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## Legal Analysis of Hospital Liabilities For Medical Negligence (A Review According To Civil Law)

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**Abstract:** Health services provided within healthcare facilities such as hospitals sometimes raise dilemmas related to the legal responsibilities that must be fulfilled when there is a medical dispute caused by medical negligence by healthcare workers in their capacity as employees. The legal accountability for negligence committed by hospitals as corporations is not yet fully clear and often leads to legal debates. One of the main issues that arises is how legal accountability is viewed from the civil law perspective towards corporations, especially in the context of hospitals. The importance of analyzing corporate legal responsibility for medical negligence against hospitals from this civil law perspective is becoming increasingly relevant, given the growing number of cases holding hospitals as responsible parties. This article uses a normative juridical approach, which uses law as the basis for norms. The method used is a descriptive-analytical method with the nature of prescriptive-analytical research. Hospitals have a significant position in the responsibility for medical negligence, both in terms of supervision over doctors and other medical personnel, as well as in fulfilling healthcare service standards. Hospitals can be held liable for negligence committed by doctors, either directly or through the principle of employer liability (vicarious liability and respondeat superior). This provides assurance to patients that hospitals have an obligation to provide safe services in accordance with professional standards.

**Keyword:** Corporate legal liability, civil law, vicarious liability, respondeat superior.

### INTRODUCTION

Medical personnel dedicate themselves to the health sector with a professional attitude, knowledge, and skills through professional education in medicine or dentistry, with the authority they have to carry out health efforts for patients. The relationship between a doctor and his patient is known as a therapeutic transaction. From the legal relationship in a therapeutic transaction, the rights and obligations of each party arise (Makasenggehe, Lumunon, & Mamahit, 2023). The relationship between doctors and patients in Indonesia is regulated in the Republic of Indonesia Law Number 17 of 2023 concerning Health, which includes the rights and obligations of both parties, as well as ethical principles that apply in

the medical world (Republik Indonesia, 2023). Some of the patient's rights related to medical services are to receive safe, quality and affordable health services in order to achieve the highest level of health, to obtain confidentiality of data and information regarding their personal health, and to receive protection from health risks.

Health services are all forms of activities and/or series of service activities provided directly to individuals or communities to maintain and improve health levels in the form of promotive, preventive, curative rehabilitative, and/or palliative efforts. These health efforts are carried out in an integrated and continuous manner to maintain and improve public health levels by the Central Government, Regional Governments, and/or communities.

In the practice of medical services, a doctor does not promise results but rather the process of health services itself. In the implementation of these services, it is possible that there will be a gap between expectations and the reality of the development of the patient's condition which will give rise to a lawsuit or legal claim against the doctor by the patient or his family (Ibrahim, 2022). In this regard, a case study is needed to determine whether there is a violation of the law in the form of medical negligence or neglect that results in harm to the patient or indeed the course of the patient's illness where the doctor has provided health services in accordance with standards.

Health services carried out in health facility institutions such as hospitals, sometimes cause dilemmas related to legal responsibilities that must be fulfilled when there is a medical dispute. There is an opinion that negligence or omission of services to patients in hospitals is considered corporate negligence in hospitals (Harmoni, Fahmi, & Yetti, 2022), where the responsibility is not only borne by individual medical personnel such as doctors or nurses, but also becomes the responsibility of the hospital institution itself. This is related to the concept of corporate legal responsibility, which emphasizes that corporate entities, in this case hospitals, can be held legally responsible for losses caused by negligence committed by employees or managers within the scope of their work.

However, the practice of legal liability for negligence committed by hospitals as corporations is not entirely clear and often causes debate. One of the main issues that arises is how the legal liability mechanism is applied in cases of corporate negligence, especially in the context of hospitals. In general, negligence that occurs in hospitals can be categorized into two forms, namely negligence committed by individual medical personnel (such as doctors or nurses) and negligence committed by the hospital as a legal entity.

One example of a case of legal liability for medical negligence occurred between Dr. Moestidjab and PT Surabaya Eye Clinic with patient Tatok Poerwanto. The alleged medical negligence occurred in 2016 when the patient underwent eye surgery to treat cataracts. The District Court Decision Number 415/Pdt.G/2019/PN.Sby dated March 10, 2020 stated that Dr. Moestidjab was not guilty and was confirmed by the Surabaya High Court Decision Letter Number 277/PDT/2020/PT.SBY dated June 16, 2020. The patient filed an appeal to the Supreme Court and was granted by the Judge with the Supreme Court Decision Letter of the Republic of Indonesia Number 1815 K/Pdt/2021 dated September 29, 2021, which stated that Dr. Moestidjab and Surabaya Eye Clinic were declared to have committed unlawful acts against Tatok Poerwanto. Both were sentenced to pay material and immaterial compensation of Rp 1,260,689,917 jointly and severally. Based on this decision, Dr. Moestidjab and Surabaya Eye Clinic then filed a judicial review against Tatok Poerwanto. As a result of the judicial review, the Supreme Court through decision number 1037 PK/PDT/2023 on December 18, 2023 rejected the request of Dr. Moestidjab and Surabaya Eye Clinic (Putusan Peninjauan Kembali, 2023).

The importance of analyzing the legal liability of hospital corporate negligence is increasingly relevant considering the increasing number of cases that demand hospitals as responsible parties. This study focuses on how Indonesian law views hospital liability for negligence that occurs under the auspices of corporate management, both in criminal and

civil aspects. The main question in this study is to what extent legal liability can be imposed on hospitals as a corporate entity, as well as the legal principles that form the basis for determining such negligence.

With this background, it is expected that this study can contribute to the understanding of the mechanism of hospital legal liability for corporate negligence, as well as open up opportunities for more effective and fair legal policy reforms in the field of health law. This study will describe the legal study of the position of hospitals in the liability of doctors' negligence according to civil health law.

## **METHOD**

The type of research used is the type of normative legal research, namely research which is a process to find legal rules, legal principles and legal doctrines to answer the legal problems being faced. Normative legal research uses law as the basis for norms (Soekanto & Mamudja, 2001).

The research applied in this study is descriptive analysis and prescriptive analysis. Descriptive research is in the form of an explanation and aims to describe in detail, systematically and comprehensively everything related to the object to be studied, applies in a certain place, and at a certain time. In prescriptive analysis, this method is applied because it does not only intend to reveal or describe data as it is, but also to project forward how it should or ideally be for legal reforms carried out from the results of research related to the legal position of the hospital director when a lawsuit occurs from a patient due to the doctor's negligence.

In this study, the researcher used the legislative approach method, conceptual and limited empirical approach.

## **RESULTS AND DISCUSSION**

Definition of Medical Personnel in Law 17 of 2023 concerning Health Article 1 Paragraph 6 is every person who devotes themselves to the health sector and has a professional attitude, knowledge and skills through professional medical or dental education which requires the authority to carry out health efforts (Republik Indonesia, 2023).

Health Efforts are all forms of activities and/or a series of activities carried out in an integrated and continuous manner to maintain and improve the health of the community in the form of promotive, preventive, curative, rehabilitative, and/or palliative efforts by the Central Government, Regional Government, and/or the community (Article 1 Paragraph 2) (Republik Indonesia, 2023).

Health Services are all forms of activities and/or series of service activities provided directly to individuals or communities to maintain and improve the health of the community in the form of promotive, preventive, curative, rehabilitative, and/or palliative (Article 1 Paragraph 3) (Republik Indonesia, 2023).

Health Resources are everything needed to carry out Health Efforts carried out by the Central Government, Regional Government, and/or the community. (Article 1 Paragraph 4) (Republik Indonesia, 2023).

The legal position of doctors as medical personnel in health services refers to the legal status and role of doctors in providing medical services, as well as the legal relationship that occurs between doctors, patients, and other parties involved, such as hospitals or health institutions. The legal position of doctors is very important because they act not only as health service providers, but also as parties responsible for the quality and ethics of the services provided. Doctors who work in health institutions can be full-time doctors or part-time doctors. Some views on the legal position of doctors as medical personnel in health services include: (Zamroni, 2022)

1. Contractual

From a legal perspective, the relationship between a doctor and a patient is often considered a contractual relationship, in which doctors provide medical care based on their mutual agreement with the patient. The patient, through the act of consent, receives medical care, while the doctor is obligated to provide care that is in accordance with the standards of the medical profession. If there is a violation of the provision of care, the patient may file a lawsuit against the law for the violation of the contract.

## 2. Professional liability

Doctors as medical personnel have high professional responsibilities. These responsibilities relate to the obligation to provide medical services in accordance with scientific standards and professional ethics. If a doctor fails to fulfill his/her professional standards or commits negligence that causes harm to the patient, the doctor can be held legally liable. The legal position of doctors in this regard includes the obligation to maintain their medical expertise consistently, and to act in accordance with professional standards and medical ethics.

## 3. Doctor as public service

Health services are considered as public services that have the purpose of protecting and improving the health of the community. In this regard, the legal position of doctors is seen as part of the public service providers who have the obligation to provide services without distinguishing the social, economic, or political status of patients. Doctors as health service providers are committed to providing services fairly, professionally, and in accordance with applicable law.

## 4. Consumer protection

Patients are considered as other consumers of health who have the right to receive services that are safe, effective, and meet the specified standards. In this regard, the legal position of doctors is also seen from the perspective of protecting the rights of patients as medical consumers. Doctors as medical personnel have an obligation to provide patients with adequate information regarding their medical condition, the procedures they are performing, and the potential risks involved. If the patient's medical condition is not suitable for the conditions prescribed by the doctor, the doctor may be charged a criminal penalty.

## 5. Ethics and Moral

In addition to the positive legal side, ethical and moral theories also affect the legal position of doctors. Doctors are expected not only to fulfill legal obligations but also to practice medicine based on moral and ethical principles that apply to their profession. This includes the obligation to maintain medical confidentiality, to act fairly, and to always prioritize the interests of patients.

## 6. Proof Theory

In the legal context, the position of a doctor is also related to the proof of the legal knowledge of the patient. A doctor has the obligation to prove that the medical procedure performed was in accordance with the correct procedure and in accordance with the framework of proper professionalism. A doctor may be exempted from the obligation if he or she proves that the medical procedure performed was in accordance with the applicable professional standards.

## **Doctor and Patient Relationship**

The relationship between a doctor and a patient/family is known as a therapeutic transaction. From the legal relationship in a therapeutic transaction, the rights and obligations of each party arise. The relationship between a doctor and a patient in Indonesia is regulated in Law no. 17 of 2023 concerning Health, which includes the rights and obligations of both parties, as well as the ethical principles that apply in the world of medical medicine. The law regulates patient rights (Article 4), patient obligations (Article 5). Some patient rights related

to medical services are to obtain safe, quality, and affordable health services in order to realize the highest level of health (Article 4 paragraph 1 point c), obtain confidentiality of personal health data and information (point i), obtain information about their health data (point j), and receive protection from health risks (point k) (Republik Indonesia, 2023).

The doctor-patient relationship is a relationship built on the primary goal of providing medical care aimed at curing or alleviating the patient's illness or health condition. This relationship is professional, ethical, and based on mutual trust between the doctor and the patient (Rusyd, 2018). In the therapeutic context, doctors act not only as providers of medical care, but also as partners who assist patients in the process of selecting and managing their health. Patients, on the other hand, are expected to be actively involved in their treatment process, providing them with needed information, and making informed decisions about their treatment. This healthy and respectful relationship between doctor and patient results in optimal therapeutic outcomes and supports the selection and management of patient health.

### **Legal Position of Hospitals as Health Service Providers**

The legal position of the hospital as a provider of health care is very important in the health care system, because the hospital is not only obliged to provide medical care to patients, but also must comply with various legal regulations that regulate the operation and ethics of providing other services. In this context, the hospital has a legal status as an entity that provides medical facilities and services, as well as an institution that is associated with various legal obligations that protect patients, medical personnel, and the public.

Hospitals currently have professional, legal, and ethical responsibilities in providing medical information, and must comply with regulations governing their operations, including health, patient safety, and administration and finance. If hospitals fail to fulfill these obligations, they may be asked to comply with legal obligations, whether by patients, the government, or other relevant institutions.

From a contractual perspective, hospitals are responsible for providing care to patients who choose to receive care (Lensoen, 2023). These contractual agreements are not necessarily written but are usually set out in a contract that requires the hospital to provide care consistent with applicable medical and ethical standards. The hospital must provide care consistent with its agreed obligations, including providing care that is safe and effective. If the hospital fails to meet these standards, a legal claim for medical negligence may arise.

The hospital is responsible for providing adequate medical facilities and qualified medical personnel in accordance with applicable standards. The hospital ensures that doctors, nurses, and other medical personnel work with appropriate expertise and skills, and adhere to established medical ethics. In addition, the doctor is also required to ensure that all medical personnel working in the hospital are registered and have valid licenses, and have undergone training and education to maintain their competence.

As a healthcare provider, hospitals also have a legal obligation to respect and protect patient privacy, including access to accurate medical information, access to information related to their care, and access to non-discriminatory care. Hospitals are required to maintain confidentiality of patient medical information. Any information received regarding a patient's medical condition must be kept confidential and may only be shared with the patient's permission under certain circumstances as determined by the law.

### **Medical Negligence**

In carrying out their duties, it is possible for doctors to make mistakes towards patients. Some mistakes that may occur in the practice of medical procedures include intentional acts such as certain misconduct, negligence, or unreliable lack of skill, which results in injury, or loss to the party concerned (Klau, Fahmi, & Utami, 2022). According to

the theory of intentional professional misconduct, it is said that a doctor who is considered to be practicing does something that violates the standards and is done carelessly. Negligence is not intentional/negligence, namely a doctor who is considered to be negligent (*culpa*) which results in disability or death of the patient. A doctor who is considered to be doing something according to his/her medical knowledge. Lack of skill, namely a doctor who performs medical procedures but is outside his/her competence or lacks competence.

### **Doctors' Responsibility in Medical Negligence**

The duty of doctors to perform medical negligence is a legal obligation that requires doctors to provide information in accordance with applicable medical standards. If doctors fail to fulfill this duty and cause harm to patients, they may be held liable for both civil and criminal damages. Therefore, doctors must be careful about every medical procedure they perform and ensure that they always follow the procedures and medical procedures that are required to protect patients and themselves from potential claims of medical negligence.

Doctors have an obligation to act in accordance with the standards of the medical profession, namely by providing information that is fair, effective and in accordance with the medical knowledge that is available to them (Lesmonojeti, 2020). Negligence occurs when a doctor fails to meet the standards of the profession. Medical negligence occurs when a doctor fails to provide medical care that is appropriate, which results in harm to the patient. For example, failing to make an appropriate diagnosis, failing to prescribe medication, or failing to take appropriate steps to treat the patient's medical condition. To prove that a doctor has committed medical negligence, proof of this usually requires four elements, namely clear duty of care, breach of duty, liability, and loss.

Doctors may be held legally liable if their medical negligence results in harm to a patient. The injured patient may be awarded compensation for physical, emotional, or financial losses suffered as a result of the negligence. These damages may include the cost of medical treatment, compensation for the loss of life due to injury, the cost of the treatment of the injured person, and non-material losses such as emotional suffering.

According to some cases, if medical negligence is deemed more serious than the negligence itself, the doctor can be charged with criminal liability. For example, if medical negligence causes the death of a patient or is considered a serious injury due to other negligence, the doctor can be charged with criminal liability. If the negligence results in criminal action, such as causing death due to other negligence, the doctor can be charged with criminal liability, such as a fine or a prison sentence.

### **Hospitals' Responsibility in Medical Negligence**

The duties of the hospital management include various aspects, from managing the quality of medical records, compliance with regulations, to managing medical risks. Hospital management plays an active role in supervising and maintaining a high standard of quality throughout the hospital. The duties of the hospital include providing adequate records and other skills, providing a good place and work system, adequate facilities and equipment, including competent staff and sources of personnel (Chan, 2021). With proper care and proper management, it is possible to provide quality and safe care to patients, while minimizing the legal risks that may arise.

The obligation of the hospital to comply with the personnel's requirements is to ensure that the hospital is properly maintained and that the quality of the personnel working in the hospital is maintained. The obligation of the Hospital to comply with the Health Regulation in Indonesia is regulated in Article 193 of the Indonesian Constitution Number 17 of 2023 concerning Health which states that the hospital is properly maintained and that the legal requirements are in accordance with all losses incurred by negligence committed by the Hospital's Health Human Resources.

In addition, there are three things that must be fulfilled: the obligation to provide good service, the obligation to provide services, and the obligation to provide services to employees (Flora, 2024). Duty of care can be interpreted as an obligation to provide good care to employees. The implementation of the duty to provide good care is related to various things, including its personnel, because it is at least partly an organization that must act through the employees it employs. The provision of good care is at least partly carried out by the employees of the employees of the employees. The services provided by the personnel are limited, especially regarding Health, and are in accordance with the professional standards. The limited services are usually very limited in terms of the provision of Health services provided by the personnel, resulting in undesirable side effects for the patient.

Republic of Indonesia Regulation Number 17 of 2023 concerning Health Regulation 193 states that hospitals are legally responsible for all losses caused by negligence committed by Hospital Health Human Resources (Republik Indonesia, 2023).

Article 197-198 of Law Number 17 of 2023 defines Health Human Resources as consisting of medical personnel, health personnel and health support or supporting personnel. Medical personnel are grouped into doctors and dentists. The types of medical personnel consisting of doctors, specialist doctors and subspecialist doctors. The types of medical personnel consisting of dentists, specialist dentists and subspecialist dentists (Republik Indonesia, 2023).

Government Regulation Number 28 of 2024 concerning the Implementing Regulations of Law Number 17 of 2023 concerning Health Article 816 states the responsibilities of Hospital owners and leaders in fulfilling Health Human Resources (Republik Indonesia, 2024).

If medical negligence occurs that causes harm to the patient, the hospital can be held liable. For example, if the hospital facilities are inadequate or the medical staff is incompetent, the patient can file a lawsuit against the hospital. The hospital is responsible for addressing potential medical negligence by providing clear training and guidelines on medical procedures, and ensuring a system of monitoring and evaluating the quality of health services.

Hospitals have significant liability in cases of medical negligence. There are several legal concepts that underlie this liability, including the doctrines of *respondeat superior*, duty to care, and *vicarious liability*. However, in practice, patients often face difficulties in filing claims for damages against hospitals for various reasons, such as health workers who are not directly affiliated with the hospital or lack of sufficient evidence.

### **Corporate Negligence Theory**

Corporate negligence is a legal concept that refers to the negligence of a corporate entity (such as a hospital, company, or other organization) in carrying out its duties or responsibilities that may result in harm or injury to an individual or other party. In the context of healthcare, particularly hospitals, corporate negligence refers to the failure of a hospital or healthcare facility to meet the general obligations expected of them to provide safe and standardized care, which in turn results in harm or injury to a patient (Liwun, 2022).

Corporate negligence is different from negligence committed by an individual. In corporate negligence, liability is not only based on the actions of an individual, but also on the policies, procedures, and management of the hospital as an entity. While a physician or medical professional may be negligent, the hospital or organization may be held liable if they failed to provide adequate oversight or policies that would have prevented the error.

A hospital or other corporate entity may be held legally liable if it is found to have failed to fulfill its obligation to provide safe and standardized care. This liability may include compensation for patients who have been harmed by the negligence. If a hospital is found guilty of corporate negligence, they may face civil damages that can include additional

medical expenses, financial losses, and emotional distress experienced by patients. In addition, the hospital may be subject to fines or other administrative actions if it is found to have violated applicable health regulations.

### ***Respondeat Superior Theory***

*Respondeat superior* is a legal principle that states that a party (usually an employer or organization) can be held liable for the actions of their employees or agents in the course of their employment. This principle is commonly used in the context of civil law, particularly in cases of medical negligence and corporate law, where an organization or entity is held liable for the actions of its employees in the course of their employment or in the scope of their employment.

Literally, *respondeat superior* comes from the Latin word for “Let the master answer.” This concept describes the principle that an employer can be held liable for the wrongs or losses committed by their employees or agents while working in the capacity of their employment.

*Respondeat superior* states that an employer is liable for the actions of their employees in the course of their employment or in the course of their employment. In other words, if an employee does something that causes harm to a third party in the scope of their employment, the employer (company, hospital, organization, etc.) can be held legally liable (Eman, Lumunon, & Worang, 2022). This liability is not limited to fault or negligence, but can also include intentional acts by the employee, depending on the context.

If a doctor, nurse, or other medical personnel commits a medical error or negligence that harms a patient, the hospital (as the employer) can be held liable based on the principle of *respondeat superior*. This applies if the actions taken by the medical personnel are carried out in their work capacity at the hospital (Arimbi & Abdusaidovich, 2024). If an employee, for example, in a hospital setting causes property damage or injury to a patient through negligence or actions that are not in accordance with standards, the hospital can be held liable.

In order for this to apply, there are several elements that must be met in implementing the *respondeat superior* principle:

1. Employment Relationship

There must be a clear working relationship between the employer and the employee. The employee must work under the direction or supervision of the employer or the organization concerned.

2. Within the Scope of Employment

The actions taken by the employee must be within the scope of work assigned by the employer. For example, if a doctor performs a medical act in a hospital ward that has been assigned, then the hospital can be held liable.

3. Job Relation

The employee's actions must be related to the job or duties they are performing at the time. If the actions are personal or unrelated to the job, the employer will usually not be liable.

While the principle of *respondeat superior* provides a basis for holding employers liable, it does not absolve employees of their personal responsibility. Employees can still be held individually liable for their actions, especially if those actions are unlawful or done intentionally to harm others. The principle of *respondeat superior* simply adds a dimension of liability to which an employer or organization can be subject.



### ***Vicarious liability* Theory**

*Vicarious liability* is a legal principle that allows an employer or organization to be held liable for the acts of their employees or agents in the course of employment. In the medical sector, a hospital or clinic can be held liable for medical errors or omissions committed by its medical personnel or staff, as long as the acts were carried out in the capacity of their employment (Neyers, 2005). However, the application of this principle is limited to acts performed within the scope of employment and does not extend to personal or off-hours actions.

The basic principle of *vicarious liability* is that an employer or organization can be held liable for the acts of their employees or agents performed within the scope of their employment (Andrianto & Andaru, 2019). Even if the employer is not directly involved in the harmful act, they can still be held liable because they have control or influence over the employee or agent's actions.

In this case, the liability that arises does not depend on the employer's direct negligence or fault, but on the relationship between the employer and the employee or agent, and whether the act was performed in an employment capacity. In the medical context, *vicarious liability* is typically applied in situations where a hospital or healthcare facility can be held liable for acts of medical negligence performed by a doctor, nurse, or other medical personnel working under their supervision or authority. For example, if a doctor makes an error in diagnosis or a medical procedure that harms a patient, the hospital that employs the doctor can be held liable, even if the hospital was not directly involved in the error.

### **CONCLUSION**

Hospitals have a very important position in the context of medical negligence liability. As a health service provider, hospitals have an obligation to ensure that the health services provided by their medical personnel, including doctors, meet applicable medical standards. Hospitals are responsible for supervising their medical employees, facilities, and operational procedures carried out within them. When medical negligence occurs by a doctor, either individually or in relation to the hospital where he works, both the doctor and the hospital can be held liable. The doctor is responsible for the medical actions taken, but the hospital can also be held liable for such negligence in its capacity as an employer, in accordance with the principles of *vicarious liability* and *respondeat superior*. Based on the principles of *vicarious liability* and *respondeat superior*, hospitals can be held liable for the doctor's errors or negligence in carrying out medical actions, as long as the actions are carried out within the scope of the work provided. Hospitals as employers can be held liable even though they are not directly involved in the mistakes made by the doctor. This shows that hospitals have an obligation to supervise and ensure that doctors and other medical personnel meet professional standards.

In the event of loss or injury due to medical negligence committed by a doctor, the patient has the right to file a claim for compensation against both the doctor and the hospital. The hospital can be sued for compensation due to the negligence of the doctor as its employee, as well as the hospital's failure to provide appropriate supervision or policies to prevent such medical errors. In addition, the hospital must provide an adequate system to support the quality of health services so that negligence does not occur that is detrimental to the patient. The position of the hospital in the liability for medical negligence is also related to efforts to provide protection to patients. With the hospital's liability for the doctor's negligence, it is hoped that a safer and more professional medical service system can be created, as well as providing a guarantee for patients to obtain their rights if an error occurs in medical services.

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