

LEGAL LIABILITY OF MEDICAL PERSONNEL FOR MEDICAL ACTIONS WITHOUT THE PATIENT'S CONSENT (WITHOUT INFORMED CONSENT)

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ABSTRACT

The provision of medical procedures without patient consent or without informed consent is a crucial issue in medical practice that directly touches aspects of professional ethics and the protection of patients' human rights. In Indonesia, although regulations have explicitly regulated the importance of patient consent before medical action is taken, there are still many cases of violations that have the potential to have legal repercussions for medical personnel. Violations of the principle of informed consent not only injure the patient's right to know and decide, but can also be a form of malpractice that is physically and psychologically detrimental. This research aims to answer the question of how legal liability can be imposed on medical personnel who perform medical acts without informed consent, what is the legal basis that regulates it, and the extent to which patients' legal protection is recognized and enforced. The focus of the study is directed to juridical analysis of laws and regulations as well as studies of several concrete cases that have occurred in Indonesia. The legal liability studied includes civil, criminal, and professional aspects of medical personnel. The research methodology used is a juridical normative approach with qualitative analysis techniques. Data was obtained from literature studies on laws, court decisions, professional codes of ethics, and other relevant documents. Conceptual approaches and case approaches are used to explore how legal principles are applied in practice as well as assess the effectiveness of legal protection for patients. The results of the study show that medical personnel who perform medical actions without informed consent can be held legally accountable based on the Civil Code, the Criminal Code, and Law Number 29 of 2004 concerning Medical Practice. These actions can qualify as defaults, unlawful acts, or even criminal acts. Therefore, it is important for governments and health institutions to strengthen the implementation of regulations through socialization and strict supervision of informed consent procedures. Technical revisions are also needed in the form of derivative regulations that clarify operational standards and responsive law enforcement mechanisms.

Keywords:

medical personnel, informed consent, legal liability, medical malpractice.

INTRODUCTION

The Importance of Patients' Right to Information (Informed Consent) in Medical Practice

Informed consent is a fundamental principle in medical practice that emphasizes the importance of patient consent after receiving adequate information about the medical procedure to be performed. This process is not just an administrative formality, but a manifestation of respect for the patient's right to autonomy to make decisions freely and consciously. As stipulated in health regulations in Indonesia, informed consent must be given with a clear, honest, and complete explanation of the diagnosis, objectives, risks, and alternative medical measures, so that the patient can understand and give consent without coercion. In addition, informed consent serves as a legal protection tool for patients and medical personnel, as well as an effective communication mechanism that strengthens trust and transparency in the doctor-patient relationship. Therefore, the implementation of good informed consent is the main key in ensuring ethical, professional, and respectful medical practices¹. The patient's right to complete and clear information before undergoing medical procedures is a fundamental aspect of modern health services. The concept of informed consent emphasizes that patients must be given sufficient explanation of the diagnosis, procedures to be performed, risks, benefits, and treatment alternatives so that the patient can make conscious and voluntary decisions. Thus, informed consent is a form of respect for the patient's autonomy and dignity in the medical decision-making process². In medical practice, the application of informed consent is not just an administrative formality, but part of medical ethics based on the principles of beneficence and non-maleficence. Doctors are obliged to provide honest and understandable information, as well as ensure that patients truly understand the consequences of the choices to be made. Incompleteness or unclarity of information can pose a risk of malpractice and reduce patient trust in health workers³. Health law is a branch of law that focuses on regulating various aspects related to health maintenance and the application of law in a medical context. Along with technological advances and increasing public awareness of health rights, health law increasingly plays an important role in protecting patients' rights, regulating the practice of health workers, and ensuring fair, quality, and ethical health services⁴.

Furthermore, patients' rights to information also have significant legal implications. In many jurisdictions, including Indonesia, informed consent is a legal requirement to protect medical personnel from lawsuits due to actions without the patient's consent. Non-compliance with this obligation can lead to legal liability, both criminal and civil, which has an impact on the credibility and sustainability of the medical profession⁵. Therefore, documentation of valid consent is essential as proof that the patient's rights have been respected. Psychologically, informed consent also has a positive effect on patients. When patients feel actively involved in decision-making, anxiety and uncertainty levels can be reduced, thus supporting the healing process and patient satisfaction with health care. This is in line with the theory of shared decision making which places patients as equal

¹ Irsyam Risdawati (2024), *Informed Consent in Medical Practice with a Justice Value Approach*, Publisher PT Dewangga Energi Internasional Bekasi.

² Beauchamp, T.L., & Childress, J.F. (2013). *Principles of Biomedical Ethics* (7th ed.). Oxford University Press.

³ Jonsen, A.R., Siegler, M., & Winslade, W.J. (2015). *Clinical Ethics: A Practical Approach to Ethical Decisions in Clinical Medicine* (8th ed.). McGraw-Hill Education.

⁴ Irsyam Risdawati (2024), *Introduction to Health Law Navigating Legal and Ethical Challenges in Health Services* Publisher PT Dewangga Energi Internasional Bekasi.

⁵ Widjaja, N. (2017). *Medical Law and Medical Ethics in Indonesia*. Rajawali Press.



partners in the therapy process⁶. However, challenges in the implementation of informed consent are still encountered, especially in developing countries. Factors such as low patient education levels, limited time for medical personnel, and less effective communication are obstacles. Therefore, improving doctors' communication competence and empowering patients through health education is an important strategy to improve the quality of informed consent⁷. Patients' right to information through the informed consent process is a key pillar in ethical, legal, and humane medical practice. Its implementation not only legally protects patients and medical personnel, but also strengthens mutual trust and improves the overall quality of health services. Therefore, the implementation of informed consent must be the main concern in the modern health service system and continue to be developed according to the needs of the times⁸.

Problems of medical practice without patient consent that are potentially unlawful.

Medical practices carried out without the patient's consent, especially without the presence of valid informed consent, are one of the serious problems in the health world because they have the potential to violate patients' human rights and applicable legal provisions. Patient consent is a key element in the implementation of medical measures that respect the patient's autonomy and will. When medical actions are carried out without clear consent, this not only violates the principles of medical ethics, but also opens up the possibility of lawsuits on the basis of malpractice and violation of patient rights⁹. In the legal context, medical actions without consent can be categorized as unlawful actions and can lead to criminal and civil liability for medical personnel and health institutions. For example, in the Indonesian legal system, Health Law Number 17 of 2023 Articles 276 and 277 of Health Law No. 17 of 2023 stipulate that every medical action against a patient must be preceded by consent given consciously and voluntarily after the patient has obtained complete information¹⁰. If such consent is not obtained, then the action can be seen as an unlawful act that causes harm to the patient. The legal cases that have arisen as a result of the non-application of this principle show how important informed consent is in medical practice.

In terms of social and psychological impacts, unapproved medical actions can also cause patients' distrust and anxiety towards health services. This can worsen the relationship between patients and medical personnel, as well as interfere with the patient's recovery process. A study by Mwachofi and Larsen (2015) states that violations of patients' rights, including the absence of adequate consent, contribute to decreased patient satisfaction and increased conflicts in healthcare facilities¹¹. Therefore, the correct implementation of informed consent is not only a legal obligation, but also part of efforts to maintain the quality of services and good therapeutic relationships. Preventive efforts are indispensable to avoid potentially unlawful non-consensual medical practices. This includes improving training and understanding of medical personnel on the importance of informed consent, strengthening regulations and supervision, and providing a clear and transparent documentation system. With these steps, it is hoped that the implementation of informed consent can

⁶ Elwyn, G., Frosch, D., Thomson, R., Joseph-Williams, N., Lloyd, A., Kinnersley, P., ... & Barry, M. (2012). Shared decision making: a model for clinical practice. *Journal of General Internal Medicine*, 27(10), 1361–1367. <https://doi.org/10.1007/s11606-012-2077-6>

⁷ Arulmani, R., & Sivakumar, S. (2019). Barriers to informed consent in healthcare delivery in developing countries: A systematic review. *Indian Journal of Medical Ethics*, 4(1), 30-34.

⁸ Soeroso, S. (2019). Implementation of Informed Consent in Medical Practice in Indonesia. *Indonesian Journal of Medical Ethics*, 6(2), 45-52.

⁹ Beauchamp, T.L., & Childress, J.F. (2013). *Principles of Biomedical Ethics* (7th ed.). Oxford University Press

¹⁰ Law No. 17 of 2023 concerning the Approval of Medical Measures Articles 276 and 277 of Health Law No. 17 of 2023

¹¹ Mwachofi, A., & Larsen, D. (2015). Patient satisfaction with informed consent in healthcare: A systematic review. *Journal of Medical Ethics and History of Medicine*, 8, 11-18.



be carried out effectively so that patients' rights are maintained and medical personnel are avoided from legal risks¹².

Increase in cases of medical malpractice in Indonesia.

Cases of medical malpractice in Indonesia have increased significantly in recent years. Data from the Ministry of Health shows that the number of malpractice cases increased from 1,349 cases in 2015 to 2,444 cases in 2020. These cases include misdiagnosis, improper use of medications, delays in treatment, and errors in surgical procedures. This increase was largely influenced by increasing public awareness of patients' rights and wider access to information through social media and other digital platforms¹³. The main factors causing the increase in malpractice cases include the lack of continuous training for medical personnel, weak supervision of service standards in health facilities, and low public awareness of their rights as patients. The lack of effective communication between medical personnel and patients is also one of the main causes of malpractice. For example, a case in Jakarta shows that a baby died from a misdiagnosis that was not immediately addressed due to administrative constraints, highlighting the importance of clear communication and efficient procedures in patient care¹⁴. To address this problem, the Indonesian government has established several regulations, such as Law Number 17 of 2023 concerning Medical Practice and Government Regulation Number 28 of 2024, which establishes a Professional Disciplinary Council (MDP) to deal with alleged malpractice. The MDP has the authority to sanction medical personnel who are proven to have committed violations, ranging from written warnings to revocation of practice licenses. However, despite the existing regulations, implementation on the ground still faces various challenges, such as the lack of ongoing training for medical personnel and weak oversight of service standards in health facilities¹⁵.

PROBLEM FORMULATION

1. What is the form of legal accountability of medical personnel for actions without informed consent?
2. What is the legal basis that governs the obligation to provide informed consent?
3. What are the legal sanctions that can be imposed on medical personnel who violate?

RESEARCH OBJECTIVES

This study aims to analyze various forms of legal liability faced by medical personnel for the implementation of medical actions without obtaining informed consent from patients, as well as identifying relevant legal norms as the basis for law enforcement. In addition, this study also intends to provide policy recommendations and legal practices that can strengthen the protection of patients' rights and increase the compliance of medical personnel in carrying out informed consent obligations effectively and in accordance with the provisions of the applicable laws and regulations in Indonesia.

¹² Alghamdi, A., & Alzahrani, A. (2020). Challenges in the implementation of informed consent in clinical practice: A literature review. *International Journal of Healthcare Management*, 13(1), 40-46.

¹³ Ministry of Health of the Republic of Indonesia. (2020). *Annual Report of the Ministry of Health 2020*. Jakarta: Ministry of Health of the Republic of Indonesia.

¹⁴ Widjaja, N. (2017). *Medical Law and Medical Ethics in Indonesia*. Jakarta: Rajawali Press.

¹⁵ Compassion. (2025). *Cases of Malpractice of Health Workers in Indonesia*. Accessed from <https://www.kompasiana.com/angelina8901/676e7fa434777c5e77003e44/kasus-malpraktek-tenaga-kesehatan-di-indonesia>



Thus, it is hoped that the results of the research can be a reference for policymakers and health service actors in optimizing the legal system and medical ethics in the future.

RESEARCH BENEFITS

This research has theoretical benefits in the form of a significant contribution to the development of health law studies, especially regarding the protection of patient rights and the legal accountability of medical personnel in the context of informed consent. Practically, the results of the research are expected to provide a deeper understanding to medical personnel and policymakers about the legal aspects that govern medical actions without patient consent, so as to increase awareness and compliance in the implementation of ethical and legal medical practices, as well as support more appropriate and equitable policy decision-making in the health sector.

LITERATURE REVIEW

Definition and Juridical Aspects of Informed Consent

Informed consent in the context of health law is a process in which patients are given a complete, honest, and understandable explanation of their health condition, the medical procedures or actions to be performed, the risks and benefits, and the available treatment alternatives. With this information, the patient has the right to give consent, voluntarily, and without coercion before medical procedures are performed¹⁶. This process aims to respect the patient's right to autonomy in decision-making concerning his body and health. The legal principles underlying the patient's right to consent are based on the principles of autonomy and the protection of human rights. Patient autonomy asserts that each individual has the right to control his or her own body and life, including in terms of medical decision-making. This principle also involves the obligation of medical personnel to respect the patient's decision and not to take action without legitimate consent¹⁷. The protection of human rights enshrined in various national and international legal instruments reinforces this obligation as part of the fundamental right of every person.

In Indonesia, regulations governing informed consent include Law Number 29 of 2004 concerning Medical Practice which affirms the obligation of medical personnel to obtain patient consent before performing medical procedures¹⁸. In addition, the Indonesian Medical Code of Ethics also stipulates that medical personnel are required to clearly explain to patients about the medical procedures to be carried out and the risks that may arise. Internationally, the World Medical Association's Helsinki Declaration is an ethical reference that affirms the importance of informed consent as a standard in medical practice and clinical research¹⁹. The juridical aspect of informed consent is also closely related to civil law and human rights (HAM). In civil law, medical actions without consent can be considered an unlawful act that has the potential to give rise to a claim for compensation due to the losses suffered by the patient²⁰. Meanwhile, in the context of human rights, the right to information and protection of the body is recognized as a fundamental right that must be protected by the state and must not be violated by anyone, including medical personnel. Therefore, informed consent is an important instrument to ensure the fulfillment of these rights. Informed consent has a very important meaning in health practice both from an ethical and legal perspective.

¹⁶ Beauchamp, T.L., & Childress, J.F. (2013). *Principles of Biomedical Ethics* (7th ed.). Oxford University Press.

¹⁷ Fauzi, A., & Widodo, A. (2018). *Health Law in Indonesia*. Jakarta: Rajawali Press.

¹⁸ Republic of Indonesia. (2004). Law Number 29 of 2004 concerning Medical Practice.

¹⁹ World Medical Association. (2013). Declaration of Helsinki – Ethical Principles for Medical Research Involving Human Subjects. *JAMA*, 310(20), 2191–2194.

²⁰ Lubis, R. (2016). *Civil Law and Protection of Patient Rights*. Bandung: Alumni.



Understanding and applying this juridical aspect not only protects patients, but also provides legal certainty for medical personnel in carrying out their profession. Compliance with informed consent provisions is one of the effective ways to maintain the quality of health services while avoiding legal risks for medical personnel.

Legal Liability of Medical Personnel

The legal liability of medical personnel can be categorized into three main types, namely civil, criminal, and ethical liability. Civil liability relates to the obligation to compensate or compensate patients for medical negligence or error. Criminal liability arises when the actions of medical personnel meet certain elements of criminal acts, such as persecution or negligence that results in death. Meanwhile, ethical accountability is a moral obligation and a professional code of ethics that must be complied with by medical personnel, which if violated can result in sanctions from professional organizations such as the Indonesian Doctors Association (IDI) or the Indonesian National Nurses Association (PPNI). These three forms of accountability complement each other and can run simultaneously according to the type of violation committed²¹. In the context of civil liability, the theory of default and unlawful acts (PMH) is the main foundation. Default refers to the failure of medical personnel to fulfill or carry out their contractual or professional obligations in accordance with agreed health service standards. Meanwhile, PMH occurs if there is an act that is legally prohibited and harms the patient, even though there is no explicit contract. For example, negligence in a surgical procedure that causes the patient to suffer losses can qualify as PMH. Thus, the patient has the right to claim compensation based on these principles in civil law²².

For criminal liability, medical personnel can be subject to criminal offenses in accordance with the provisions of applicable law. One of the offenses that is often associated is Article 351 of the Criminal Code (KUHP) regarding persecution, if the actions of medical personnel that are not in accordance with standards result in injuries or injuries to patients. In addition, Article 359 of the Criminal Code regarding negligence resulting in death can also be imposed if elements of fault and fatal consequences are found. The enforcement of this criminal law aims to provide a deterrent effect as well as legal protection for patients from seriously harmful medical actions²³. In addition to civil and criminal liability, medical personnel are also required to comply with professional codes of ethics regulated by their respective professional organizations, such as IDI for doctors and PPNI for nurses. Violations of the code of ethics can be subject to ethical sanctions ranging from reprimands, revocation of temporary practice licenses, to dismissal from professional organizations. This ethical sanction serves to maintain the professionalism and integrity of medical personnel so that they continue to carry out their duties according to applicable standards for patient safety²⁴.

The regulation of legal liability of medical personnel in these three domains shows the importance of a balance between patient protection and the sustainability of medical practice. Medical personnel must understand their legal responsibilities in order to carry out their profession with care and ethics. Meanwhile, patients get legal guarantees in the event of an adverse medical error. Systematic and professional law enforcement is the key to realizing justice and legal certainty in the health service sector²⁵. The study of the legal accountability of medical personnel must be carried out

²¹ Andi Hamzah, *Medical Law and Forensic Medicine*, Jakarta: Rajawali Press, 2015, pp. 45-47

²² Subekti and Tjitrosudibio, *Civil Law*, Jakarta: Pradnya Paramita, 2014, pp. 150-155

²³ Criminal Code, Articles 351 and 359, Indonesia

²⁴ Indonesian Doctors Association (IDI), *Indonesian Medical Code of Ethics*, 2012.

²⁵ Soerjono Soekanto and Sri Mamudji, *Normative Legal Research*, Jakarta: RajaGrafindo Persada, 2014, pp. 82-85



comprehensively, integrating civil, criminal, and ethical aspects so that law enforcement runs effectively and in accordance with the goals of patient protection and professionalism of medical personnel. Continuous study and regulatory reform are indispensable to adjust the dynamics of medical and legal developments in Indonesia. The implementation of a fair and transparent legal system will encourage the improvement of the quality of national health services²⁶.

Case Studies and Previous Research

Cases of malpractice or medical acts without informed consent in Indonesia are often in the public and legal spotlight because they are closely related to the patient's right to legal information and consent before medical procedures are performed. One example of a case that is widely discussed is the case of cesarean section without the complete consent of the patient that occurred in several hospitals in Indonesia. In these cases, the patient claims that the medical procedure was carried out without sufficient explanation and without written consent, thus incurring psychological and physical harm. Cases like this illustrate the lack of understanding or implementation of the principle of informed consent among medical personnel, which should be a fundamental part of modern medical practice²⁷. An analysis of relevant court decisions shows how the law responds to cases of malpractice without informed consent. For example, in the Supreme Court Decision No. 1206 K/Pdt/2013, the court emphasized the importance of informed consent as a fundamental right of patients and the obligations of medical personnel. In the ruling, the court ruled that medical actions carried out without informed consent are unlawful acts that can result in the obligation of compensation by medical personnel or hospitals. This decision strengthens the position of patients in health law in Indonesia and reminds medical personnel of the importance of clear and complete communication before performing medical procedures²⁸.

Previous research also revealed that cases of malpractice without informed consent are not only legal issues, but also related to cultural and educational aspects of medical personnel in Indonesia. A study by Sari and friends (2019) found that some medical personnel still do not understand or implement informed consent procedures optimally, especially in hospitals with limited facilities. This shows the need for more intensive training and socialization on patient rights and informed consent procedures so that medical actions can run according to ethical and legal standards²⁹. Case studies and previous research confirm that violations of the principle of informed consent can lead to serious legal consequences in the form of malpractice lawsuits and administrative sanctions. Therefore, strengthening regulations, educating medical personnel, and increasing patient awareness are strategic steps to prevent similar incidents. The implementation of the principle of good informed consent not only protects patients' rights but also maintains the credibility and professionalism of medical personnel in Indonesia³⁰.

RESEARCH METHODOLOGY

²⁶ Budi Santosa, Legal Responsibilities of Medical Personnel in Medical Practice, *Journal of Health Law*, Vol. 5, No. 2, 2020, pp. 123-130

²⁷ Rini Sari, et al., "The Practice of Informed Consent in Health Services in Indonesia: A Case Study of Malpractice," *Journal of Law and Health*, Vol. 7, No. 1, 2019, pp. 45-52.

²⁸ Supreme Court of the Republic of Indonesia, Decision No. 1206 K/Pdt/2013 concerning Medical Malpractice Without Informed Consent, 2013

²⁹ Sari, R., Hartini, S., & Widodo, E., "Analysis of the Implementation of Informed Consent by Medical Personnel in Regional Hospitals," *Journal of Indonesian Medical Ethics*, Vol. 4, No. 2, 2019, pp. 78-85.

³⁰ Dewi, L. K., & Hasanah, N., "Strengthening Regulation and Informed Consent Education for Medical Personnel in Indonesia," *Journal of Health Sciences*, Vol. 10, No. 3, 2020, pp. 112-118

The juridical normative research methods used in this study include legislative, conceptual, and case study approaches to analyze legal aspects related to medical practice. The legislative approach is carried out by systematically examining primary legal materials which include Law Number 17 of 2023 concerning Medical Practice, the Civil Code (KUHPperdata), the Criminal Code (KUHPperdata), and relevant Regulations of the Minister of Health. A conceptual approach is carried out to understand the legal concepts underlying the accountability of medical personnel and informed consent based on applicable legal theories. In addition, the case study approach is used to examine court decisions and examples of medical malpractice cases as an illustration of the application of the law in practice. Secondary data were obtained from health law literature, scientific journals, and legal commentaries that became supporting references to strengthen the analysis and argumentation in this study. This method allows researchers to provide a comprehensive and structured legal analysis in accordance with juridical normative rules.

RESULTS AND DISCUSSION

Analysis of the Legal Obligation to Provide Informed Consent

The legal obligations of medical personnel in providing informed consent are expressly regulated in Law Number 17 of 2023 concerning Medical Practice and are supported by the medical profession's code of ethics. According to the law, medical personnel are required to provide clear, correct, and complete information about diagnosis, medical procedures, risks that may arise, and alternative treatment to patients before obtaining written consent. This obligation also affirms the patient's right to receive a transparent explanation as part of respect for autonomy and human rights. In addition to formal regulations, professional organizations such as the Indonesian Doctors Association (IDI) also regulate this obligation through a code of ethics that requires medical personnel to communicate ethically and responsibly in the informed consent process³¹.

Standard operating procedures (SOPs) in medical practice are closely related to the implementation of these legal obligations. A good SOP must include the stages of systematic information provision, from identifying patient information needs, explaining the risks and benefits of medical measures, to documentation of legal approval. The implementation of this SOP aims to ensure that the informed consent process runs consistently and meets professional and legal standards. Hospitals and health service facilities are required to provide training and supervision so that medical personnel are able to carry out these SOPs effectively, so that the risk of violations of the law and malpractice can be minimized³². In addition, the implementation of the legal obligation to provide informed consent also functions as a legal protection tool for medical personnel. By conducting the informed consent process according to standards, medical personnel can avoid lawsuits due to allegations of malpractice or actions without the patient's consent. However, if this obligation is ignored, medical personnel may be subject to civil, criminal, or ethical sanctions. Therefore, a deep understanding and strict implementation of this legal obligation is crucial in maintaining the relationship of trust between medical personnel and patients and improving the quality of health services³³. An analysis of the legal obligation to provide informed consent shows that in addition to being a formal obligation under the law, this is also a fundamental ethical principle that must be

³¹ Law of the Republic of Indonesia Number 17 of 2023 concerning Medical Practice, Article 48

³² Indonesian Doctors Association, Indonesian Medical Code of Ethics, 2012, pp. 15-18

³³ Sari, R., & Hartini, S., "Implementation of Operational Standards for Informed Consent Procedures in Hospitals," Indonesian Journal of Medical Ethics, Vol. 5, No. 1, 2020, pp. 34-42



internalized by medical personnel in daily practice. These obligations must be supported by clear SOPs and strict supervision so that their implementation is effective and legally protected. Thus, the provision of informed consent is not only an administrative aspect, but also a reflection of professionalism and respect for patient rights in the Indonesian health care system³⁴.

Legal Implications for Medical Procedures Without Informed Consent

Medical actions carried out without obtaining informed consent from patients can be categorized as violations of the law because they are contrary to basic principles of human rights and health law. According to Law Number 17 of 2023 concerning Medical Practice, informed consent is a legal obligation for medical personnel that must be fulfilled before medical action is carried out. If this obligation is ignored, the action can be qualified as an unlawful act that harms the patient, thus giving rise to legal liability for the medical personnel or the health institution concerned^{35, 36}.

In terms of civil law, patients have the right to file a lawsuit for compensation for material and immaterial losses arising from medical actions without valid consent. This is based on the theory of default and unlawful acts (PMH) in the Civil Code which provides a legal basis for patients to demand compensation. Meanwhile, in the criminal realm, medical personnel who perform actions without informed consent can be subject to articles regulating persecution (Article 351 of the Criminal Code) or medical negligence (Article 359 of the Criminal Code) if these actions result in injury, disability, or death of the patient^{37, 38}.

The difference in legal liability between medical personnel and hospitals is also an important aspect of this legal implication. Medical personnel are directly responsible for the professional actions they take, including the obligation to obtain informed consent. However, hospitals as institutions can also be held accountable if it is proven that there are negligence in supervision, training, or the provision of adequate SOPs related to informed consent procedures. In some court rulings, hospitals may be subject to civil liability if medical actions without informed consent occur due to institutional failures in standard procedures^{39, 40}. Medical actions without informed consent have serious legal consequences for medical personnel and hospitals in both the civil and criminal realms. Strict enforcement of the law and the application of strict operational standards of procedures are indispensable to prevent these violations and protect the rights of patients. Continuous education and supervision of the implementation of informed consent is a strategic step to improve the quality of health services and ensure the accountability of medical personnel and health institutions in Indonesia⁴¹.

Ethical Responsibility and Professionalism

³⁴ Santoso, B., *Legal Responsibility and Ethics of Medical Personnel in Indonesia*, Jakarta: Rajawali Press, 2019, pp. 120-125

³⁵ Law of the Republic of Indonesia Number 17 of 2023 concerning Medical Practice. <https://peraturan.bpk.go.id/Home/Details/223576/uu-no-17-tahun-2023>

³⁶ Andi Hamzah, *Medical Law and Forensic Medicine*, Jakarta: Rajawali Press, 2015, pp. 67-70.

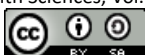
³⁷ Civil Code, Book III of Engagement.

³⁸ Criminal Code, Article 351 and Article 359. <https://www.hukumonline.com/pusatdata/detail/lt4f5f5639f3d3a/node/440/kitab-undang-undang-hukum-pidana>

³⁹ Supreme Court of the Republic of Indonesia, Decision Number 1206 K/Pdt/2013

⁴⁰ Sari, R., & Hartini, S., "Hospital Legal Liability in Malpractice Cases," *Journal of Law and Health*, Vol. 8, No. 1, 2021, pp. 45-53

⁴¹ Dewi, L. K., & Hasanah, N., "The Implementation of Informed Consent Procedures and Their Implications for Patient Legal Protection," *Journal of Legal and Health Sciences*, Vol. 10, No. 3, 2022, pp. 102-110



Professional organizations such as the Indonesian Doctors Association (IDI) and the Indonesian National Nurses Association (PPNI) have a strategic role in overseeing ethical violations committed by their members in order to maintain the quality and credibility of health services in Indonesia. This organization establishes a code of ethics that serves as a code of conduct and moral standards for medical personnel in carrying out their profession. In addition, professional organizations function as supervisory bodies that have the authority to investigate alleged ethical violations, as well as take disciplinary action according to the level of violations that occur. With this role, professional organizations not only protect the community, but also maintain the honor and professionalism of members in order to adhere to the standards that have been set⁴²⁴³. The mechanism for handling public complaints against alleged ethical violations of medical personnel usually begins with the receipt of complaint reports that can be submitted by patients, patients' families, or other parties who feel aggrieved. The complaint will then be administratively screened to determine the feasibility and completeness of the file. Furthermore, the complaint will go to the substantive examination stage by the Honorary Council or the Ethics Commission established by professional organizations. This process includes examining evidence, clarification from the complainant, to an ethics hearing if necessary. If violations are found, professional organizations can provide sanctions ranging from written reprimands, practice restrictions, to revocation of practice licenses⁴⁴⁴⁵.

Transparent and professional handling of complaints by professional organizations is a form of ethical responsibility that is very important to uphold justice for patients and maintain professional integrity. This mechanism provides access for the public to monitor and report discrepancies in the practice of medical personnel, while providing space for medical personnel to be held accountable for their actions. Thus, effective complaint handling can increase public trust in the health service system and strengthen a culture of professionalism among medical personnel⁴⁶. The ethical responsibility and professionalism of medical personnel is not only a burden on individuals, but is also assisted by the active role of professional organizations that function as supervisors as well as mediators in handling ethical violations. Through a structured complaint system and strict sanctions, professional organizations contribute to maintaining ethical standards and the quality of national health services. This step is an important part of realizing safe, quality, and ethical health services in Indonesia⁴⁷.

Relevant Case Studies

The implementation of informed consent is a fundamental aspect in medical practice that affirms the patient's right to obtain sufficient and clear information before undergoing medical procedures. However, in some cases, violations of this principle are still frequent. One of the court decisions that is a concrete example is the malpractice case at the South Jakarta District Court, where a patient underwent surgery without adequate explanation and approval from the doctor. In the ruling,

⁴² Indonesian Doctors Association, Indonesian Medical Code of Ethics, 2012, pp. 12-17.

⁴³ Indonesian National Nurses Association, Indonesian Code of Nursing Ethics, 2018, pp. 6-10

⁴⁴ Widyawati, L., "The Mechanism for Handling Ethical Complaints of Medical Personnel in Indonesia," *Journal of Medical Ethics*, Vol. 6, No. 1, 2020, pp. 25-32

⁴⁵ Santoso, B., *Ethical Responsibility and Professionalism of Medical Personnel in Indonesia*, Jakarta: Rajawali Press, 2019, pp. 138-145

⁴⁶ Dewi, L. K., & Hasanah, N., "The Role of Professional Organizations in Maintaining the Professionalism of Medical Personnel," *Journal of Public Health*, Vol. 12, No. 2, 2021, pp. 90-98

⁴⁷ Sari, R., & Hartini, S., "Ethical Supervision of Medical Personnel and Their Impact on the Quality of Health Services," *Journal of Law and Health*, Vol. 8, No. 3, 2021, pp. 65-72

the panel of judges stated that medical procedures performed without informed consent are legally considered violations of the law because they ignore the patient's basic right to fully informed consent. This case confirms that the lack of disclosure of information and the lack of clarity of consent can lead to legal liability for the medical personnel concerned⁴⁸. The impact of the violation of informed consent is not only limited to the legal aspects of the patient, but also extends to the legal protection received by the patient. Patients who undergo medical procedures without explicit consent have the right to seek compensation and obtain legal protection through the judicial process. This strengthens the position of patients as protected legal subjects, while encouraging increased awareness of the importance of transparency and effective communication between medical personnel and patients. This legal protection also serves as a preventive mechanism so that similar cases do not recur, thereby improving the standards of health services as a whole⁴⁹.

Furthermore, violations of informed consent have a significant impact on the image and reputation of the medical profession at large. Cases of malpractice involving failure to provide adequate information can cause public distrust of medical personnel. This distrust can undermine the doctor-patient relationship that is the main basis of dignified and ethical medical practice. Therefore, efforts to increase training and socialization related to medical ethics, especially regarding informed consent, are very important to maintain the integrity of the profession and improve the quality of service to patients⁵⁰. To overcome these problems, regulations related to informed consent in Indonesia as contained in the Law on Medical Practice and the Indonesian Code of Medical Ethics affirm the obligation of medical personnel to provide adequate explanations and obtain consent from patients before performing medical procedures. The implementation of this regulation must be strengthened with strict supervision and continuous education to medical personnel so that the principle of informed consent can be implemented consistently. Thus, the legal protection of patients and the image of the medical profession can be maintained in an ongoing manner⁵¹.

COVER

Conclusion

The study found that medical personnel have a strict legal obligation to obtain legal consent from patients before performing any medical procedures. This obligation is not just a formality, but an integral part of medical practice that respects the rights and dignity of patients. If medical procedures are carried out without permission or without informed consent, medical personnel may be subject to legal liability both civil and criminal. These findings underscore that negligence in obtaining informed consent can lead to serious legal sanctions and losses to patients, both physically and psychologically. Furthermore, this study emphasizes that informed consent is a fundamental right of patients that is protected by various regulations and medical codes of ethics. This right ensures that patients obtain sufficient and correct information about diagnosis, procedures, risks, and treatment alternatives so that they can make free and conscious decisions. The absence of informed consent not only harms individual patients, but also has legal implications that undermine public trust in health services. Therefore, the consistent application of the principle of informed consent is the main pillar

⁴⁸ South Jakarta District Court Decision No. 123/Pid.Sus/2019/PN. JKT. SEL, related to the violation of informed consent in the act of surgery without the patient's consent

⁴⁹ Suharto, B. (2020). Legal Protection of Patients in Medical Practice in Indonesia. *Journal of Health Law*, 7(2), 45-60

⁵⁰ Wibowo, A. & Setiawan, R. (2019). Medical Ethics and the Challenges of Implementing Informed Consent in Indonesia. *Journal of Medicine and Ethics*, 15(1), 30-42

⁵¹ Law of the Republic of Indonesia Number 29 of 2004 concerning Medical Practice; Indonesian Medical Code of Ethics, 2012

in ensuring the safety, rights, and welfare of patients. This study recommends the need to increase education and training for medical personnel regarding the importance of informed consent and stricter law enforcement against violations that occur. Existing regulations must be carried out optimally with the support of a transparent and accountable case management and supervision mechanism. Thus, the legal accountability of medical personnel can be enforced fairly, while maintaining the integrity of the medical profession and protecting the rights of patients as a whole.

Suggestion

To increase the effectiveness of legal protection for patients and enforce the accountability of medical personnel, it is necessary to strengthen technical regulations that are more operational in the form of Ministerial Regulations. This regulation must regulate in detail the procedures for the implementation of informed consent, communication standards between medical personnel and patients, and law enforcement mechanisms for violations that occur. With the existence of these technical regulations, it is hoped that it can provide clear guidelines for medical personnel and health institutions in carrying out their legal obligations consistently and accountably. In addition, improving ethical and legal training for medical personnel should be a priority in order to educate and equip health professionals with a comprehensive understanding of patients' rights and the legal consequences of unauthorised actions. This training can be carried out periodically and involves simulation of real cases so that medical personnel can internalize the principle of informed consent and apply it appropriately in daily practice. Thus, it is hoped that a culture of professionalism and adherence to strong medical ethics will be built. No less important is the need for legal counseling that targets the wider community regarding patient rights, especially regarding informed consent. This counseling can be carried out through various communication media and social activities that are easily accessible to the public, so that patients are more aware of their rights and can play an active role in the medical decision-making process. Public legal awareness will increase social supervision of the implementation of medical measures and encourage the creation of transparent and high-quality health services.

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