

A Doctor's Responsibility Towards a Patient for Allegations of Medical Malpractice Reviewed from a Civil Law Perspective

Haryono Linoh¹, Tamaulina Br Sembiring²

^{1,2}Program Study Magister Hukum Kesehatan, Pascasarjana UNPAB, Indonesia

Email: ¹drharyono@yahoo.co.id, ²tamaulina@dosen.pancabudi.ac.id

Abstract

In the context of civil law, physicians' responsibilities towards patients, particularly in cases of alleged medical malpractice, attract significant attention. The background of this research focuses on the analysis of the civil legal framework that regulates the relationship between doctors and patients, with particular emphasis on how the law determines the responsibilities of doctors in malpractice cases. The research method used is document analysis, through in-depth study of the Civil Code (KUH Perdata), as well as legal interpretation and relevant principles related to medical practice and medical malpractice. The research results show that the Civil Code provides a strong basis for handling medical malpractice cases, by emphasizing the need for high standards of care, informed consent, and protecting patient rights. Proposed recommendations include increasing legal awareness among medical professionals regarding their legal responsibilities, as well as the need for a more comprehensive medical education system that integrates the legal aspects of medicine. This research underscores the importance of the civil law framework in ensuring ethical and responsible medical practice, as well as in protecting patients' rights.

Keywords: Medical Malpractice, Civil Law, Doctor's Responsibility.

1. INTRODUCTION

Medical malpractice is defined as professional negligence by a doctor or health worker that causes harm to the patient, whether physical, emotional or financial. Malpractice can occur for a variety of reasons, including misdiagnosis, negligence in providing care, not obtaining informed consent from the patient before a medical procedure, and failure to inform the patient of the risks of the procedure. Indonesia, as a legal country, has clear rules regarding medical practice which are contained in various statutory regulations. UU no. 17 of 2023 states explicitly the rights and obligations of medical personnel and patients. Article 273 states the right of medical personnel to obtain legal protection as long as they work in accordance with existing standards, and Articles 276 to 278 regulate the rights and obligations of patients. Malpractice cases in Indonesia vary, from simple mistakes to fatal mistakes that result in death or permanent disability. Various examples of cases reported by the media or which have ended up in court have sparked public discussion regarding the need for fair review and enforcement of the law for both parties. High-profile malpractice cases often give rise to debate not only around medical responsibility but also the legal implications of the action. In practice, medical malpractice claims often involve interpretation of the "recognized standard of care" that medical personnel should have provided. Therefore, an in-depth understanding of professional standards and operational procedures that are in accordance with professional ethics is crucial. On the other hand, patients have the right to expect a certain level of care and competence from their treating physicians. So, when there is a gap between expectations and reality, the issue of doctors' responsibilities becomes the main focus. Then, in Indonesia, increasing public awareness of patient rights also demands an increase in medical service standards. This situation adds urgency for doctors to fully understand the limits of their obligations and for patients to know the limits of their rights in receiving health services. In many cases, there is a debate between what is interpreted as an unavoidable "medical risk" and what constitutes "negligence" that should be held accountable. Seeing this complexity, there is a need to examine and

understand the dynamics of civil law that apply to medical malpractice cases in Indonesia. This research focuses on exploring the civil legal responsibilities of doctors towards patients who suffer from medical malpractice.

Thus, the background of this research is designed to answer these questions by examining existing cases and the related legal framework, with the hope of finding a solution that balances the rights and obligations between doctors and patients. The importance of research on doctors' responsibilities towards patients in medical malpractice cases cannot be overstated, considering the increasingly complex dynamics of interactions between doctors and patients and its broad implications for aspects of civil law. Along with increasing public awareness of their rights as patients, as well as the development of increasingly advanced and specific medical practices, there is a trend of increasing malpractice cases being reported and brought to justice. Medical malpractice not only involves the moral and ethical aspects of the profession but also legal entanglements and financial consequences that can destroy a doctor's career and undermine trust in the health system. In Indonesia, where the legal system continues to evolve to match global practice, a review of existing legal regulations is essential. Therefore, by understanding the civil law context surrounding the practice of medicine, medical professionals can operate within safe boundaries and patients can protect their rights effectively. Examples of malpractice cases that have become hotly discussed in both the public and professional spheres can be taken from incidents where a surgical error occurred which resulted in the patient losing organ function or an error in administering a fatal drug dose. In some cases, the lack of effective communication between doctors and patients about the risks of the procedure to be carried out has resulted in patients making decisions without sufficient information, which could have been avoided if the doctor had provided a clearer and more complete explanation. Seeing that this problem is a very fundamental and structural issue in civil law, it requires an in-depth investigation to not only evaluate current legal standards but also provide recommendations for improvement. In doing so, this study seeks to provide a comprehensive analysis of how physicians can practice medicine with a greater sense of security without constantly feeling threatened by potential malpractice suits, while demonstrating how patients can be given a sense of confidence that the medical system is functioning fairly and responsibly. This research is important because it can be a valuable contribution to the legal literature in Indonesia, informing policy makers, legal practitioners, medical institutions, and the general public about how civil law can be utilized to improve the quality of medical services and reduce the incidence of malpractice. So far, legal debates and decisions surrounding medical malpractice have often been dominated by subjective views and unsystematic casuistry, making this research a step towards establishing a more objective and structured legal framework. In responding to and understanding the full dynamics and consequences of medical malpractice, this research will provide a stronger foundation for future improvements and for fair and equitable protection of the rights of patients and medical personnel. With the results of research, the responsibility of doctors towards patients for suspected medical malpractice is viewed from a civil law perspective.

2. METHODOLOGY

In the context of civil law, the issue of medical malpractice often generates significant controversy and debate, triggering the need for in-depth research regarding doctors' responsibilities towards patients. This research takes a descriptive qualitative approach, with the aim of understanding in depth the phenomenon of medical malpractice from the perspective of doctors and patients, as well as the legal implications that arise from cases of suspected malpractice. The use of secondary data, which includes laws, health regulations, medical codes of ethics, and related court decisions, provides an objective and clear legal framework in analyzing doctors' responsibilities and expected standards of medical services. Through this research, it is hoped that a comprehensive understanding can be gained about how regulations and civil law regulate doctors' responsibilities, the influence of medical ethical codes on medical practice, and how court decisions form precedents in malpractice cases. This descriptive research emphasizes the process of care provided by physicians and how that process can potentially result in allegations of malpractice, allowing for a better understanding of the context of the situation, the physician's decisions, and the patient's response. By organizing and classifying secondary data into specific categories and analyzing them to identify key themes and patterns, this analysis paves the way for understanding the dynamics of physicians' responsibilities in medical practice. Data triangulation is used to ensure the validity and reliability of research, by comparing information from various sources to reach objective and reliable conclusions. It is hoped that the results of this research will provide valuable insight into the responsibilities of doctors in cases of suspected medical malpractice, helping the general public, legal practitioners and medical personnel understand the complexity of medical malpractice issues within the civil law framework.

3. RESULTS AND DISCUSSION

The Legal Relationship of Doctors and Patients in Medical Procedures Seen from a Civil Law Perspective

The relationship between doctor and patient is one of the most fundamental aspects of medical practice. In the context of civil law, this relationship is often viewed through the prism of a service contract which regulates the rights and obligations of each party. The Civil Code (KUH Perdata) provides a broad legal framework for understanding and navigating these legal relationships. A contract between a doctor and a patient is formed based on an agreement to provide and receive medical services. According to Article 1338 of the Civil Code, "All agreements made legally are valid as law for those who make them." This creates a legal basis for physicians to provide care, and for patients to receive care and comply with associated payment obligations. In medical service contracts, there is an element of "achievement" that must be carried out by doctors, namely providing medical services in accordance with professional standards. Article 1339 of the Civil Code states, "Agreements must be carried out in good faith." This requires doctors to act professionally, ethically, and with concern for the patient's welfare. The physician's obligations in this relationship include, but are not limited to, providing competent care, maintaining patient confidentiality, and obtaining informed consent before performing medical procedures. Article 1365 of the Civil Code states that "Every unlawful act which causes loss to another person requires the person whose fault caused the loss to compensate for the loss." This underscores the responsibility of physicians to avoid malpractice that could harm patients. In line with physicians' obligations, patients have the right to receive appropriate medical care, to be fully informed about their health condition and treatment options, and to the privacy and confidentiality of medical information. Article 1381 of the Civil Code regulates "lawsuits for unlawful acts," which can be applied in cases of violation of patient rights. The legal relationship between doctors and patients in the context of medical procedures is a complex relationship regulated by civil law principles. The Indonesian Civil Code provides a strong legal basis for regulating medical service contracts, establishing the rights and obligations of doctors and patients, and providing a dispute resolution mechanism. It is important for physicians and patients to understand their rights and obligations within this framework to ensure that the practice of medicine is conducted ethically, professionally, and in accordance with applicable legal standards.

Doctor's Responsibility towards Patients in the Event of Malpractice Seen from a Civil Law Perspective

As a profession, doctors have an obligation to provide medical services to patients. Remembering that there is an obligation towards doctors means that the doctor accepts responsibility if an error occurs. The professional responsibilities of doctors can be divided into ethical responsibilities and legal responsibilities. Legal responsibility can also be divided into administrative responsibility, criminal responsibility and civil responsibility. The responsibility of doctors in the event of medical malpractice in civil law can be seen from 2 (two) theories which state the source of the malpractice act, namely the breach of contract theory, in this theory the source of the malpractice act is the breach of contract (default) and the negligence theory, this theory states that The source of malpractice is negligence or error. This responsibility aims to obtain compensation for patient losses in the event of errors or medical malpractice. The responsibility of doctors for default is regulated in the provisions of Article 1239 of the Civil Code which states that: "Every obligation to do something, or not to do something, if the debt does not fulfill its obligations, is resolved in the obligation to provide compensation for costs, losses and interest." Meanwhile, liability for breach of contract arises because the doctor does not carry out his obligations originating from the agreement, namely the therapeutic agreement. Default occurs because the doctor's actions in providing treatment to the patient are not in accordance with what is contained in the therapeutic agreement, such as not carrying out what was promised, being late in carrying out the promised action, making a mistake in carrying out what has been agreed and doing something that is prohibited in the agreement. In the event of a default in health services, according to Bahder Johan Nasution, 3 (three) elements must be fulfilled as follows:

- a. The relationship between doctor and patient is based on a therapeutic agreement.
- b. The doctor violates the purpose of the therapeutic agreement when carrying out the procedure
- c. Resulting in harm to the patient due to the doctor's actions.

By fulfilling the elements of breach of contract, the patient can hold the doctor responsible for the losses they suffer. The patient can file a lawsuit against the doctor to the District Court where there is a dispute, but the patient provides evidence that there has been a loss due to the breach of contract, as in the civil law system in Indonesia, proof of the arguments for the lawsuit is borne by the plaintiff/patient. As for compensation for losses due to default in Article 1249 of the Civil Code, it is only determined in the form of money. However, in its

development, according to experts and jurisprudence, losses can be divided into material and immaterial losses. Material losses are losses that can be measured in money, while immaterial losses are losses suffered that are not worth money. The responsibility of a doctor for acts against the law (*onrechtmatigedaad*) is regulated in the provisions of Article 1365 of the Civil Code, the emergence of a doctor's responsibility which causes harm because the doctor in carrying out an action against a patient is an act against the law, namely contrary to the principles of decency, thoroughness and prudence expected of him.

4. CONCLUSION

In the context of a doctor's responsibility towards a patient for suspected medical malpractice, civil law provides a clear framework for assessing and resolving cases that may arise. A doctor's responsibility in malpractice cases is regulated by the principle that any action that deviates from recognized standards of care and causes harm to the patient can be considered an unlawful act, in accordance with Article 1365 of the Civil Code. This principle emphasizes the importance of professionalism, caution, and adherence to medical standards in the practice of medicine. Courts play an important role in assessing the evidence, the standard of care, and the causal relationship between the doctor's actions and the patient's harm, to determine whether medical malpractice occurred. In conclusion, civil law provides a fair and structured mechanism for handling suspected cases of medical malpractice, by considering the rights and obligations of doctors and patients. This ensures that patients who suffer harm as a result of inappropriate medical treatment can seek compensation, while also providing legal certainty for medical practitioners in carrying out their professional duties. This legal framework reaffirms the importance of transparency, communication and informed consent in the doctor-patient relationship, and underscores the commitment to high standards of medical care as the main bulwark against malpractice.

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