Legal Relationship Between Doctor and Patient and Doctor's Liability in Community Health Services

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Abstract

The relationship between doctors and patients is the fundamental foundation of health service delivery. This study aims to analyze the legal relationship between doctors and patients and the forms of legal liability for doctors and hospitals in Indonesia, particularly following the enactment of Law Number 17 of 2023 concerning Health. This research employs a normative juridical method by examining statutory regulations and legal principles. The results indicate that the doctor-patient relationship is a therapeutic contract based on the inspanning verbintenis principle, which gives rise to reciprocal rights and obligations. This relationship has shifted from paternalistic to participatory through informed consent. Legal liability encompasses civil liability (tort/breach of contract), criminal liability (negligence causing harm), and administrative liability (ethical violations). Furthermore, hospitals bear vicarious liability for the negligence of medical personnel under their supervision. A clear legal framework is essential to ensure patient safety and legal certainty for medical professionals.

Keywords: Doctor-Patient Relationship, Medical Liability, Informed Consent, Health Law, Vicarious Liability.

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Introduction

The doctor-patient relationship is a cornerstone of effective and equitable health service delivery. In legal terms, this relationship is frequently understood as a therapeutic contract (a medical service obligation) that creates reciprocal rights and duties: physicians must provide best-effort care consistent with professional standards, while patients are entitled to adequate information to participate in clinical decision-making through informed consent. In Indonesia, the governance of this relationship draws on sectoral legislation on medical practice, hospitals, and health, as well as general private-law doctrines of obligations and tort. [1]-[4]

However, the implementation of this legal relationship often faces complex problems. Disputes frequently arise between patients and doctors due to treatment results not meeting expectations, misdiagnosis, or alleged negligence in medical actions known as medical malpractice. This situation demands clarity regarding the legal liability of doctors, whether civil, criminal, or administrative, to create legal certainty and protection for both parties. [11], [12]

Furthermore, the role of health service institutions such as hospitals is crucial. Under the concept of vicarious liability, hospitals can be held responsible for negligent acts committed by doctors working under their auspices. This study aims to analyze the form and characteristics of the legal relationship between doctors and patients and to evaluate the forms of legal liability for doctors and hospitals in the context of community health services in Indonesia. [4], [6]

Literature Review

The legal relationship between doctors and patients is rooted in the therapeutic contract theory. This relationship is not merely a social interaction but a legal engagement that binds both parties.

1. Theoretical Framework of Therapeutic Contract

The agreement between doctors and patients is characterized as inspanning verbintenis, meaning the doctor is not required to cure the patient absolutely (resultaat verbintenis), but is obliged to provide the best effort based on their knowledge and skills. This relationship is based on a fiduciary relationship (trust), where the patient places full trust in the doctor to handle their health conditions. [2], [5]

2. Legal Principles in Health Services

The implementation of this relationship is guided by four fundamental bioethical and legal principles :

- Justice: Every patient has the right to equitable service without discrimination.
- Beneficence: Every medical action must aim to provide the maximum benefit to the patient
- Non-Maleficence: Based on the maxim primum non nocere, doctors must not perform actions that harm the patient.
- Autonomy: Patients have the right to determine their own medical path after receiving sufficient information (informed consent). [9], [10]

3. Vicarious Liability

In the context of hospital liability, the principle of vicarious liability applies. This legal doctrine posits that an institution (hospital) can be held responsible for the negligent acts committed by its employees (medical personnel) within the scope of their employment, even if the institution itself was not negligent. [6], [14]

Research Methodology

This research utilizes a normative juridical method, which focuses on the analysis of statutory regulations and legal principles relevant to the medical field. The approach includes a statutory approach, examining Law Number 17 of 2023 concerning Health, Law Number 29 of

2004, and the Civil Code (KUHPerdata). The analysis technique used is qualitative analysis to describe the legal relationship and liability in medical practice.

Results

1. The Legal Relationship Structure in Indonesia
   Based on Indonesian law, the doctor-patient relationship begins with informed consent as regulated in Article 45 of Law No. 29 of 2004. This relationship creates a legal bond as illustrated in Figure 1 below. [3]

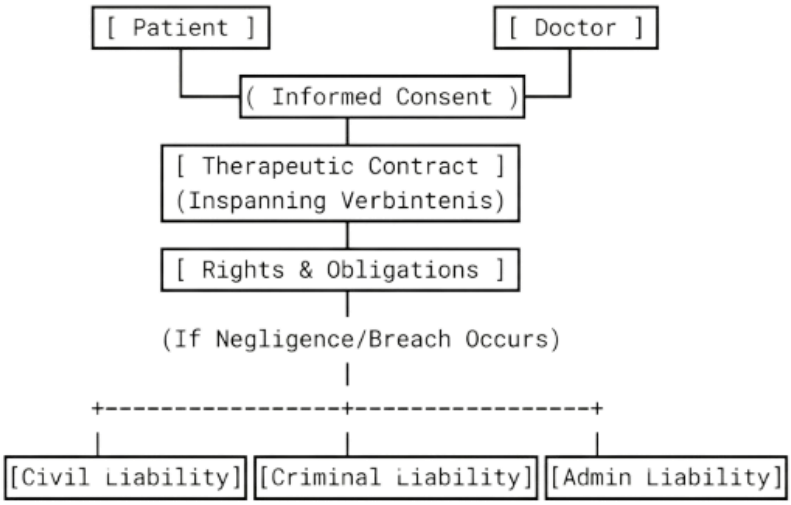

Figure 1. The Legal Structure of Doctor-Patient Relationship and Liability Flow

2. Rights and Obligations The relationship creates reciprocal rights and obligations enforced by Law No. 17 of 2023 and Law No. 29 of 2004. These are detailed as follows [10]:
   - Patient Rights: To receive complete information regarding diagnosis, procedures, and risks; to give consent or refuse medical action; to obtain privacy and confidentiality; and to receive quality service.
   - Doctor Obligations: To provide services according to professional standards; to respect patient rights; to provide honest explanations; and to maintain medical records responsibly.

3. Doctor's Legal Liability
   A breach of duty can lead to three main aspects of legal liability: civil, criminal, and administrative. Table 1 below summarizes the comparison between these liabilities. [5], [12]

Table 1. Comparison of Forms of Legal Liability in Medical Practice

No.	Type of Liability	Legal Basis (Regulations)	Nature of Violation	Sanctions / Consequences
1	Civil Liability	Civil Code (Art. 1365, 1366, 1367)	Breach of Contract (Wanprestasi) or Unlawful Act (Tort)	Material and Immaterial Compensation (Damages)

2	Criminal Liability	Criminal Code (Art. 359), Health Law No. 17 of 2023	Gross negligence causing injury/death, or practicing without a license	Imprisonment, Fines
3	Administrative Liability	Medical Practice Law No. 29 of 2004, Health Law No. 17 of 2023	Violation of professional discipline, ethics, or administrative requirements	Written warning, License suspension, or Revocation of practice license (SIP/STR)

- Civil Liability: Arises if a doctor commits a breach of contract (wanprestasi) or an unlawful act (onrechtmatige daad) causing loss. Elements to prove include violation of duty, damage, and causal link.
- Criminal Liability: Arises if a doctor's actions violate criminal law, such as gross negligence resulting in severe injury or death (Article 359 Criminal Code) or practicing without a license.
- Administrative Liability: Involves violations of professional ethics (KODEKI) and administrative regulations, resulting in sanctions like license revocation.

4. Hospital Liability Hospitals bear vicarious liability for their staff under Article 1367 of the Civil Code. Additionally, hospitals have direct liability for management failures, such as inadequate facilities or lack of supervision. Corporate criminal liability may also apply if institutional policies directly cause patient harm. [4], [8]

Conclusion

The legal relationship between doctors and patients is a therapeutic engagement based on the principle of inspanning verbintenis. It is governed by strict regulations, including the new Health Law No. 17 of 2023, balancing patient rights and professional certainty. Legal liability for medical errors is layered, comprising civil, criminal, and administrative liability. Furthermore, hospitals bear institutional responsibility under the principle of vicarious liability. The implementation of these legal principles is vital for creating a professional, humane, and dignified health service system.

References

[1] S. A. Batubara, K. Pakpahan, and T. Prasetyo, “Legal Renewal of Doctor and Patient Relationship Patterns Based on Law 17 of 2023 Concerning Health,” in Icolifemed 2024, Atlantis Press International BV, 2025.
[2] M. Purnomo, “Rekontruksi Perjanjian Therapiutik Dokter Dan Pasien,” Jurnal Ilmu Keperawatan Dan Kebidanan, vol. 14, no. 1, pp. 216–226, 2023.
[3] H. Dhanudibroto and I. Heliany, “A Legal Comparison Of Informed Consent And A Conceptual Analysis Of Doctor Protection In Medical Practice In Indonesia,” International Journal of Social Service and Research, vol. 5, no. 7, pp. 868–880, 2025.
[4] F. Prayoga, F. Wiryani, and Nasser, “Tanggung Jawab Hukum Rumah Sakit Dalam Pelayanan Kesehatan,” Jurnal Hukum To-Ra, vol. 9, no. 3, pp. 419–427, 2023.

[5] S. Wahyuni, K. Hidjaz, and Sahban, "Tanggung Jawab Hukum Keperdataan Dokter Terhadap Pasien," Journal of Lex Generalis (JLG), vol. 2, no. 8, pp. 1970–1982, 2021.
[6] D. N. Ibrahim, "Tanggung Jawab Hukum Rumah Sakit Terhadap Dokter Dalam Perjanjian Medis Di Indonesia (Studi: Rumah Sakit Siaga Raya)," Jurnal Ilmiah Publika, vol. 10, no. 2, p. 275, 2022.
[7] H. D. Iswandari and S. Hoque, "Reconceptualizing Legal Arrangement on the DoctorPatient Relationship in Indonesia," Law Reform: Jurnal Pembaharuan Hukum, vol. 18, no. 1, pp. 58–78, 2022.
[8] P. A. Putri et al., "Tanggung Jawab Hukum Perdata Rumah Sakit dalam Pelayanan Kesehatan terhadap Pasien," Journal of Islamic Law, vol. 7, pp. 129–141, 2025.
[9] A. W. Baroto SP, "Presumed Consent Atas Tindakan Medis Berisiko Tinggi Pada Kegawatdaruratan: Perspektif Uu Nomor 17 Tahun 2023," Jurnal Hukum Dan Etika Kesehatan, vol. 3, pp. 67–81, Sep. 2023.
[10] I. M. T. Wijaya, E. Sihotang, and N. K. Wiratny, "Legal Protection for The Medical Profession in Treating Unconscious Emergency Patients without Informed Consent," Journal of Social Research, vol. 3, no. 7, pp. 1–6, 2024.
[11] A. Prasetyo and D. H. Prananingrum, "Disrupsi Layanan Kesehatan Berbasis Telemedicine: Hubungan Hukum Dan Tanggung Jawab Hukum Pasien Dan Dokter," Refleksi Hukum: Jurnal Ilmu Hukum, vol. 6, no. 2, pp. 225–246, 2022.
[12] G. Desyari, M. H. Syam, and C. Makaginsar, "Tanggung Jawab Hukum Dokter Atas Tindakan Malapraktik Medis Pasca Resusitasi Jantung Paru," Jurnal Hukum Kesehatan Indonesia, vol. 3, no. 02, pp. 57–65, 2023.
[13] V. Komalawati and E. F. Triswandi, "Tanggung Jawab Dokter Atas Insiden Keselamatan Pasien Dalam Pelayanan Kesehatan Di Rumah Sakit Sebagai Institusi Kesehatan," Jurnal Bina Mulia Hukum, vol. 6, no. 2, pp. 174–186, 2022.
[14] N. Sunanda, T. Yeni, and O. Silm, "Tanggung Jawab Hukum Rumah Sakit Terhadap Pasien Dalam Pelaksanaan Pelayanan Kesehatan," Hukum Kesehatan, vol. 5, pp. 1–23, 2024.