

Complications in Aesthetic Surgery: Medical Legal Responsibility and Health Insurance Claims

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Abstract

Aesthetic surgery as an elective medical procedure is increasingly in demand by the public, but it poses new legal challenges when postoperative complications occur. This study aims to analyze the legal responsibility of hospitals and doctors for complications of aesthetic surgery, the obligation to provide informed consent, and the implications of complications for health insurance claims. The method used is qualitative with a literature study approach, through analysis of laws and regulations, court decisions, and the latest academic literature. The results of the study indicate that the legal responsibility of doctors and hospitals is regulated in the Medical Practice Law, the Hospital Law, and the Health Law, but does not specifically regulate aesthetic procedures. Aesthetic complications can give rise to legal liability if there is a violation of professional standards or failure to provide valid and complete informed consent. The ambiguity in the scope of the insurance policy complicates the claims process when aesthetic complications require further medical action. On the other hand, legal principles such as duty of care, standard of care, breach, and causation are the main references in determining medical negligence (malpractice). Strengthening regulations and increasing transparency in aesthetic medical practice are needed to protect patient rights and prevent legal conflicts.

Keywords: Legal Liability of Hospitals & Doctor;, Aesthetic Surgery Complications; Health Insurance Claims

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Introduction

Aesthetic surgical procedures have experienced rapid growth in recent years, driven by advances in medical techniques and increasing public awareness of physical appearance. This trend has positioned aesthetic procedures as part of a modern lifestyle, despite their inherent medical risks, including infection, bleeding, and unsatisfactory surgical outcomes. Studies indicate that approximately one in 500 aesthetic surgery patients experiences serious complications requiring repeat intervention. The medical and psychological impacts on patients raise important legal questions concerning the responsibility of medical professionals and healthcare institutions.

In Indonesia, the regulation of legal liability for doctors and hospitals is governed by Law No. 29 of 2004 on Medical Practice and Law No. 44 of 2009 on Hospitals, which has been replaced by Law No. 17 of 2023 on Health, enacted on 8 August 2023. These statutes require physicians and healthcare institutions to act in accordance with professional standards and applicable regulations. Where procedural errors or deviations from established standards occur, medical professionals may be subject to civil liability in the form of compensation and criminal liability for medical negligence. Empirical studies in Indonesia show that medical litigation related to aesthetic complications has increased since 2017, with compensation awards ranging from IDR 50 to 250 million per case. The rise in aesthetic-related medical litigation reflects growing public legal awareness of patients' rights while simultaneously demanding greater transparency and accountability from healthcare professionals and hospitals. Moreover, the high incidence of such litigation suggests potential deficiencies in the implementation of informed consent in aesthetic practice, where patients may not fully understand the risks or possible outcomes, thereby triggering legal claims when results fail to meet expectations.

Informed consent constitutes a fundamental component of the doctor–patient relationship, particularly in elective procedures such as aesthetic surgery. Article 276 letters (a), (b), and (e) of the Health Law, together with the Medical Ethics Guidelines, emphasize the obligation to provide comprehensive information and ensure patient understanding of procedural risks. Failure to adequately disclose such information may transform a medical complication into a case of malpractice. International studies demonstrate that inadequate informed consent is among the primary causes of litigation in aesthetic surgery and significantly increases the likelihood of compensation claims.

Alongside the rapid growth of aesthetic procedures, conflicts have emerged between medical costs and insurance coverage. Generally, health insurance policies in Indonesia exclude elective procedures such as aesthetic surgery. However, when complications arise that necessitate further medical treatment such as reoperation or intensive care patients often seek reimbursement from insurance providers. This situation has generated controversy, particularly where evidence of medical negligence becomes a determining factor. Global literature records similar dilemmas: while elective procedures are excluded from coverage, medically necessary treatments for complications may fall within insurance obligations. This condition creates legal uncertainty, as the boundary between claimable medical risks and consequences inherent to elective procedures frequently becomes a contentious issue among patients, healthcare providers, and insurance companies.

The determination of medical negligence is based on general legal principles, including duty of care, breach, causation, and damage. Doctors and hospitals are legally obligated to comply with professional standards, referred to as the “duty” and “standard of care.” When these standards are breached and proven to be the direct cause of patient harm, a right to compensation arises. Meta-analytical studies indicate that more than 70% of aesthetic litigation cases succeed when strong evidence demonstrates a deviation from accepted medical standards. The element of causation often represents the most critical issue in litigation, as patients must establish that the injury suffered such as permanent disability resulted directly from a breach of professional standards rather than from natural factors or inherent procedural risks.

This research is significant because it examines gaps in legal liability and financial mechanisms related to aesthetic procedures within Indonesia's regulatory landscape. A comprehensive understanding of the legal, financial, and professional dimensions of aesthetic medical practice is expected to contribute policy recommendations aimed at enhancing hospital accountability, protecting patients' rights, and clarifying insurance claim mechanisms in cases of aesthetic medical complications.

This research arises from legal issues concerning the regulation and implementation of the legal responsibilities of hospitals and doctors in managing complications arising from aesthetic surgical procedures under Indonesian law. The primary focus is directed toward examining how the obligation to provide informed consent is fulfilled and how legal principles are applied in determining the existence of medical negligence (malpractice) when post-operative complications occur. This issue is particularly significant given that aesthetic surgery constitutes an elective medical procedure that carries inherent risks, yet continues to require strict compliance with applicable professional standards and standards of medical care.

In addition, this study examines the legal implications of complications resulting from aesthetic surgery on health insurance financing claims, particularly in relation to insurance policy clauses that exclude or limit coverage for aesthetic procedures. In this context, the research seeks to analyze how legal principles are employed to assess the presence or absence of medical negligence as a determining factor in the approval or rejection of health insurance claims related to the medical treatment of such complications.

Accordingly, this research aims to provide a comprehensive analysis of the legal framework and responsibilities of hospitals and doctors with respect to complications arising from aesthetic surgical procedures in Indonesia, including the relationship between the obligation of informed consent and legal accountability for alleged medical negligence. Furthermore, the study aims to examine the legal implications of aesthetic surgery complications for health insurance claim mechanisms, with the objective of clarifying the boundaries of insurance coverage, enhancing legal certainty, strengthening patient protection, and promoting accountability among healthcare professionals and healthcare institutions.

Research Methodology

The research method employed in this study is a qualitative approach based on a literature review, aimed at conducting an in-depth analysis of legal norms, ethical principles, and medical practices relevant to the legal responsibilities of hospitals and doctors in relation to complications arising from aesthetic surgical procedures, as well as their implications for health insurance financing claims. Data collection was carried out through a systematic review of various sources of positive law in Indonesia, including Law No. 17 of 2023 on Health, the Indonesian Civil Code, along with implementing regulations and professional medical ethics codes. In addition, this study enriches its analysis by examining court decisions, legal and medical journals, and international academic publications addressing medical liability and the legal protection of patients in the context of aesthetic procedures. This approach is intended to construct critical and comprehensive legal arguments, identify regulatory gaps, and formulate juridical and policy implications related to the issues under investigation.

Results

Legal Responsibility of Hospitals and Doctors in Risk Mitigation through Informed Consent in Aesthetic Surgery

The legal responsibilities of doctors and hospitals within the Indonesian legal system are governed by Law No. 17 of 2023 on Health. Pursuant to this law, all medical practitioners and healthcare personnel are required to comply with professional standards, service standards, and established standard operating procedures in the provision of healthcare services. In addition, they are obligated to obtain informed consent for medical interventions after patients receive adequate explanations regarding diagnosis, risks, potential complications, alternative

treatments, and the prognosis of the proposed medical procedure, as stipulated in Articles 291 and 293 of the 2023 Health Law. These provisions replace the previous regulatory framework under the Hospital Law and the Medical Practice Law and reaffirm that violations of professional standards and informed consent obligations may serve as grounds for legal liability of medical practitioners and healthcare facilities, both in civil law claims and through professional disciplinary mechanisms further regulated under the statute.

Aesthetic surgery, which is elective in nature and lacks therapeutic urgency, demands a higher degree of legal caution. According to civil law doctrine, medical interventions performed without clear medical indications such as cosmetic surgery carry an increased potential for legal liability, particularly when the outcomes fail to meet patient expectations. In practice, many hospitals and doctors tend to regard aesthetic complications as inherent medical risks borne by the patient. However, from a legal perspective, medical actions undertaken without comprehensive and well-documented informed consent may constitute a breach of contract (*wanprestasi*) or even a tortious act (*onrechtmatige daad*). Studies by Azwar et al. indicate that in many jurisdictions, including Indonesia, aesthetic surgery is often classified as an *obligatie van resultaat* (obligation to achieve a specific result) rather than merely an *obligatie van inspanning* (obligation to make best efforts), which requires only best efforts.

The current Indonesian health regulatory framework continues to face challenges in addressing the specific characteristics of legal responsibility in the context of elective aesthetic surgery. These procedures possess fundamental distinctions due to the involvement of subjective patient expectations, aesthetic risks, and complex emotional dimensions. Although Law No. 17 of 2023 on Health has consolidated regulations concerning professional standards, its provisions remain general in nature and do not yet comprehensively accommodate the unique features of aesthetic medical procedures. Government Regulation No. 28 of 2024 emphasizes that all medical actions must be preceded by the provision of accurate and transparent information. Accordingly, informed consent in aesthetic surgery should not be treated merely as an exculpatory clause or a procedural formality. Rather, medical practitioners and hospitals bear both ethical and legal obligations to comprehensively document explanations of short-term and long-term risks, given the potential for complications that may lead to malpractice claims.

In the context of legal disputes, the burden of proving negligence or procedural error becomes critical. If a patient is able to demonstrate that the hospital or doctor failed to act in accordance with professional standards or neglected to provide a complete explanation of risks, legal liability may be imposed. As affirmed in the Supreme Court of the Republic of Indonesia Decision No. 3651 K/Pdt/2001, failure to provide complete information prior to medical intervention may be deemed a form of medical malpractice. Therefore, systems for documenting informed consent and maintaining medical records must be strengthened as primary legal evidence. Furthermore, the role of the Indonesian Medical Disciplinary Honorary Council (MKDKI) and consumer protection institutions has become increasingly significant in mediating disputes and enforcing patient rights.

Informed consent constitutes the approval given by a patient after receiving comprehensive information regarding a medical procedure, its benefits, risks, and available alternatives. Under the current health law framework, the obligation to obtain informed consent is explicitly regulated in Article 293 of Law No. 17 of 2023 on Health, which juridically replaces Article 45 of Law No. 29 of 2004 on Medical Practice. This updated regulation affirms that every medical action must be preceded by patient consent after the individual has received sufficient explanation covering diagnosis, objectives of the procedure, risks, complications, and prognosis. This provision aligns with Article 276 letter (d) of the same law, which conceptualizes informed consent not merely as an administrative formality, but as a legal protection instrument for medical practitioners and a fulfillment of the patient's right to autonomy over bodily integrity. In aesthetic surgery an elective procedure not directly related

to life-saving treatment the provision of informed consent becomes even more critical due to the highly subjective nature of risks and expected outcomes. Consequently, hospitals and doctors are required to explain not only the procedural aspects but also the possibility of unsatisfactory aesthetic results and both short-term and long-term medical complications.

Unlike curative medical interventions, aesthetic procedures are not driven by urgent medical necessity, resulting in patients often holding high expectations regarding outcomes. According to a study by Di-Scala, the majority of legal claims in aesthetic surgery cases arise not from technical errors, but from dissatisfaction with outcomes that fail to meet expectations due to inadequate communication between doctors and patients. Therefore, informed consent must extend beyond a written formality and be grounded in clear, comprehensive, and well-documented communication. Failure to fulfill this requirement may provide a basis for claims of breach of contract or tort liability.

When a patient experiences complications following surgery and it is proven that adequate risk explanation was not provided, both the hospital and the doctor may be held legally accountable. In Supreme Court Decision No. 3651 K/Pdt/2001, negligence in explaining risks and the absence of valid written consent were deemed forms of malpractice. Studies by Cucci and Rodrigues further highlight that in aesthetic surgery, doctors tend to bear greater responsibility due to high patient expectations, with legal systems often categorizing their obligations as obligations of result (*obligation de résultat*) rather than mere obligations of effort (*obligation de moyens*).

Despite these legal imperatives, many doctors and hospitals in Indonesia continue to treat informed consent as a purely administrative procedure, without prioritizing the substantive quality of communication. This practice creates legal vulnerabilities and increases the risk of litigation. Hospitals should therefore establish systems that ensure informed consent is conducted as a two-way, well-documented process, including the use of specialized consent forms for aesthetic surgery that clearly outline risks and the possibility of outcomes that may not meet patient expectations. In this way, informed consent serves not only as legal protection for medical practitioners, but also as a manifestation of respect for patient autonomy in medical decision-making.

Juridical Implications of Aesthetic Surgery Complications on the Validity of Insurance Claims and the Proof of Medical Negligence

Most health insurance policies, whether commercial or state-administered, explicitly exclude coverage for aesthetic surgical procedures on the grounds that they are elective in nature and not life-saving. However, legal issues arise when serious post-aesthetic surgery complications generate the need for further medical treatment, such as infections, intensive care unit (ICU) admission, or revision surgery. In such circumstances, insurance providers frequently reject claims on the basis that all consequences originate from procedures that are fundamentally excluded from coverage. A study by Levin et al. demonstrates that aesthetic surgery complications particularly those performed abroad significantly burden public insurance systems, as patients often seek follow-up treatment in domestic healthcare facilities and subsequently demand reimbursement under their existing insurance schemes.

The rejection of insurance claims based on excluded procedures frequently results in legal disputes, especially when patients contend that they were not adequately informed about policy limitations or when complications are argued to constitute independent medical conditions. In practice, evidentiary challenges become central to such disputes. Patients must demonstrate that subsequent medical interventions are not part of the initial aesthetic procedure but rather constitute urgent treatment aimed at preserving bodily function or saving life. In several cases, courts have granted claims where it was proven that the complications involved medical emergencies that could not be delayed and were not explicitly addressed within the exclusion clauses of the insurance policy.

Insurance policy provisions in Indonesia remain insufficiently specific in addressing complications arising from aesthetic procedures, leading to ambiguity in the claims process. This lack of clarity places patients in a vulnerable position, particularly when they fail to distinguish between elective procedures and medical emergencies resulting from complications. There is a pressing need for revisions to insurance policy clauses using more explicit language, as well as greater transparency from insurance providers at the inception of the contractual relationship. Furthermore, the formulation of national guidelines distinguishing insurance coverage for emergency medical complications arising from aesthetic procedures is necessary to prevent injustice toward insured individuals who suffer serious medical consequences.

Two principal doctrines in medical law used to assess allegations of malpractice are duty of care and standard of care. The duty of care principle establishes that physicians bear a legal obligation to act with prudence and responsibility toward patients from the moment a therapeutic relationship is formed. The standard of care refers to the level of competence and diligence reasonably expected of medical professionals under similar circumstances. In the context of aesthetic surgery elective procedures driven by patients' aesthetic expectations rather than medical necessity this standard is elevated, as the decision to undergo treatment is based on informed personal choice rather than clinical indication. Research by Rodziewicz indicates that breaches of this standard commonly arise from communication failures, deviations from procedural protocols, or neglect of postoperative complications.

Beyond duty and standard of care, two additional critical elements are breach and causation. A breach occurs when a physician fails to meet applicable professional standards, for example by employing improper techniques or disregarding sterilization protocols. Causation requires proof that such a breach directly resulted in the patient's complications or harm. In medical litigation practice, these two elements often constitute the core of evidentiary analysis, as both must be established concurrently. Boyd et al. emphasize that in aesthetic surgery cases, causation presents particular complexity because complications may occur even when procedures are performed in accordance with accepted standards. Consequently, thorough documentation and comprehensive medical records become indispensable forms of legal evidence.

The adequacy of informed consent also serves as a fundamental basis for assessing negligence. Informed consent is not merely a procedural formality, but an ethical and legal commitment that the patient has fully understood the risks of a medical procedure, including potential complications. In aesthetic surgery cases, many malpractice claims arise from patients' perceptions that they were not adequately informed about risks, side effects, or the possibility of outcomes that fall short of expectations. Miziara and Miziara assert that failures in risk communication, even where the medical procedure itself is technically sound, may be legally construed as negligence if they result in patient harm.

Based on the foregoing analysis, Indonesia's legal system must adopt a more proactive, patient-oriented approach in evaluating malpractice claims, rather than relying solely on technical defenses advanced by medical practitioners. Aesthetic surgery cases should be assessed through a balanced consideration of outcome expectations, the quality of informed consent, and compliance with procedural standards. Many complications could be mitigated if physicians consistently applied open communication practices and rigorous documentation. Moreover, malpractice evaluations should account for the psychological and emotional impacts experienced by patients who suffer aesthetic harm, as such consequences are often deeply personal and long-lasting.

Conclusion

The legal responsibility of doctors and hospitals for complications arising from aesthetic surgery in Indonesia is regulated in an integrated manner within the healthcare legal system,

which emphasizes compliance with professional standards, standards of care, and the provision of comprehensive informed consent. Given that aesthetic surgery is elective in nature, the burden of legal responsibility becomes higher, particularly in cases involving violations of professional standards or failures to adequately disclose risks and potential complications, which may ultimately give rise to legal liability on the grounds of medical negligence. Complications resulting from aesthetic surgery carry significant legal implications for health insurance claims, as aesthetic procedures are generally excluded from insurance coverage. However, when such complications develop into serious medical conditions, the possibility of submitting insurance claims remains open and frequently leads to legal disputes. The assessment of whether medical malpractice has occurred in this context is based on the principles of duty of care, standard of care, breach of duty, and causation, wherein deficiencies in informed consent and inadequate medical documentation may substantially strengthen the evidentiary basis for establishing negligence.

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