which can ultimately increase the risk of malpractice and harm both patients and the hospital itself. Clear and well-implemented regulations help standardize processes, improve quality control, and protect patients' rights (Semyonov-Tal, 2024).

In addition, hospitals are also expected to continue to adapt to the development of medical science and medical technology that is increasingly advanced. This is important so that hospitals can ensure that the services provided always follow the latest standards and utilize technology that can improve the quality of patient care. The proper and effective implementation of medical technology can reduce the risk of medical errors that could potentially lead to malpractice. Therefore, hospitals must proactively identify and adopt medical innovations that can improve the healthcare system and improve patient safety. Advances in medical technology and changing healthcare needs require hospitals to make continuous adjustments, both in infrastructure, processes, and service systems (Lyng et al., 2021).

At the same time, hospitals must establish good communication with patients and patients' families. Clear counseling regarding medical procedures, the risks that may arise, as well as the patient's right to transparent information is essential to build trust and avoid disputes that could potentially lead to lawsuits. Hospitals must ensure that each patient is given a sufficient understanding of the medical procedure to be undertaken, as well as obtain informed *consent* before medical action is performed.

Overall, the hospital's responsibilities in malpractice cases not only include legal and administrative aspects, but also relate to aspects of professional ethics, patient safety, and service quality improvement. Therefore, hospitals must create a culture of patient safety that encourages every medical personnel to act responsibly and ensure that the actions taken are always oriented towards the well-being of the patient. Through this holistic approach, hospitals can minimize the risk of malpractice while strengthening a health system that is safer and trustworthy by the public.

The Role of Medical Personnel in Malpractice Article 7 of Government Regulation Number 28 of 2024 emphasizes that hospitals are responsible for ensuring that every medical action is carried out by trained medical personnel and meets applicable competency standards. If a medical personnel makes a mistake or negligence that causes harm to the patient, then they can be subject to personal liability other than the hospital. Therefore, medical personnel must maintain the standards of their profession to avoid lawsuits. Malpractice occurs when medical personnel perform actions that are not in accordance with professional standards, either due to negligence, ignorance, or lack of experience, resulting in losses to the patient (Patricia Wulandari & Rachmat Hidayat, 2022).

Medical personnel, as the direct implementers of medical procedures, play a very important role in ensuring that every medical procedure is carried out carefully and in accordance with professional standards. Article 7 of Government Regulation Number 28 of 2024 emphasizes that medical personnel must always adhere to the principle of prudence, prioritize patient safety, and act in accordance with their knowledge and skills. In the event of negligence or errors that result in losses for the patient, the medical personnel can be held personally liable, either in the form of compensation or even legal sanctions, depending on the degree of negligence or mistake that occurred (Alberto et al., 2024).

Therefore, medical personnel have an obligation to continue to improve their competencies through education and continuous training. This not only aims to avoid the risk of malpractice, but also to keep the services provided always in accordance with the latest developments in medical science and medical technology. In addition, medical personnel must always maintain good communication with patients, provide clear information about diagnoses, medical procedures, and potential risks that may arise during or after medical procedures are performed. Risk factors include procedural errors, omissions, late evaluations, lack of informed consent, and poor communication (Pollock et al., 2024).

Success in running the medical profession to high standards also depends on the ability of medical personnel to work in a team. Good collaboration between medical personnel and other hospital staff, such as nurses and other healthcare professionals, is essential in creating an environment that supports patient safety. Thus, the medical personnel are not only responsible for their own actions, but also for the collective efforts in ensuring the safety and overall health of the patient. Hospitals are advised to actively identify and address communication barriers, strengthen leadership, and provide regular teamwork training (Alsabri et al., 2022).

Overall, although hospitals as institutions have the responsibility to ensure that all medical procedures are performed to the correct standards, medical personnel still have a huge personal responsibility. They must continue to strive to meet and even exceed established competency standards, in order to reduce the potential for medical errors and protect themselves from lawsuits that may arise as a result of negligence in medical

practice. In the event of a medical error, the doctor remains personally liable, although the hospital can also be held accountable as an institution (*the principle of vicarius liability*) as long as the action is carried out in the context of the duties in the hospital (Sunarto, 2020).

In addition, medical personnel are also expected to always adhere to the medical code of ethics that applies in Indonesia, which emphasizes the importance of respecting patients' rights, maintaining medical confidentiality, and acting with professionalism and integrity. Any medical action taken must be based on ethical and scientific principles, which ensure that medical decisions are not only based on clinical considerations, but also on moral values that put the patient's well-being first. Indonesian law protects patients' rights and holds medical professionals accountable in the event of a violation (Thahir & Tongat, 2024).

Medical personnel must also play an active role in the process of open communication with patients and their families, especially in providing explanations about medical conditions, treatment options, and possible risks. The medical decision taken should always be based on informed consent, where the patient clearly understands the benefits and potential risks of each action to be taken. This is very important to avoid malpractice claims that often arise due to unclear communication between medical personnel and patients. Legal standards in Indonesia and other countries require informed consent before medical procedures, and violations of these procedures can be categorized as administrative or criminal malpractice (Lazuardi & Marwiyah, 2023).

Further, in dealing with emergency situations or complex medical conditions, medical personnel must have the skills to make informed and quick decisions, without neglecting the principles of patient safety. However, in such situations, despite the possibility of errors, the hospital system must be ready to provide support to medical personnel through adequate supervision, clear procedures, and fair legal protection mechanisms for medical personnel acting in good faith. Hospital systems need to provide a fair legal protection mechanism for medical personnel who act in good faith, and ensure that decisions remain based on ethical values and patient safety (Li et al., 2023).

Therefore, while individual responsibility remains inevitable, collaboration between medical personnel, hospitals, and a transparent legal system can create a safer climate for patients and medical personnel. Thus, medical personnel not only function as medical implementers, but also as an integral part of the broader health system, where the safety and rights of patients are the top priority, while the protection of medical personnel is maintained in order to improve the overall quality of health services. The protection of medical personnel is essential so that they can work safely, effectively, and without fear of sanctions when reporting mistakes (Prakash & Choudhary, 2024).

In Indonesia, malpractice cases often involve a court deciding whether the fault was the result of negligence or an unprocedural medical procedure. These cases raise questions about who should be legally responsible: whether the hospital or medical personnel in question. Based on existing regulations, if the negligence of medical personnel occurs within the scope of the hospital, the hospital is responsible for making a legal settlement, including compensation to the patient. Hospital liability is based on the doctrine of vicarious liability, where the hospital as an employer is responsible for the actions of medical personnel who are its employees during the performance of duties in the hospital. If the relationship between the patient and the hospital is therapeutic, then the hospital acts as the party providing services, while the doctor or medical personnel act as the executor of the task. In this relationship pattern, if there is a loss due to the negligence of medical personnel, the hospital is obliged to be responsible (Rahardianto & Adriano, 2024).

However, in practice, resolving malpractice cases can often be complicated, especially when there are differences of opinion about who should bear the ultimate responsibility. In some cases, even though negligence occurred due to the fault of individual

medical personnel, hospitals as health service providers are still held liable. This is because hospitals have an obligation to ensure that all medical measures are carried out in accordance with applicable procedures, as well as provide adequate training and supervision of medical personnel working under them. However, if it can be proven that the medical personnel acted outside of the employment relationship or outside the scope of the hospital's duties, responsibility may be transferred (Hutagaol et al., 2024).

One of the main challenges in resolving malpractice cases is the evidence required to determine whether the medical error was the result of negligence or an unprocedural medical procedure. The legal process often involves a medical expert who will provide an objective assessment of whether or not the medical standard has been met. In some cases, the hospital may argue that the actions taken by the medical personnel are in accordance with professional standards, while the patient will argue that the actions caused losses that should have been avoided. In the case of medical malpractice, proof that negligence or medical actions are not in accordance with procedures depends heavily on the determination of medical service standards (standard of care). To prove negligence, the plaintiff (the patient) must show that the medical personnel have violated the applicable professional standards and that the violation caused harm to the patient. Determining whether these standards have been met usually requires the testimony of an objective medical expert, who will explain to the court the relevant medical standards and practices in the case (Shah et al., 2020).

Nonetheless, existing regulations, such as Law Number 17 of 2023 and Government Regulation Number 28 of 2024, provide a clear mechanism to deal with malpractice, where patients are entitled to compensation for losses arising from medical negligence or errors, both to medical personnel and hospitals. This encourages hospitals to ensure that the medical personnel working within them adhere to high standards of competence and operate with strict procedures to minimize the risk of errors that could harm patients. Compensation is provided if it is proven that there is a violation of medical service standards that causes harm to the patient. Compensation payments include economic (medical expenses, loss of income) and non-economic (suffering, disability, or death) losses (Rosaria & Pramono, 2022).

In addition, the importance of an effective mediation system in resolving malpractice disputes is also increasingly recognized. Mediation allows the hospital and the patient to reach an agreement without going through a lengthy and expensive court process. With this approach, it is hoped that dispute resolution can be faster and fairer, as well as maintain a better relationship between patients and healthcare providers. The existence of this system can also help reduce the legal burden on hospitals and medical personnel, while providing better protection for patients. Mediation, including penal mediation, offers a more harmonious approach to restorative justice and prioritizes victim protection and the reputation of medical personnel (Perangin-Angin et al., 2025).

Medical personnel who work in accordance with professional standards are entitled to legal protection if the medical actions taken do not cause harm. In Article 4 of the Health Law, it is stated that patients have the right to receive clear information about the medical measures to be performed. Thus, if the patient gives consent after obtaining complete information, then the responsibility for the decision may shift to the patient, although the hospital remains responsible for the feasibility of the procedure performed. Informed consent serves as written proof that the patient has understood and consented to the medical procedure to be performed. It provides legal protection for doctors in the event of unintended consequences, as long as the action is carried out in accordance with professional standards and operational procedures (Fitriana, 2023).

In addition, legal protection for medical personnel also includes the right to practice medicine in accordance with professional standards without fear of unfair legal consequences. If the medical actions performed by medical personnel have been in accordance with applicable procedures, expected competency standards, and carried out in

good faith, then they should not be subject to legal sanctions or compensation even if the patient suffers losses. In this case, hospitals also act as protectors of medical personnel, ensuring that they not only comply with professional standards but are also protected from unfounded lawsuits, as long as they act in accordance with the principles of prudence and professional responsibility.

However, if there is a medical error or negligence committed by medical personnel, the hospital still has a responsibility to ensure that the legal process is conducted fairly, and that medical personnel who work in accordance with professional standards are given a proper defense. The protection of medical personnel also includes a psychological aspect, where they do not have to face excessive pressure due to lawsuits that may arise without a clear basis. Therefore, hospitals should have a support system, both in the form of legal assistance and moral support, to help medical personnel through a transparent and fair legal process (Mambrasar et al., 2024).

In addition, the existence of a professional insurance system for medical personnel can also be an additional form of legal protection, where medical personnel who face legal claims due to malpractice can obtain financial protection. This not only protects medical personnel from financial risks, but also gives them a sense of security in carrying out their professional duties. Through professional insurance, the risk of lawsuits and claims for damages due to errors or negligence in medical practice is transferred to the insurance company. Medical personnel only pay premiums, and in the event of a claim, the insurance company will compensate the patient (Lorence Sitepu, 2020). With a clear and effective legal protection system, medical personnel can focus more on their duties to provide the best service to patients without feeling threatened by possible unfair lawsuits.

#### 4. Conclusions

The legal responsibility of hospitals in cases of medical malpractice in Indonesia is a responsibility that involves two main parties: the hospital as an institution and medical personnel as medical implementers. Hospitals have an obligation to ensure that all medical procedures performed in their facilities comply with applicable standards. In the event of malpractice, the hospital is responsible for negligence that occurs during the treatment process, although in some cases, medical personnel may also be subject to personal liability.

The importance of supervision and the application of strict medical standards in hospitals as well as the provision of clear information to patients is an important step in preventing malpractice. Thus, both hospitals and medical personnel need to ensure that every medical action is carried out in accordance with applicable provisions to protect patients' rights and maintain public trust in health facilities.

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